FEDERAL REGISTER

VOLUME 36 • NUMBER 18

Wednesday, January 27, 1971 • Washington, D.C.

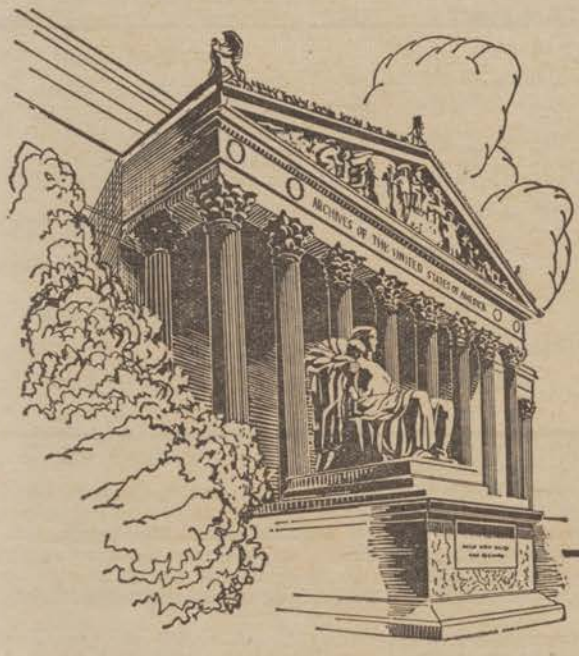
Pages 1241–1320

Part I

(Part II begins on page 1313)

Agencies in this issue—

Detailed list of Contents appears inside.



FEDERAL REGISTER

Area Code 202 Phone 962-8626

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

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Contents

(Continued on next page)

List of CFR Parts Affected

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

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1971, and specifies how they are affected.

7 CFR

201 ---- 1314
202 ---- 1314
210 (4 documents) ---- 1245, 1246
220 (2 documents) ---- 1246
910 ---- 1247

PROPOSED RULES:

Ch. IX ---- 1266
1032 ---- 1273

8 CFR

211 ---- 1247
238 ---- 1247
341 ---- 1247

12 CFR

303 ---- 1248
304 ---- 1248
326 ---- 1248
334 ---- 1248
336 ---- 1249

14 CFR

39 ---- 1249
71 (2 documents) ---- 1249, 1250

PROPOSED RULES:

Ch. I ---- 1275
75 ---- 1275

16 CFR

13 (2 documents) ---- 1250

21 CFR

PROPOSED RULES:

130 ---- 1274
191 ---- 1275

23 CFR

1 ---- 1253

28 CFR

0 ---- 1251

29 CFR

PROPOSED RULES:

541 ---- 1273

32 CFR

1001 ---- 1251
1012 ---- 1251

33 CFR

207 ---- 1252

38 CFR

2 ---- 1253
36 ---- 1253

41 CFR

5A–6 ---- 1263

42 CFR

PROPOSED RULES:

481 ---- 1276

47 CFR

73 ---- 1264

50 CFR

17 ---- 1264

Rules and Regulations

Title 7—AGRICULTURE

Chapter II—Food and Nutrition Service, Department of Agriculture

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Appendix—Apportionment of Food Assistance Funds Pursuant to National School Lunch Act, Fiscal Year 1971

Pursuant to section 11 of the National School Lunch Act, as amended, food assistance funds available for the fiscal year ending June 30, 1971, are apportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$7,536,587	$7,474,500	$62,087
Alaska	197,095	197,095	
Arizona	1,625,797	1,625,797	
Arkansas	4,560,239	4,505,810	54,429
California	9,986,971	9,986,971	
Colorado	1,647,127	1,426,330	220,797
Connecticut	1,086,188	1,086,188	
Delaware	351,868	351,649	219
District of Columbia	753,069	753,069	
Florida	6,657,127	6,657,127	
Georgia	8,369,356	8,369,356	
Guam	144,632	144,632	
Hawaii	560,065	414,084	145,981
Idaho	708,264	657,035	51,229
Illinois	6,752,457	6,752,457	
Indiana	3,833,764	3,833,764	
Iowa	3,187,425	2,593,932	593,493
Kansas	2,087,513	2,087,513	
Kentucky	6,096,088	6,096,088	
Louisiana	6,876,922	6,876,922	
Maine	1,173,416	991,132	182,284
Maryland	2,673,953	2,386,306	287,647
Massachusetts	2,765,172	2,765,172	
Michigan	5,646,984	4,781,666	865,318
Minnesota	3,479,334	2,872,902	606,432
Mississippi	6,712,378	6,712,378	
Missouri	5,039,790	5,039,790	
Montana	706,039	588,517	117,522
Nebraska	1,746,310	1,399,522	346,788
Nevada	166,470	164,925	1,545
New Hampshire	420,982	420,982	
New Jersey	3,090,089	2,529,673	560,416
New Mexico	1,538,034	1,538,034	
New York	10,828,876	10,828,876	
North Carolina	10,754,597	10,754,597	
North Dakota	1,057,669	770,310	287,359
Ohio	6,958,946	5,902,972	1,055,974
Oklahoma	3,390,220	3,390,220	
Oregon	1,178,996	1,178,996	
Pennsylvania	9,299,243	5,891,840	3,407,403
Puerto Rico	5,874,347	5,874,347	
Rhode Island	672,694	672,694	
South Carolina	6,276,421	6,259,713	16,708
South Dakota	1,173,038	1,173,038	
Tennessee	7,428,864	7,346,806	82,058
Texas	15,598,186	15,137,250	460,936
Utah	644,790	644,790	
Vermont	471,646	471,646	
Virginia	6,365,317	6,312,729	52,588
Virgin Islands	66,988	66,988	
Washington	1,768,336	1,664,537	103,799
West Virginia	3,345,057	3,298,238	46,819
Wisconsin	3,073,307	2,123,945	949,362
Wyoming	285,514	285,514	
Samoa, American	56,443	56,443	
Total	204,747,000	194,187,807	10,559,193

(Secs. 2–12, 60 Stat. 230, as amended; 42 U.S.C. 1751–1760)

Dated: January 19, 1971.

EDWARD J. HEKMAN,
Administrator,
Food and Nutrition Service.

[FR Doc.71–1011 Filed 1–26–71;8:45 am]

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Appendix—Apportionment of Food Assistance Funds Pursuant to National School Lunch Act, Fiscal Year 1971

Pursuant to section 4 of the National School Lunch Act, as amended, food assistance funds available for the fiscal year ending June 30, 1971, are apportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$7,384,508	$7,232,937	$151,571
Alaska	254,120	254,120	
Arizona	1,983,424	1,983,424	
Arkansas	4,162,484	4,074,306	88,178
California	8,442,385	8,442,385	
Colorado	2,436,050	2,315,374	120,676
Connecticut	1,983,738	1,983,738	
Delaware	601,259	597,118	4,141
District of Columbia	348,709	348,709	
Florida	8,604,764	8,604,764	
Georgia	9,985,494	9,985,494	
Guam	217,949	217,949	
Hawaii	1,385,349	1,304,797	80,552
Idaho	1,030,832	1,004,479	26,353
Illinois	6,448,443	6,448,443	
Indiana	5,304,768	5,304,768	
Iowa	4,162,058	3,722,331	439,727
Kansas	2,613,723	2,613,723	
Kentucky	6,406,576	6,406,576	
Louisiana	9,119,485	9,119,485	
Maine	1,274,032	1,150,924	123,108
Maryland	2,962,881	2,889,301	73,580
Massachusetts	5,316,855	5,316,855	
Michigan	5,582,412	5,168,267	414,145
Minnesota	5,229,712	4,685,596	544,116
Mississippi	6,151,334	6,151,334	
Missouri	5,573,734	5,573,734	
Montana	690,264	653,125	37,139
Nebraska	1,780,680	1,550,597	230,083
Nevada	200,502	199,380	1,122
New Hampshire	735,338	735,338	
New Jersey	3,086,555	2,766,503	320,052
New Mexico	1,710,826	1,710,826	
New York	14,540,078	14,540,078	
North Carolina	10,605,365	10,605,365	
North Dakota	1,113,917	1,003,046	110,871
Ohio	8,998,457	8,230,348	768,109
Oklahoma	3,081,868	3,081,868	
Oregon	1,991,407	1,991,407	
Pennsylvania	8,771,314	7,853,306	918,008
Puerto Rico	5,955,116	5,955,116	
Rhode Island	418,002	418,002	
South Carolina	6,691,553	6,636,290	55,263
South Dakota	903,974	903,974	
Tennessee	6,852,788	6,756,029	96,759
Texas	11,466,239	11,128,179	338,060
Utah	2,042,043	2,042,043	
Vermont	406,005	406,005	
Virginia	6,636,925	6,555,530	81,395
Virgin Islands	234,633	234,633	
Washington	2,880,267	2,827,212	53,055
West Virginia	2,729,975	2,679,796	50,179
Wisconsin	4,262,342	3,558,877	703,465
Wyoming	369,093	369,093	
Samoa, American	127,396	127,396	
Total	224,250,000	218,420,293	5,829,707

(Secs. 2–12, 60 Stat. 230, as amended; 42 U.S.C. 1751–1760)

Dated: January 19, 1971.

EDWARD J. HEKMAN,
Administrator,
Food and Nutrition Service.

[FR Doc.71–1002 Filed 1–26–71;8:45 am]

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Apportionment of Food Assistance and Nonfood Assistance Funds

Appendix: Apportionment of Food Assistance and Nonfood Assistance Funds provided by clause 4(a) under the Item Removal of Surplus Agricultural Commodities of the Agriculture Appropriation Act of 1971, Public Law 91–566, 84 Stat. 1480, fiscal year 1971.

The table which follows shows the apportionments by State of Special Assistance funds provided from section 32 for the fiscal year ending June 30, 1971:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$5,692,664	$5,645,767	$46,897
Alaska	148,873	148,873	
Arizona	1,228,025	1,228,025	
Arkansas	3,444,518	3,403,406	41,112
California	7,543,529	7,543,529	
Colorado	1,244,136	1,077,360	166,776
Connecticut	820,438	820,438	
Delaware	265,779	265,614	165
District of Columbia	568,821	568,821	
Florida	5,028,374	5,028,374	
Georgia	6,321,685	6,321,685	
Hawaii	423,038	312,773	110,265
Idaho	534,978	496,283	38,695
Illinois	5,100,381	5,100,381	
Indiana	2,895,784	2,895,784	
Iowa	2,407,580	1,959,293	448,287
Kansas	1,576,776	1,576,776	
Kentucky	4,604,602	4,604,602	
Louisiana	5,194,394	5,194,394	
Maine	886,324	748,638	137,686
Maryland	2,019,736	1,802,465	217,271
Massachusetts	2,088,637	2,088,637	
Michigan	4,265,376	3,611,769	653,607
Minnesota	2,628,070	2,170,009	458,061
Mississippi	5,070,108	5,070,108	
Missouri	3,806,740	3,806,740	
Montana	533,298	444,529	88,769
Nebraska	1,319,053	1,057,111	261,942
Nevada	125,741	124,574	1,167
New Hampshire	317,983	317,983	
New Jersey	2,334,059	1,910,756	423,303
New Mexico	1,161,734	1,161,734	
New York	8,179,451	8,179,451	
North Carolina	8,123,346	8,123,346	
North Dakota	798,896	581,844	217,052
Ohio	5,256,350	4,458,734	797,616
Oklahoma	2,560,759	2,560,759	
Oregon	890,540	890,540	
Pennsylvania	7,024,063	4,450,326	2,573,737
Rhode Island	508,110	508,110	
South Carolina	4,740,814	4,728,194	12,620
South Dakota	886,039	886,039	
Tennessee	5,611,297	5,549,315	61,982
Texas	11,781,888	11,433,726	348,162
Utah	487,034	487,034	
Vermont	356,252	356,252	
Virginia	4,807,960	4,768,238	39,722
Washington	1,335,689	1,257,286	78,403
West Virginia	2,526,646	2,491,282	35,364
Wisconsin	2,321,383	1,604,295	717,088
Wyoming	215,659	215,659	
Guam	109,246	109,246	
Puerto Rico	4,437,112	4,437,112	
Virgin Islands	50,599	50,599	
Samoa, American	42,633	42,633	
Total	154,653,000	146,677,251	7,975,749

(84 Stat. 1480)

Dated: January 19, 1971.

EDWARD J. HEKMAN,
Administrator,
Food and Nutrition Service.

[FR Doc.71–1010 Filed 1–26–71;8:45 am]

[Amdt. 3]

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Miscellaneous Amendments

Regulations for the operation of the National School Lunch Program (35 F.R. 753), as amended (35 F.R. 3900, 35 F.R. 14061) are hereby amended as follows:

1. In § 210.13 paragraph (a) is amended, a new paragraph (b–1) is added, and paragraph (d) is revised to read as follows:

§ 210.13 Reimbursement procedure.

(a) To be entitled to reimbursement under this part, each School Food Authority shall submit to the State Agency, or FNSRO where applicable, a monthly Claim for Reimbursement, as set forth in paragraphs (b) and (b–1) of this section, and other information concerning the operation of its nonprofit lunch program as set forth in paragraphs (c) and (d) of this section.

* * * * *

(b–1) The State Agency, or FNSRO where applicable, may authorize a School Food Authority to submit a consolidated Claim for Reimbursement for all schools under its jurisdiction that serve Type A lunches, provided that the data on each school's operations required in paragraphs (b) and (d) of this section are maintained on file at the local office of the School Food Authority and the consolidated Claim for Reimbursement is accompanied by a list of participating schools.

* * * * *

(d) The Claim for Reimbursement covering operations for the month of December of each fiscal year shall be supplemented by the following information for each school included in such claim for the 6-month period, July–December of such fiscal year: (1) Income (receipts) from children's payments; (2) income (receipts) from reimbursement; (3) all other income (receipts); (4) expenditures representing the cost of obtaining food; (5) all other expenditures; and (6) the value of donated goods and services, excluding the value of commodities donated under Part 250 of this chapter. Such supplemental information shall be submitted by February 1. The Claim for Reimbursement covering the final month of operations for each fiscal year shall be supplemented by the same information on income and expenditures for each school included in such claim for the period between January 1 and the end of the final month of operations for each fiscal year. Such supplemental information shall be submitted within 30 days after the end of program operations for that fiscal year. State Agencies, or FNSRO where applicable, may collect the information required in this paragraph more frequently than semiannually.

2. In § 210.15a the first sentence of paragraph (c) is revised, a new paragraph (c–1) is added, and paragraph (d) is revised to read as follows:

§ 210.15a Commodity only schools.

* * * * *

(c) Each School Food Authority of a commodity only school shall report each month to the State Agency, or FNSRO where applicable, the following items:

* * * * *

(c–1) The State Agency, or FNSRO where applicable, may authorize a School Food Authority to submit a consolidated report for all commodity only schools under its jurisdiction: *Provided,* That the data on each school's operations required in paragraphs (c) and (d) of this section are maintained on file at the local office of the School Food Authority and the consolidated report is accompanied by a list of participating schools.

(d) The State Agency, or FNSRO where applicable, shall require the submission by the School Food Authorities of commodity only schools of the following information for each such school under their jurisdiction for the 6-month period, July–December, of each fiscal year: (1) Income (receipts) from children's payments; (2) all other income (receipts); (3) expenditures representing the cost of obtaining food; (4) all other expenditures; and (5) the value of donated goods and services, excluding the value of commodities donated under Part 250 of this chapter. Such supplemental information shall be submitted by February 1. The same information on income and expenditures shall be submitted by the School Food Authorities for the period between January 1 and the end of the final month of operations for each fiscal year. Such supplemental information shall be submitted within 30 days after the end of program operations for that fiscal year. State agencies, or FNSRO where applicable, may collect the information required in this paragraph more frequently than semiannually.

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

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER (1–27–71).

Approved: January 22, 1971.

PHILIP C. OLSSON,
Deputy Assistant Secretary.

[FR Doc.71–1090 Filed 1–26–71;8:46 am]

PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

Appendix—Apportionment of Nonfood Assistance Funds Pursuant to Child Nutrition Act of 1966, Fiscal Year 1971

Pursuant to section 5 of the Child Nutrition Act of 1966, Public Law 89–642, 80 Stat. 887, nonfood assistance funds available for the fiscal year ending June 30, 1971, are apportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$259,028	$244,841	$14,187
Alaska	24,868	24,868	
Arizona	118,779	118,779	
Arkansas	143,632	138,266	5,366
California	1,039,297	1,039,297	
Colorado	140,413	122,876	17,537
Connecticut	323,887	323,887	
Delaware	36,211	20,018	16,193
District of Columbia	75,093	75,093	
Florida	418,182	418,182	
Georgia	358,800	358,800	
Guam	7,369	7,369	
Hawaii	59,357	43,515	15,842
Idaho	52,706	48,277	4,429
Illinois	626,052	626,052	
Indiana	326,866	326,866	
Iowa	198,720	169,017	29,703
Kansas	167,712	167,712	
Kentucky	233,311	233,311	
Louisiana	314,095	314,095	
Maine	117,779	98,287	19,492
Maryland	164,037	164,037	
Massachusetts	766,563	766,563	
Michigan	896,394	755,247	141,147
Minnesota	263,248	213,095	50,153
Mississippi	240,460	240,460	
Missouri	242,483	242,483	
Montana	86,939	76,687	10,252
Nebraska	125,199	106,549	18,650
Nevada	53,105	47,871	5,234
New Hampshire	83,005	83,005	
New Jersey	879,101	639,631	239,470
New Mexico	69,095	69,095	
New York	1,149,808	1,149,808	
North Carolina	372,078	372,078	
North Dakota	47,444	43,530	3,914
Ohio	739,578	590,938	148,640
Oklahoma	130,846	130,846	
Oregon	108,482	108,482	
Pennsylvania	1,142,492	714,122	428,370
Puerto Rico	245,080	245,080	
Rhode Island	83,341	83,341	
South Carolina	239,470	224,396	15,074
South Dakota	67,561	67,561	
Tennessee	246,941	233,796	13,145
Texas	473,995	435,427	38,568
Utah	81,996	81,996	
Vermont	29,003	29,003	
Virginia	244,226	219,043	25,183
Virgin Islands	10,412	10,412	
Washington	153,756	104,396	49,360
West Virginia	128,937	117,452	11,485
Wisconsin	360,998	276,535	84,463
Wyoming	27,521	27,521	
Samoa, American	4,249	4,249	
Total	15,000,000	13,594,143	1,405,857

(Secs. 2, 5, 6, and 8 through 16, 80 Stat. 885–890; U.S.C. 1771, 1774, 1775, 1777–1785)

Dated: January 20, 1971.

HOWARD P. DAVIS,
Acting Administrator.

[FR Doc.71–1009 Filed 1–26–71;8:45 am]

PART 220—SCHOOL BREAKFAST AND NONFOOD ASSISTANCE PROGRAMS AND STATE ADMINISTRATIVE EXPENSES

Appendix—Apportionment of School Breakfast Program Funds Pursuant to Child Nutrition Act of 1966, Fiscal Year 1971

Pursuant to section 4 of the Child Nutrition Act of 1966, Public Law 89–642, 80 Stat. 886, food assistance funds available for the fiscal year ending June 30,

1971 are apportioned among the States as follows:

State	Total apportionment	State agency	Withheld for private schools
Alabama	$358,058	$350,709	$7,349
Alaska	60,601	60,601	
Arizona	132,742	132,742	
Arkansas	223,646	218,908	4,738
California	402,190	402,190	
Colorado	151,624	144,113	7,511
Connecticut	132,755	132,755	
Delaware	75,083	74,566	517
District of Columbia	64,547	64,547	
Florida	408,964	408,964	
Georgia	466,563	466,563	
Guam	24,092	24,092	
Hawaii	107,792	101,524	6,268
Idaho	93,003	90,625	2,378
Illinois	319,009	319,009	
Indiana	271,298	271,298	
Iowa	223,628	200,001	23,627
Kansas	159,036	159,036	
Kentucky	317,262	317,262	
Louisiana	430,436	430,436	
Maine	103,149	93,182	9,967
Maryland	173,602	169,291	4,311
Massachusetts	271,802	271,802	
Michigan	282,881	261,895	20,986
Minnesota	268,167	240,266	27,901
Mississippi	306,614	306,614	
Missouri	282,519	282,519	
Montana	78,796	74,556	4,240
Nebraska	124,284	108,225	16,059
Nevada	58,364	58,037	327
New Hampshire	80,676	80,676	
New Jersey	178,761	160,225	18,536
New Mexico	121,370	121,370	
New York	656,566	656,566	
North Carolina	492,422	492,422	
North Dakota	96,469	86,867	9,602
Ohio	425,387	389,076	36,311
Oklahoma	178,566	178,566	
Oregon	133,075	133,075	
Pennsylvania	415,911	372,382	43,529
Puerto Rico	298,429	298,429	
Rhode Island	67,438	67,438	
South Carolina	329,150	326,432	2,718
South Dakota	87,711	87,711	
Tennessee	335,877	331,135	4,742
Texas	528,335	512,758	15,577
Utah	135,188	135,188	
Vermont	66,937	66,937	
Virginia	326,872	322,863	4,009
Virgin Islands	24,788	24,788	
Washington	170,156	167,022	3,134
West Virginia	163,886	160,874	3,012
Wisconsin	227,811	190,213	37,598
Wyoming	65,397	65,397	
Samoa, American	20,315	20,315	
Total	12,000,000	11,685,053	314,947

(Secs. 2, 4, 6, and 8 through 16, 80 Stat. 885–890; 42 U.S.C. 1771, 1773, 1775, 1777–1785)

Dated: January 20, 1971.

HOWARD P. DAVIS,
Acting Administrator.

[FR Doc.71-1003 Filed 1-26-71;8:45 am]

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

[Lemon Reg. 463, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment 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 amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

Order, as amended. The provisions in paragraph (b) (1) (i) and (ii) of § 910.763 (Lemon Regulation 463, Amendment 1) are hereby amended to read as follows:

§ 910.763 Lemon Regulation 463.

* * * * *

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

(i) District 1: 42,000 cartons.

(ii) District 2: 78,000 cartons.

* * * * *

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

Dated: January 22, 1971.

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

[FR Doc.71-1088 Filed 1-26-71;8:46 am]

Title 8—ALIENS AND NATIONALITY

Chapter I—Immigration and Naturalization Service, Department of Justice

PART 211—DOCUMENTARY REQUIREMENTS: IMMIGRANTS; WAIVERS

PART 238—CONTRACTS WITH TRANSPORTATION LINES

PART 341—CERTIFICATES OF CITIZENSHIP

Miscellaneous Amendments

The following amendments to Chapter I of Title 8 of the Code of Federal Regulations are hereby prescribed:

1. The third and fourth sentences of subparagraph (2) *Reentry permit* of paragraph (b) *Aliens returning to an unrelinquished lawful permanent residence* of § 211.1 *Visas* are amended to read as follows: "A reentry permit shall be invalid when presented by an alien who, during his temporary absence abroad, traveled to, in, or through Albania, Cuba, Outer Mongolia, or Communist portions of China, Korea, or Viet-Nam, unless his permit bears an endorsement, or he presents a letter issued to him by the Department of State, stating that the restriction with regard to any such place or places has been waived. A waiver of the restriction will not be authorized unless the Secretary of State has granted the alien permission to travel to, in, or through any such place or places."

2. The listing of transportation lines in paragraph (b) *Signatory lines* of § 238.3 *Aliens in immediate and continuous transit* is amended by adding the following transportation line in alphabetical sequence: "East African Airways."

3. The first sentence of subparagraph (2) *Substitution and waiver* of paragraph (b) *Witnesses* of § 341.2 *Examination upon application* is amended to read as follows: "If the presentation of the person or persons through whom citizenship is claimed is precluded by reason of death, refusal to testify, unknown whereabouts, advanced age, mental or physical incapacity, or severe illness or infirmity, another witness or witnesses shall be produced."

(Sec. 103, 66 Stat. 173; 8 U.S.C. 1103)

This order shall be effective on the date of its publication in the FEDERAL REGISTER (1–27–71). Compliance with the provisions of section 553 of title 5 of the United States Code (80 Stat. 383), as to notice of proposed rule making and delayed effective date, is unnecessary in this instance and would serve no useful purpose because the amendments to §§ 211.1(b)(2) and 341.2(b)(2) confer benefits upon persons affected thereby and the amendment to § 238.3(b) adds a transportation line to the listing.

Dated: January 22, 1971.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.71-1102 Filed 1-26-71;8:47 am]

Title 12—BANKS AND BANKING

Chapter III—Federal Deposit Insurance Corporation

DIVISION OF BANK SUPERVISION

Effective upon the date of publication of these amendments in the FEDERAL REGISTER (1–27–71), Parts 303, 304, 326, 334, and 336 of the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR Parts 303, 304, 326, 334, and 336) are amended as follows:

PART 303—APPLICATIONS, REQUESTS, AND SUBMITTALS

1. The first sentence of § 303.1 is amended by deleting the words Supervising Examiner of the Federal Deposit Insurance Corporation District" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region" in lieu thereof.

2. The fourth sentence of § 303.1 is amended by deleting the words "Supervising Examiner of the District" and by inserting the words "Regional Director of the Region" in lieu thereof.

3. The first sentence of § 303.2 is amended by deleting the words "Supervising Examiner of the Federal Deposit Insurance Corporation District" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region" in lieu thereof.

4. The second sentence of § 303.2 is amended by deleting the words "Supervising Examiner of the District" and by inserting the words "Regional Director of the Region" in lieu thereof.

5. The first sentence of § 303.3 is amended by deleting the words "Supervising Examiner of the Federal Deposit Insurance Corporation District" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region" in lieu thereof.

6. The second sentence of § 303.3 is amended by deleting the words "Supervising Examiner of the District" and by inserting the words "Regional Director of the Region" in lieu thereof.

7. The first sentence of § 303.4 is amended by deleting the words "Supervising Examiner of the Federal Deposit Insurance Corporation District" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region" in lieu thereof.

8. The second sentence of § 303.4 is amended by deleting the words "Supervising Examiner of the District" and by inserting the words "Regional Director of the Region" in lieu thereof.

9. The first sentence of paragraph (a) of § 303.5 is amended by deleting the words "Supervising Examiner of the Federal Deposit Insurance Corporation District" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region" in lieu thereof.

10. The second sentence of paragraph (a) of § 303.5 is amended by deleting the words "Supervising Examiner" and by inserting the words "Regional Director" in lieu thereof.

11. The first sentence of paragraph (b) of § 303.5 is amended by deleting the words "Supervising Examiner of the Federal Deposit Insurance Corporation District" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region" in lieu thereof.

12. The second sentence of paragraph (b) of § 303.5 is amended by deleting the words "Supervising Examiner" and by inserting the words "Regional Director" in lieu thereof.

13. The first sentence of paragraph (c) of § 303.5 is amended by deleting the words "Supervising Examiner of the Federal Deposit Insurance Corporation District" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region" in lieu thereof.

14. The second sentence of paragraph (c) of § 303.5 is amended by deleting the words "Supervising Examiner" and by inserting the words "Regional Director" in lieu thereof.

15. The first sentence of § 303.6 is amended by deleting the words "Supervising Examiner of the Federal Deposit Insurance Corporation District" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region" in lieu thereof.

16. The second sentence of § 303.6 is amended by deleting the words "Supervising Examiner of the District" and by inserting the words "Regional Director of the Region" in lieu thereof.

17. The first sentence of § 303.7 is amended by deleting the words "Supervising Examiner of the Federal Deposit Insurance Corporation District" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region" in lieu thereof.

18. The first sentence of § 303.8 is amended by deleting the word "Examination" and by inserting the words "Bank Supervision" in lieu thereof.

PART 304—FORMS, INSTRUCTIONS, AND REPORTS

19. The third sentence of paragraph (a) of § 304.3 is amended by deleting the words "Supervising Examiner" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region in which the proposed bank will be located" in lieu thereof.

20. The second sentence of paragraph (c) of § 304.3 is amended by deleting the words "Supervising Examiner" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region in which the proposed bank will be located" in lieu thereof.

21. The third sentence of paragraph (d) of § 304.3 is amended by deleting the words "Supervising Examiner" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region in which the bank is located" in lieu thereof.

22. The fourth sentence of subparagraph (1) of paragraph (g) of § 304.3 is amended by deleting the words "Supervising Examiner" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region in which the applicant bank is located" in lieu thereof.

23. The second sentence of paragraph (i) of § 304.3 is amended by deleting the words "Supervising Examiner" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region in which the applicant bank is located" in lieu thereof.

24. The third sentence of paragraph (j) of § 304.3 is amended by deleting the words "Supervising Examiner" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region in which the applicant bank is located" in lieu thereof.

25. The fifth sentence of paragraph (k) of § 304.3 is amended by deleting the words "Supervising Examiner of the District" and by inserting the words "Regional Director of the Region" in lieu thereof.

PART 326—MINIMUM SECURITY DEVICES AND PROCEDURES FOR INSURED NONMEMBER BANKS

26. The first sentence of paragraph (a) of § 326.5 is amended by deleting the words "Supervising Examiner of the Federal Deposit Insurance Corporation District" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region" in lieu thereof.

27. Paragraph (c) of § 326.5 is amended by deleting the words "Supervising Examiner of the Federal Deposit Insurance Corporation District" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region" in lieu thereof.

28. The second sentence of paragraph (d) of § 326.5 is amended by deleting the words "Supervising Examiner of the Federal Deposit Insurance Corporation District" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region" in lieu thereof.

PART 334—BANK SERVICE ARRANGEMENTS

29. The second sentence of § 334.2 is amended by deleting the words "Supervising Examiner of the Corporation for the Federal Deposit Insurance Corporation District" and by inserting the words "Regional Director of the Federal Deposit Insurance Corporation Region" in lieu thereof.

30. The first sentence of § 334.4 is amended to read as follows: "It is the policy of the Corporation that assurances complying with § 334.2 need not be furnished in connection with arrangements for bank services which are immediately necessary because of emergency conditions or situations, or are required for short periods of time due to unusually heavy work demands, if the insured State nonmember bank promptly advises the Regional Director of the Federal Deposit Insurance Corporation Region in which it has its main office of the circumstances involved and of the length of time during which any of the bank's books or records or any banking media will be removed from the bank's premises and of the location thereof, and unless the bank is advised by the Regional Director that such assurances must be furnished."

PART 336—EMPLOYEE RESPONSIBILITIES AND CONDUCT

31. Appendix A of Part 336 is amended to read as follows:

APPENDIX A—EMPLOYEES WHO MUST FILE STATEMENTS

SPECIFIC POSITIONS

A Head, Associate Head or Assistant Head of a Division or Office of the Corporation (regardless of his specific title).
An Adviser or Assistant to the Board of Directors.
A Regional Director.
An Assistant Regional Director.

The purpose of these amendments is to reflect the redesignation of the Division of Examination as the Division of Bank Supervision and the redesignation of the Chief of the Division of Examination as the Director of the Division of Bank Supervision. The amendments also make structural and technical changes in Parts 303, 304, 326, 334, and 336 of the Corporation's rules and regulations. The amendments are authorized under paragraphs "Seventh" and "Tenth" of section 9 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1819 "Seventh" and "Tenth").

Inasmuch as the Board of Directors has found, pursuant to § 302.6 of the Corporation's rules and regulations (12 CFR 302.6), that the amendments to Parts 303, 304, 326, 334, and 336 are editorial and not substantive in nature and that notice, public participation, and prior publication are unnecessary and would serve no useful purpose, the requirements of section 553 of title 5, United States Code, with respect to notice, public participation, and deferred effective date were not followed in connection with these amendments.

Dated at Washington, D.C., this 22d day of January 1971.

By order of the Board of Directors.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] E. F. DOWNEY,
Secretary.

[FR Doc.71-1138 Filed 1-26-71;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 70-WE-46-AD; Amdt. 39-1149]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing 747 and Pratt and Whitney JT9D

Amendment 39-1116, 35 F.R. 18453, AD 70-25-3 required modification of the engine bleed control system and utilization of optional thrust reverser operating procedures which have been incorporated in the FAA-approved Airplane Flight Manual. The FEDERAL REGISTER publication invited interested persons to submit their views or comments for consideration.

Comments have been received from the airlines and these have been considered. Four airlines indicated that, due to the extent of the modification, the delivery date for parts required, and, in one case, the availability of manpower, the out of service time would be extensive if the 300 hours compliance time was to be met. FAA review of the proposed schedule for completion has revealed the need for an extension. It has been determined that an additional 300 hours time in service to complete the modification is justified. Accordingly, the compliance time has been adjusted to require completion within 600 hours time in service after the effective date of Amendment 39-1116, AD 70-25-3 (i.e., Jan. 5, 1971).

One operator commented that the wording of the required placard conflicts with its reverser operating procedure. In addition, the manufacturer requested FAA approval of a new operating procedure for aircraft which are not equipped with reverser actuated bleed systems. The required placard may also be in conflict with the new procedure which was approved and incorporated in the manufacturer's airplane flight manual. The manufacturer revised its service bulletin to call for new placard wording which would not be in conflict with the airplane flight manual or any unique airline operating procedure. Accordingly, the Airworthiness Directive has been amended to allow installation of the placard that is defined in the manufacturer's service bulletin, as revised, or an equivalent placard. As the placard requirement was included in the Airworthiness Directive to prevent operators from using the reverse actuated bleed system thrust reverser operating procedure with a mixed configuration on the airplane, the AD is amended to allow deletion of the placard if the original thrust reverser operating procedures are utilized for all reverser operations.

Several comments were received relative to the differences between airline operating procedures and the procedures which are shown in the manufacturer's airplane flight manual and operations manual. As these differences only involve technique and do not exceed the thrust reverser and engine operating limitations, the airplane flight manual does not have to be revised and the airlines may continue to use their procedures.

Since this amendment provides for the extension of the compliance time and clarification of the placard requirements, and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and this 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 (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39-1116, 35 F.R. 18453, AD 70-25-3, is amended as follows:

1. Substitute 600 hours for the 300 hours compliance time in the compliance statement.

2. Revise the second paragraph of (c) to read:

(c) * * * Until such time as the modification of all four engines on an aircraft is accomplished, install the placard described in Boeing Service Bulletin No. 78-2016, dated November 10, 1970, and referenced at paragraph C(iv), of Boeing Service Bulletin No. 75-2002, dated September 25, 1970, or later FAA-approved revisions or an equivalent placard approved by the Chief, Aircraft Engineering Division, FAA, Western Region. The placard may be removed after the modifications in (a) and (b) are accomplished. The placard need not be installed if *RABS Procedures (Optional)* is not used as an optional procedure by the operator.

This amendment becomes effective January 29, 1971.

(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 Los Angeles, Calif., on January 19, 1971.

ARVIN O. BASNIGHT,
Director, FAA Western Region.

[FR Doc.71-1092 Filed 1-26-71;8:46 am]

[Airspace Docket No. 70-WA-39]

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

Alteration of Federal Airway Segments and Designation of Reporting Point

On November 14, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 17554) stating that the Federal Aviation Administration was proposing amendments to Part 71 of the Federal Aviation Regulations that would alter V-506 and B-27 and designate a low altitude reporting point on V-456.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., April 1, 1971, as hereinafter set forth.

1. Section 71.109 (36 F.R. 2008) is amended as follows: In B-27 the phrase "43 miles, 94 miles," is deleted and the phrase "53 miles, 84 miles," is substituted therefor.

2. Section 71.125 (36 F.R. 2042) is amended as follows: In V-506 the phrase "41 miles, 94 miles," is deleted and the phrase "51 miles, 84 miles," is substituted therefor.

3. In § 71.211 (36 F.R. 2313) the following low altitude reporting point is added:

Tux Bay INT: INT Kenai, Alaska, 239°, Homer, Alaska, 316° radials.

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

Issued in Washington, D.C., on January 19, 1971.

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

[FR Doc.71-1093 Filed 1-26-71;8:47 am]

[Airspace Docket No. 70-WE-78]

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

Alteration of Control Zone and Transition Area

On December 10, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 18746) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the descriptions of the Twin Falls, Idaho, control zone and transition area.

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

In the description of the control zone, delete "* * * (latitude 42°29'00" N., longitude 114°29'00" W.) * * *" and substitute "* * * (latitude 42°28'54" N., longitude 114°29'11" W.) * * *" therefor.

Since this change is minor and imposes no additional burden on any person, notice and public procedure hereon is unnecessary.

Effective date. These amendments shall be effective 0901 G.m.t., April 1, 1971.

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

Issued in Los Angeles, Calif., on January 18, 1971.

LEE E. WARREN,
Acting Director, Western Region.

In § 71.171 (36 F.R. 2055) the description of the Twin Falls, Idaho, control zone is amended to read as follows:

TWIN FALLS, IDAHO

Within a 5-mile radius of the Twin Falls City-County (Joslin Field), Idaho Airport (latitude 42°28'54" N., longitude 114°29'11" W.) within 5 miles each side of Twin Falls VORTAC 086° and 281° radials, extending from the 5-mile radius zone to 10.5 miles east and 10.5 miles west of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (35 F.R. 2134) the description of the Twin Falls, Idaho, transition area is amended by deleting all before "* * *; and that airspace extending upward from 1,200 feet * * *" and substitute the following therefor:

TWIN FALLS, IDAHO

That airspace extending upward from 700 feet above the surface within 9.5 miles north and 5 miles south of the Twin Falls VORTAC 086° and 281° radials, extending from the VORTAC to 18.5 miles east and 18.5 miles west of the VORTAC, and within 5 miles each side of the Twin Falls 156° radial, extending from the VORTAC to 9.5 miles southeast of the VORTAC; * * *.

[FR Doc.71-1094 Filed 1-26-71;8:47 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket No. C-1088]

PART 13—PROHIBITED TRADE PRACTICES

Phillips Petroleum Co. et al.

Subpart—Acquiring corporate stock or assets: § 13.5 *Acquiring corporate stock or assets:* 13.5-20 Federal Trade Commission Act. Subpart—Combining or conspiring: § 13.395 *To control marketing practices and conditions;* § 13.452 *To limit production;* § 13.470 *To restrain and monopolize trade.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18) [Modified order to cease and desist, Phillips Petroleum Co. et al., Bartlesville, Okla., Docket C-1088, Dec. 14, 1970]

In the Matter of Phillips Petroleum Co., a Corporation; National Distillers and Chemical Corp., a Corporation; Alamo Industries, Inc., a Corporation; and A-B Chemical Corp., a Corporation.

Order modifying the consent order issued August 2, 1966, 31 F.R. 11747, by granting respondent's application that the date for compliance with paragraph III of the order be extended to May 1, 1971, and denying any extension for paragraph IX.

The modified order to cease and desist is as follows:

It is ordered, That respondent's application be, and it hereby is, granted in part, by extending the date for compliance with paragraph III of said order issued August 2, 1966, to May 1, 1971.

It is further ordered, That in all other respects respondent's application be, and hereby is, denied.

Issued: December 14, 1970.

By the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-1077 Filed 1-26-71;8:46 am]

[Docket No. C-1835]

PART 13—PROHIBITED TRADE PRACTICES

S. A. Promotions, Inc., and Harry Wasser

Subpart—Advertising falsely or misleadingly: § 13.85 *Government approval, action, connection or standards:* 13.85-30 Federal Trade Commission orders or endorsements. Subpart—Claiming or using endorsements or testimonials falsely or misleadingly: § 13.330 *Claiming or using endorsements or testimonials falsely or misleadingly:* 13.330-90 U.S. Government: 13.330-90(h) Federal Trade Commission.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, S. A. Promotions, Inc., et al., Schenectady, N.Y., Docket C-1835, Dec. 17, 1970]

In the Matter of S. A. Promotions, Inc., a Corporation, and Harry Wasser, Individually and as an Officer of S. A. Promotions, Inc.

Consent order requiring a New York City corporation dealing in sales promotional devices and games of chance to cease representing or implying that the Federal Trade Commission has endorsed any of its programs, or that any of its programs conform to a Government standard or regulation.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents S. A. Promotions, Inc., a corporation, and its officers, and Harry Wasser, individually and as an officer of the aforesaid corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the preparation, promotion, sale, distribution or use of contests, chance promotions or any other promotional device, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. The Federal Trade Commission or its staff has approved or endorsed any promotional program offered by either, or both, respondents;

2. Any promotional program conforms to a government standard or regulation unless such standard or regulation actually exists and applies to the promotion and the promotion conforms to such standard or regulation in all respects.

It is further ordered, That respondents distribute a copy of this order to all parties which were sent material making the misrepresentation charged in the complaint.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of a subsidiary or

any other change in the corporation, which may affect compliance obligations arising out of this order.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon it of this order file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order.

It is further ordered, That respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

Issued: December 17, 1970.

By direction of the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.71-1078 Filed 1-26-71;8:46 a.m.]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order No. 451-71]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Subpart L—Internal Security Division

ASSIGNING RESPONSIBILITY FOR HANDLING MATTERS RELATING TO MILITARY SELECTIVE SERVICE ACT OF 1967 AND CERTAIN HABEAS CORPUS PROCEEDINGS

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, § 0.61 of Subpart L of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is amended by adding the following new paragraphs (l) and (m):

§ 0.61 General functions.

* * * * *

(l) Criminal matters arising under the Military Selective Service Act of 1967.

(m) Notwithstanding § 0.55(i), habeas corpus proceedings instituted by selective service inductees disputing the legality of their induction and by armed forces personnel seeking release from service on the ground that they have become conscientious objectors.

Dated: January 18, 1971.

JOHN N. MITCHELL, *Attorney General.*

[FR Doc.71-1085 Filed 1-26-71;8:46 am]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER W—AIR FORCE PROCUREMENT

PART 1001—GENERAL PROVISIONS

PART 1012—LABOR

Responsible Prospective Contractors and Equal Opportunity

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

1. Part 1001 is amended by adding Subparts H and I to read as follows:

Subpart H—[Reserved]

Subpart I—Responsible Prospective Contractors

§ 1001.905-50 Air Force Contractor Experience List.

(a) *General.* The Directorate of Procurement Policy, Hq USAF/SPP, will maintain and publish an Air Force Contractor Experience List (AFCEL). The AFCEL and all correspondence disclosing the names of contractors on or proposed to be on the AFCEL will be marked "For Official Use Only" unless a security classification is required. The AFCEL will not be released outside the Government and information contained therein will not be made available for inspection by private individuals, firms or trade organizations. The AFCEL and other Contractor Experience Lists attached thereto are the only official listings of this type that are authorized within the United States.

(b) *Purpose.* The purpose of the AFCEL is to identify contractors who have not performed satisfactorily on Government contracts or who have encountered other difficulties that might endanger future performance. The AFCEL alerts contracting officers to secure preaward surveys prior to placing new business with these contractors. It also serves to identify conditions which the contractor must correct to satisfactorily improve performance and justify removal from the AFCEL.

(c) *Limitation on use of the AFCEL.* The listing of a contractor on the AFCEL, or on the other Contractor Experience Lists (CELs) attached thereto, will not be interpreted to mean that the listed contractor will not be given an opportunity to bid or quote on a proposed procurement, that negotiations cannot be carried on with the contractor, or that award cannot be made to such contractor. The CELs have no relationship to the Joint Consolidated List of Debarred, Ineligible, and Suspended Contractors, and the inclusion of any contractor on a CEL will not in any sense be regarded as a determination of debarment or ineligibility. These procedures do not apply to contractors performing only outside the United States.

(d) *Reasons for listing contractors.* Contractors with one or more of the following deficiencies will be considered for the AFCEL, identified by the letter coding shown.

(1) D—Contractors who have a less than satisfactory record of delivery or schedule performance on one or more contracts.

(2) Q—Contractors who fail to meet the product quality standards established by the contract.

(3) T—Contractors who have had one or more contracts terminated for default. All defaulted contractors must be reported to Hq USAF for AFCEL listing.

(4) F—Contractors who have a less than adequate financial capability for contract performance. All contractors who file for bankruptcy or are placed in receivership must be reported to Hq USAF for AFCEL listing.

(5) M—Contractors whose performance is considered unsatisfactory or whose responsibility is questioned for other specific reasons.

(e) *Procedures.* (1) Both Procuring Contracting Officers (PCO) and Administrative Contracting Officers (ACO) may initiate recommendations for the AFCEL. The PCO will coordinate the intended AFCEL action with the ACO, or vice versa as applicable, and will obtain supporting information needed to substantiate the recommendation.

(2) The contracting officer will get the approval of the chief of his purchasing or contract administration office before proceeding further. The chief (or higher level authority as determined by the major command concerned) will then notify the contractor by letter of the proposed AFCEL recommendation. State the specific deficiencies in the contractor's performance, and request a reply within 15 days if the contractor wishes to present reasons why he should not be recommended for AFCEL listing.

(3) If the contractor does not respond within 15 days, or if the response is unsatisfactory, immediately advise the contractor that he has been recommended for the AFCEL. Simultaneously submit the recommendation to Hq USAF/SPP through command channels. The major command will forward the approved recommendation to arrive at Hq USAF within 15 days after receipt unless there are valid reasons for delay.

(4) Recommendations should be brief, but complete and factual. They should answer more questions than they generate. Copies of contracts and other lengthy documents are normally not required. All recommendations should include at least the following information:

(i) Contractor's full name, address, product line, and president's name. If only one part of the company is recommended, give necessary details of the relationship.

(ii) Purchasing and contract administration offices.

(iii) Codes for which the contractor is recommended.

(iv) Contract number, effective date, type of contract, dollar value, items covered, and unusual pertinent provisions.

(v) Brief narrative of contract requirements not met, and the contractor's actual performance, or other reasons for the recommended listing. If contractor's performance is considered less than satisfactory for only certain product lines or services, identify such qualification specifically in the recommendation, and any subsequent listing on the AFCEL will be annotated.

(vi) Brief outline of previous corrective actions taken by the contracting officer, such as "show cause" or "cure" notices, including dates such actions were taken and results obtained.

(vii) For Code D give original contract delivery dates and changes thereto, including reasons therefor, action taken to assure that delivery schedules are current and realistic, and a brief summary of the frequency, duration, and

seriousness of late deliveries considered to be the fault of the contractor.

(viii) For Code Q provide a brief current evaluation of the contractor's quality control plan or inspection system.

(ix) For Code T include reasons for the default termination and results of any appeal or other disposition of the case, if available. No further justification is required unless you recommend that the defaulted contractor "Not" be listed.

(x) For Code F provide brief current financial data showing lack of financial capability. No further justification is required for a contractor in bankruptcy unless you recommend that he "Not" be listed.

(xi) AFCEL recommendations from purchasing activities will include a copy of a statement from the cognizant contract administration activity providing current performance evaluation on the specific contracts involved, pertinent overall performance, background information, and concurrence, or nonconcurrence with the recommendation.

(5) The Hq USAF/SPP AFCEL Review Board will review all recommendations. Recommendations of the Board are subject to the approval of the Director of Procurement Policy, Hq USAF/SPP, and the Deputy Chief of Staff/Systems and Logistics, Hq USAF/SDC.

(6) Normally within 30 days of receipt of the recommendation, Hq USAF/SPP will advise the contractor by letter of the decision on AFCEL listing, with copies to all offices involved in the recommendation.

(7) Hq USAF/SPP will publish an updated AFCEL quarterly and will distribute it to all major commands, DSA, and Navy for distribution to their procuring activities. Interim changes will be published as required.

(8) AFCEL Review:

(i) Each contractor on the current AFCEL will be reviewed by the recommending activity each quarter to keep the listing current and to determine if removal from or retention on the list is warranted. If the purchasing office is the recommending activity, contact the appropriate contract administration activity to obtain an evaluation of the contractor's current overall performance. Promptly recommend removal when the contractor has corrected the deficiency for which he was placed on the AFCEL and no other major deficiencies exist. Specifically substantiate recommendations. If retention is recommended, also validate the letter coding.

(ii) Forward results of quarterly reviews by letter through command channels to arrive at Hq USAF/SPP by the tenth of February, May, August, and November of each year. Hq USAF/SPP will advise the contractor by letter if removal is approved, with copies to all offices concerned.

(iii) Recommend removal of a contractor who no longer has Government contracts after a maximum of 1 year on the list.

(iv) Recommend removal of a contractor who is subsequently included in the Joint Consolidated List of Debarred, Ineligible, and Suspended Contractors (AFR 70-23).

(v) Do not recommend removal of a contractor who has appealed any matter which caused AFCEL listing, other than Code T, until final resolution of the appeal with the contractor's position substantially upheld.

(vi) Do not recommend removal of a contractor who was listed for Code T until the termination for default is converted to a termination for convenience, the Armed Services Board of Contract Appeals substantially upholds the contractor's position, or the contractor has been listed for 1 year.

(vii) Do not recommend removal of a contractor who was listed under Code F for bankruptcy/receivership until such proceedings have been completed and the contractor has been listed for 1 year.

(viii) Whenever a listed contractor changes name or address, promptly notify Hq USAF/SPP. Identify whether the new name or address replaces or is in addition to the present listing. This includes contractors listed on the Navy or DSA CEL's.

(f) *Navy and Defense Supply Agency (DSA) Implementation.* Navy Procurement Directive NPD 1-950, Navy Contractor Experience List (NCEL); Defense Supply Procurement Regulation 1-950, DSA Contractor Experience List (DSACEL); and DSA Regulation No. 8335.1, Contractor Experience List for Contract Administration Services provide information on Air Force, Navy, and DSA Contractor Experience Lists. DSAR No. 8335.1 also provides instructions to DCAs organizations on their recommendation of contractors for the AFCEL. Hq USAF sends the AFCEL to Navy and DSA for distribution with the NCEL and DSACEL.

(g) *Letters to contractors.* The following are formats for letters to contractor top management.

(1) Format for initial notice to contractor:

Dear Mr. ---------- (President) ----------

The Air Force has established a list of contractors whose performance or financial condition has been determined to be unsatisfactory. This list is the Air Force Contractor Experience List (AFCEL). The procedure for listing contractors on the AFCEL is set forth in § 1001.905-50 of Air Force Procurement.

This is to notify you that the Air Force considers your performance (or financial condition) to be unsatisfactory. (State specific deficiencies.) Action is in process to recommend you for placement on the AFCEL. However, you are being afforded an opportunity to provide reasons why this action should not be taken and/or what corrective actions you propose to take to resolve the above cited deficiencies.

Please forward your response to this office on or before (15 days).

Sincerely

(2) Format for notice to contractor of recommendation to Hq USAF:

Dear Mr. ---------- (President) ----------

Your response of (date) has been carefully reviewed (or: No response has been received to my letter of (date) and the decision to recommend placing your company on the Air Force Contractor Experience List (AFCEL) is still considered appropriate. Therefore I have recommended that your firm be placed on the AFCEL. If this recommendation is approved by Hq USAF your firm will be listed on the next AFCEL. Your listing will be carefully reviewed at least quarterly. At such time as there is assurance that you have taken effective action to correct the unsatisfactory condition, we will recommend that your company be removed from the AFCEL.

Your listing on the AFCEL will not in any way prevent you from bidding on or submitting proposals for future contracts. The list will, however, alert contracting officers to companies whose performance has been determined to be currently unsatisfactory, and a preaward survey will be required before any award to your firm.

Any further information which you feel is appropriate before final action is taken may be forwarded directly to Hq USAF/SPP, Washington, D.C. 20330, with a copy to this office.

We sincerely hope that you soon correct the conditions that prompted this recommendation.

Sincerely

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

2. Part 1012 is amended by adding Subparts G and H to read as follows:

Subpart G—[Reserved]

Subpart H—Equal Opportunity

§ 1012.808-2 Compliance reviews.

From time to time, the OFCC and other compliance agencies issue notices with respect to companies whose EEO compliance status is questionable. Such notices may require special reviews, inquiries, consultations, etc., prior to award to those companies of any contract, regardless of dollar amount. Upon receipt by Hq USAF/SPP, the notice shall be forwarded to appropriate major commands for dissemination to all buying activities. Before awarding a contract to any firm listed in such a notice, the PCO shall contact the Hq USAF/SPP Labor Relations Office for instructions. Hq USAF, after consultation with the appropriate agencies, shall advise the PCO as to whether award can be made to the firm in question.

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

By order of the Secretary of the Air Force.

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

[FR Doc.71-1074 Filed 1-26-71;8:45 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

Fox River, Wis.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8,

1917 (40 Stat. 226; 33 U.S.C. 1), § 207.460 governing the use, administration of the locks and canals in the Fox River, Wis., is hereby amended by adding a new paragraph (a)(17) to govern the operation of the Neenah dam outlet works at Neenah, Wis., effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 207.460 Fox River, Wis.

(a) *Use, administration, and navigation of the locks and canals.* * * *

(17) *Neenah dam outlet works.* (i) During periods of high water, when determined to be necessary by the District Engineer, U.S. Army Engineer District, Chicago, to reduce the threat of flooding, it shall be the duty of the person owning, operating, or controlling the dam across the Neenah Channel of the Fox River at Neenah, Wis., acting as agent of the United States, to open or close, or cause to be opened or closed, pursuant to subdivision (ii) of this subparagraph, the outlet works of said dam to regulate the passage of water through said outlet works.

(ii) The outlet works of said dam shall be opened when and to the extent directed by the District Engineer or his authorized field representatives, and said outlet works shall thereafter be closed when and to the extent directed by the said District Engineer or his authorized field representative.

* * * * *

[Regs., Jan. 7, 1971, ENGCW-ON] (Sec. 7, 40 Stat. 266; 33 U.S.C. 1)

For the Adjutant General:

R. B. BELNAP,
Special Advisor to TAG.

[FR Doc.71-1081 Filed 1-26-71;8:46 am]

Title 23—HIGHWAYS

Chapter I—Federal Highway Administration, Department of Transportation

PART 1—ADMINISTRATION OF FEDERAL AID FOR HIGHWAYS

Relocation Assistance and Payments; Interim Operating Procedures; Postponement of Effective Date

On October 30, 1970, the Federal Highway Administrator issued Instructional Memorandum 80-2-70 which was published in the FEDERAL REGISTER December 19, 1970, at 35 F.R. 19232, entitled "Relocation Assistance and Payments Interim Operating Procedures" which was to become effective 90 days after issuance or at the option of the State the memorandum could be effective at an earlier date.

The effective date of this memorandum is postponed until further notice because of the enactment of the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970", Public Law 91-646, January 2, 1971.

This postponement is issued under authority of 23 U.S.C. 315 and the delegation of authority in § 1.48(b) of the regulations of the Office of the Secretary (35 F.R. 4959 (1970)).

Issued on January 20, 1971.

F. C. TURNER,
Federal Highway Administrator.

[FR Doc.71-1131 Filed 1-26-71;8:50 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 2—DELEGATIONS OF AUTHORITY

Delegations Relating to Guaranty of Mobile Home Loans

In Part 2, §§ 2.95 and 2.96 are added to read as follows:

§ 2.95 Delegation of authority to certain employees to exercise the power of the Administrator to waive stated procedural (nonsubstantive) requirements of the mobile home guaranty regulations.

This delegation of authority is identical to § 36.4220 of this chapter.

§ 2.96 Delegation of authority to certain employees to exercise certain powers and functions of the Administrator with respect to the guaranty of mobile home loans. The authority hereby delegated to these employees may, with the approval of the Chief Benefits Director, be redelegated.

This delegation of authority is identical to § 36.4221 of this chapter.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.71-1137 Filed 1-26-71;8:50 am]

PART 36—LOAN GUARANTY

Guaranty of Loans to Veterans To Purchase Mobile Homes and Lots, Including Site Preparation

§§ 36.4000-36.4251 [Revoked]

1. Sections 36.4000 through 36.4251 are revoked.

2. A new center title and §§ 36.4201 through 36.4222, §§ 36.4231 through 36.4235, §§ 36.4275 through 36.4277 and §§ 36.4279 through 36.4287 are added to read as follows:

GUARANTY OF LOANS TO VETERANS TO PURCHASE MOBILE HOMES AND LOTS, INCLUDING SITE PREPARATION GENERAL PROVISIONS.

Sec.
36.4201 Applicability of the § 36.4200 series.
36.4202 Definitions.
36.4203 Eligibility of the veteran for the mobile home loan benefit under 38 U.S.C. 1819.
36.4204 Maximum loan amounts and term.
36.4205 Computation of guaranty.
36.4206 Income, credit, and occupancy requirements.
36.4207 Mobile home standards.
36.4208 Mobile home location standards.
36.4209 Reporting requirements.
36.4210 Joint loans.
36.4211 Amortization—Prepayment.
36.4212 Interest rates and late charges.
36.4213 Capacity of parties.
36.4214 Geographical limits.
36.4215 Accounting records.
36.4216 Disqualification of lenders.
36.4217 Delivery of notice.
36.4218 Payment in full; termination of guaranty.
36.4219 Incorporation by reference.
36.4220 Substantive and procedural requirements; waiver.
36.4221 Delegation of authority.
36.4222 Hazard insurance.

FINANCING MOBILE HOME UNITS

36.4231 Manufacturers warranty.
36.4232 Allowable fees and charges; mobile home unit.
36.4233 Suspension of manufacturers.
36.4234 Title and lien requirements.
36.4235 Suspension of dealers and mobile home park operators.

SERVICING, LIQUIDATION OF SECURITY AND CLAIM

36.4275 Events constituting default.
36.4276 Advances and other charges.
36.4277 Release of security.
36.4279 Extensions and reamortizations.
36.4280 Reporting of defaults.
36.4281 Refunding of loans in default.
36.4282 Legal proceedings (notice of repossession).
36.4283 Foreclosure or repossession.
36.4284 Computation of guaranty claims.
36.4285 Subrogation and indemnity.
36.4286 Partial or total loss of guaranty.
36.4287 Substitution of trustees.

AUTHORITY: Sections 36.4201 to 36.4287 issued under 72 Stat. 1114, 84 Stat. 1110; 38 U.S.C. 210, 1819.

GUARANTY OF LOANS TO VETERANS TO PURCHASE MOBILE HOMES AND LOTS INCLUDING SITE PREPARATION

NOTE: Those requirements, conditions, or limitations which are expressly set forth in 38 U.S.C. 1819 and are not restated herein must be taken into consideration in conjunction with the § 36.4200 series.

GENERAL PROVISIONS

§ 36.4201 Applicability of the § 36.4200 series.

The § 36.4200 series shall be applicable to each loan entitled to guaranty under 38 U.S.C. 1819 on or after the date of cation thereof in the FEDERAL REGISTER.

§ 36.4202 Definitions.

Wherever used in 38 U.S.C. 1819 or the § 36.4200 series, unless the context otherwise requires, the terms defined in this section shall have the meaning herein stated.

(a) "Administrator" means the Administrator of Veterans Affairs, or any employee of the Veterans Administration authorized by him to act in his stead.

(b) "Date of first uncured default" means the due date of the earliest payment not fully satisfied by the proper application or available credits or deposits.

(c) "Default" means failure of a borrower to comply with the terms of a loan agreement.

(d) "Guaranty" means the obligation of the United States, assumed by virtue

of 38 U.S.C. 1819, to repay a specified percentage of a loan upon default of the primary debtor, which guaranty payment shall be made after liquidation of the security for the loan and an accounting with the Administrator.

(e) "Holder" means the lender or any subsequent assignee or transferee of the guaranteed obligation.

(f) "Indebtedness" means the unpaid principal and interest plus any other amounts allowable under the terms of a loan including those authorized by statute and consistent with the § 36.4200 series, which have been paid and debited to the loan account. Unpaid late charges may not be included in the indebtedness.

(g) "Lender" means the payee or assignee or transferee of an obligation at the time it is guaranteed.

(h) "Lien" means any interest in, or power over, real or personal property, reserved by the vendor, or created by the parties or by operation of law, chiefly or solely for the purpose of assuring the payment of the purchase price, or a debt, and irrespective of the identity of the party in whom title to the property is vested, including but not limited to mortgages, deeds with a defeasance therein or collaterally, deeds of trust, security deeds, security instruments, mechanics' liens, lease-purchase contracts, conditional sales contracts, consignments.

(i) "Loan" means unpaid principal balance plus unpaid earned interest due under the terms of the obligation.

(j) "Lot" means a parcel of land acceptable to the Administrator as a mobile home site.

(k) "Manufacturer's invoice cost" means that figure shown on a document acceptable in form and content to the Administrator issued by the manufacturer which represents the wholesale price of a specifically identified mobile home including any furnishings, equipment and accessories installed by the manufacturer, which document is certified as the true manufacturer's invoice for that particular mobile home and which separately states the amount of freight or transportation costs charged to the dealer, if any.

(l) "Maximum home loan guaranty entitlement" means for the purposes of 38 U.S.C. 1819, evidence of the fact that a veteran has "maximum home loan guaranty entitlement" available for use shall be a Certificate of Eligibility showing he has $12,500 available for real estate purposes in the column headed "1810".

(m) "Mobile home" means a moveable dwelling unit designed and constructed for year around occupancy on land by a single family, which dwelling unit contains permanent eating, cooking, sleeping and sanitary facilities.

(n) "Necessary site preparation" means those improvements essential to render a mobile home site acceptable to the Administrator including, but not limited to, the installation of utility connections, sanitary facilities and paving, and the construction of a suitable pad.

(o) "New mobile home" means a mobile home which, at the time of purchase by the veteran-borrower, has not been previously occupied.

(p) "Reasonable value" means that figure which represents the amount a reputable and qualified appraiser, unaffected by personal interest, bias, or prejudice, would recommend to a prospective purchaser as a proper price or cost in the light of prevailing conditions.

(q) "Repossession—repossessed" means recovery or acquisition of such physical control of property (pursuant to the provisions of the security instrument or as otherwise provided by law) as to make further legal or other action unnecessary in order to obtain actual possession of the property or to dispose of the same by sale or otherwise.

(r) "Resale" means sale of the property by the holder to a third party for the purpose of liquidating the security for the loan after having acquired the property by repossession, public or private sale, or by any other means.

(s) "Used mobile home" means a mobile home which is the security for a prior loan guaranteed, insured or made by the Veterans' Administration or by another Federal agency.

§ 36.4203 Eligibility of the veteran for the mobile home loan benefit under 38 U.S.C. 1819.

(a) To be eligible for the mobile home loan benefit a veteran must have maximum home loan guaranty entitlement of $12,500 available for use. Such maximum home loan guaranty entitlement may consist, in whole or in part, of restored entitlement. Entitlement used to obtain a mobile home loan may be restored a single time provided the first loan has been repaid in full.

(b) Use of the mobile home loan guaranty benefit shall preclude the use of any home loan guaranty entitlement under any other section of chapter 37, title 38, United States Code until the mobile home loan has been paid in full.

§ 36.4204 Maximum loan amounts and term.

(a) Maximum permissible loan amounts and term shall not exceed:

(1) $10,000 for 12 years and 32 days in the case of a loan covering the purchase of a mobile home only.

(2) $10,000 for 12 years and 32 days in the case of a loan covering the purchase of a mobile home plus such additional amount as determined by the Administrator to be appropriate to cover the cost necessary for site preparation where the veteran owns the lot.

(3) $15,000 (but not to exceed $10,000 for the mobile home and not to exceed $5,000 for an undeveloped lot) for 15 years and 32 days in the case of a loan covering the purchase of a mobile home and an undeveloped lot on which to place such home plus such additional amount as determined by the Administrator to be appropriate to cover the cost of necessary site preparation.

(4) $17,500 (but not to exceed $10,000 for the mobile home and not to exceed $7,500 for a suitably developed lot) for 15 years and 32 days in the case of a loan covering the purchase of a mobile home and a suitably developed lot on which to place such home.

(b) Subject to the maximum loan amounts in paragraph (a) of this section the loan amount in an individual case shall not exceed the following:

(1) In the case of a loan to purchase a new mobile home unit only, the loan amount shall not exceed the sum of the following:

(i) 120 percent of the figure produced by the following computation: Subtract from the manufacturer's invoice cost the manufacturer's invoice cost of any components (furnishings, accessories, equipment) removed from the unit by the dealer. To the remainder add the dealer's cost for any components added by such dealer. The sum so obtained shall be the figure to be multiplied by the specified percentage.

(ii) 100 percent of the actual amount of fees and charges permitted in § 36.4232 but not in excess of the specified maximums.

(2) In the case of a loan to purchase a new mobile home unit plus the cost of necessary site preparation where the veteran owns the lot, the loan amount shall be limited to the amount determined in subparagraph (1) of this paragraph plus such costs of necessary site preparation as are approved by the Administrator.

(3) In the case of a loan to purchase a new mobile home unit plus the purchase of an undeveloped lot on which to place such home plus the cost of necessary site preparation, the loan amount shall be limited to the amount determined in subparagraph (1) of this paragraph plus the reasonable value of the undeveloped lot as determined by the Administrator plus such costs of necessary site preparation as are approved by the Administrator.

(4) In the case of a loan to purchase a new mobile home unit plus the cost of a suitably developed lot on which to place such home, the loan amount shall be limited to the amount determined in subparagraph (1) of this paragraph plus the reasonable value of the developed lot as determined by the Administrator.

(c) The cost of the transaction which will not be paid from the proceeds of the loan must be paid by the veteran in cash from his own resources. Closing costs and prepaid items incident to the real estate portion of any mobile home must be paid in cash and may not be included in the loan amount.

§ 36.4205 Computation of guaranty.

(a) The amount of the guaranty in respect to a loan guaranteed under 38 U.S.C. 1819 shall be thirty (30) percent of the loan. The amount of the guaranty is reduced or increased pro rata with any reduction or increase in the amount of the guaranteed loan.

(b) Any evidence of guaranty issued by the Administrator in respect to such loan shall be conclusive evidence of the eligibility of the loan for guaranty and of the amount of such guaranty: *Provided, however,* That the Administrator

may establish against the original lender, defenses based on fraud or material misrepresentation and that the Administrator may by regulations in force at the date of such issuance establish partial defenses to the amount payable on the guaranty.

§ 36.4206 Income, credit, and occupancy requirements.

No loan shall be guaranteed under 38 U.S.C. 1819 unless:

(a) The terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, taking into account the purpose of this program to make available lower cost housing to low and lower income veterans, especially those who have been recently discharged or released from active military, naval, or air service, who may not have previously established credit ratings.

(b) The veteran certifies, in such form as the Administrator shall prescribe, that he will personally occupy the property as his home. For the purposes of this section, the words "personally occupy the property as his home" mean that the veteran as of the date of his certification actually lives in the property personally as his residence or actually intends upon completion of the loan and acquisition of the mobile home to move into the home personally within a reasonable time and to utilize the home as his residence.

§ 36.4207 Mobile home standards.

To qualify for purchase with a guaranteed loan a mobile home must

(a) Be a minimum of forty (40) feet long and ten (10) feet wide having a minimum area of at least four hundred (400) square feet or be a module or modules having a minimum area of at least four hundred (400) square feet;

(b) Be so constructed as to be towed on its own chassis and undercarriage and/or independent undercarriage;

(c) Contain living facilities for year around occupancy by one family, including permanent provisions for heat, sleeping, cooking, and sanitation; and

(d) Comply with the specifications in effect at the time the loan is made that are prescribed in mobile home standard No. A 119.1, as approved by the American National Standards Institute (formerly the United States of America Institute, Inc.).

§ 36.4208 Mobile home location standards.

(a) Any rental site on which a mobile home to be purchased with a guaranteed loan will be placed must qualify as an acceptable rental site as follows:

(1) Be located within a mobile home park or subdivision which is acceptable to the Veterans Administration; or

(2) Be a site which is not within a mobile home park or subdivision provided that (i) the site is determined by the Veterans Administration to be an acceptable rental site, or (ii) in the absence of a determination by the Veterans Administration in respect to such site the mobile home purchaser and the dealer certify to the Administrator as follows:

(*a*) Placement of the mobile home on the site or lot is not a violation of zoning laws or other local requirements applicable to mobile homes;

(*b*) The site or lot is served by water and sanitary facilities which are approved by the local public authority and which are acceptable to the Veterans Administration;

(*c*) The site or lot is served by an all-weather street or road;

(*d*) The site or lot is not known to be subject to conditions that may be hazardous to the health or safety of the mobile home occupants or that may endanger the mobile home; and

(*e*) The site is free from, and the location of the mobile home thereon will not substantially contribute to, adverse scenic or environmental conditions.

(b) No mobile home purchased with a guaranteed loan may be placed on a lot owned by an eligible veteran or on a lot to be purchased or improved with the proceeds of a guaranteed mobile home loan unless the lot owned or to be so purchased or improved is determined by the Veterans Administration to be an acceptable mobile home site.

(c) A mobile home park or subdivision which is not approved by the Federal Housing Administration will be acceptable to the Veterans Administration for the purpose of 38 U.S.C. 1819 if the Administrator determines that the park or subdivision, whether existing or proposed, (1) is designed to encourage the maintenance and development of mobile home sites which will be free from, and not substantially contribute to, adverse scenic and environmental conditions, and (2) complies otherwise with the applicable standards for planning, construction, and general acceptability prescribed by the Administrator.

§ 36.4209 Reporting requirements.

(a) Each loan proposed for guaranty under 38 U.S.C. 1819 shall, unless otherwise provided in the § 36.4200 series, be submitted to the Administrator for approval prior to closing. The Administrator upon determining any such proposed loan to be eligible for guaranty will issue a certificate of commitment.

(b) Except as provided in paragraph (c) of this section, a certificate of commitment shall entitle the holder to the issuance of the evidence of guaranty upon the ultimate actual payment of the full proceeds of the loan for the purposes described in the original report and upon the submission within 30 days thereafter of a supplemental report showing such fact and:

(1) That the loan conforms to the terms of the certificate of commitment;

(2) The identity of all property purchased therewith;

(3) That all property purchased with the proceeds of the loan has been encumbered as required by the § 36.4200 series;

(4) In respect to any property purchased with the loan proceeds as to which the Administrator issued a certificate of reasonable value which was conditioned upon completion of any construction, repairs, alterations or improvements not inspected and approved subsequent to completion by a compliance inspector designated by the Administrator that such construction, repairs, alterations or improvements have been completed according to the plans and specifications upon which such reasonable value was based; and

(5) That the loan conforms otherwise to the applicable provisions of 38 U.S.C. 1819 and the § 36.4200 series.

(c) A deviation of more than five (5) percent between the estimates upon which the certificate of commitment was issued and the report of final payment of the proceeds of the loan, or a change in the identity of the property acquired by the veteran with the loan proceeds will invalidate the certificate of commitment, unless such deviation or change is approved by the Administrator.

(d) Upon the failure of the lender to report in accordance with paragraph (b) of this section, the certificate of commitment shall have no further effect; *Provided, nevertheless,* That if the loan otherwise meets the requirements of this section, said certificate of commitment may be given effect by the Administrator, notwithstanding the report is received after the date otherwise required.

(e) A Certificate of Guaranty will be issued on the basis of the loan stated in the certification of loan disbursement provided the loan is otherwise eligible.

(f) Any amount of the loan that is disbursed for an ineligible purpose shall be excluded in computing the amount of guaranty.

§ 36.4210 Joint loans.

The joinder of the spouse of a veteran-borrower in the ownership of the property purchased with the loan proceeds shall not preclude issuance of guaranty based upon the entire amount of the loan. The amount or percentage of guaranty may not, however, be increased beyond the 30 percent maximum by reason of such spouse's eligibility for the mobile home loan benefit or by the joinder in ownership of the property of more than one eligible veteran.

§ 36.4211 Amortization—prepayment.

(a) To be eligible for guaranty under 38 U.S.C. 1819 a loan shall be amortized fully within the term of the loan in accordance with any generally recognized plan of amortization requiring approximately equal monthly payments. The loan shall not be payable on demand or at sight or presentation, or at a time not specified or computable from the language in the evidence of indebtedness, or on a renewal basis at the option of the holder. The first payment may be deferred not longer than 2 months from the date the loan is closed.

(b) No guaranteed loan security instrument shall contain any provision giving the holder a right to declare the loan due or otherwise to declare a default if the holder "shall feel insecure" or upon the occurrence of any similar condition

at the holder's option, without regard to any act or omission by the debtor.

(c) The debtor shall have the right, without penalty or fee, to prepay all or not less than one installment of the indebtedness at any time. Credit for any partial prepayment made on other than an installment due date may be postponed to the next installment due date. The holder and the debtor may agree at any time that any prepayment not previously applied in satisfaction of matured installments shall be reapplied for the purpose of curing or preventing any subsequent default. Any prepayment in full of the indebtedness (unpaid principal balance plus earned interest) shall be credited on the date received. In determining the amount required to prepay the indebtedness in full the holder of the loan shall exclude all unearned interest or discount.

(d) Subject to paragraph (a) of this section any amounts which under the terms of a loan do not become due and payable on or before the last maturity date permissible for loans of its class under the limitations contained in § 36.4204 shall automatically fall due on such date.

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed pursuant to 38 U.S.C. 1819 may not exceed the following maxima:

(1) 10.75 percent simple interest per annum for that portion of the loan which finances the purchase of a mobile home unit.

(2) 7.50 percent simple interest per annum for that portion of the loan which finances the purchase of a lot and the cost of necessary site preparation, if any.

(3) 7.50 percent simple interest per annum on that portion of a loan which will finance the cost of the site preparation necessary to make a lot owned by the veteran acceptable as the site for the mobile home purchased with the proceeds of the loan except that a rate of not to exceed 10.75 percent may be charged if the portion of the loan to pay for the cost of such necessary site preparation does not exceed $2,500.

(b) The rate of interest in instruments securing the indebtedness for all loans may be expressed in terms of add-on or discount provided the rate as so computed does not exceed the applicable maximum simple interest rate(s) specified in paragraph (a) of this section.

(c) A late charge not in excess of an amount equal to 4 percent of any installment paid more than 15 days after due date shall not be considered a violation of the interest rate limitations specified in paragraph (a) of this section. Late charges must be collected from the borrower as such and may not be deducted from regular installments.

§ 36.4213 Capacity of parties.

Nothing in the § 36.4200 series shall be construed to relieve any lender of responsibility for any loss caused by lack of legal capacity of any person to contract, sell, convey or encumber, or by the existence of other legal disability or defects invalidating or rendering unenforceable in whole or in part either the loan obligation or the security therefor.

§ 36.4214 Geographical limits.

The site for any mobile home purchased with a guaranteed loan must be located within the United States of America, which for the purposes of 38 U.S.C. 1819 comprises the several States, the Territories and possessions of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

§ 36.4215 Accounting records.

(a) The holder shall maintain a record of the amounts of payments received on the obligation and disbursements chargeable thereto and the dates thereof. This record shall be maintained until the Administrator ceases to be liable as guarantor of the loan. For the purpose of any accounting with the Administrator or computation of claim against him, any holder who fails to maintain such record shall be presumed to have received on the dates due all sums which by the terms of the contract are payable prior to date of claim, and the burden of going forward with evidence and of ultimate proof of the contrary shall be on such holder.

(b) The Administrator has the right to inspect, examine, or audit, at a reasonable time and place, the records or accounts of a holder pertaining to loans guaranteed by the Administrator.

§ 36.4216 Disqualification of lenders.

(a) A lender or holder may be suspended from obtaining guaranty of loans or from the right to the guaranty in respect to any loan made or purchased after the date of its suspension, except as provided in paragraph (h) of this section, whenever any of the employees designated in § 36.4221(b) finds that the lender or holder (hereinafter referred to as lender) has failed to maintain adequate loan accounting records, or to demonstrate proper ability to service loans adequately, or to exercise proper credit judgment, or has declined to make a guaranteed mobile home loan to an eligible veteran because of the applicant's race, color, religion, or national origin, or has willfully or negligently engaged in practices otherwise detrimental to the interests of veterans or of the Government, or has been refused the benefits of participation under the National Housing Act pursuant to a determination of the Federal Housing Commissioner under section 512 of that Act. Suspension of a lender shall be effected only when specifically authorized by the Administrator, the Deputy Administrator, or by the Chief Benefits Director, Department of Veterans Benefits. In any case in which suspension has been so authorized and (1) an indictment has been secured or a criminal information has been filed against the lender in connection with a transaction involving 38 U.S.C. 1819, or (2) is based upon action taken by the Federal Housing Commissioner, an immediate suspension may be effected. In any other case in which the Director of a regional office has obtained Central Office authorization to initiate suspension proceedings, prior written notice of intention to apply the suspension sanction shall be furnished to the lender concerned.

(b) Where notice of intention to suspend is furnished a lender, the notice shall state the charges against the lender and the specifications on which the charges are based. Such notice shall also advise the lender that no later than 20 days from the date of the receipt of the notice it may file written answer to the charges with the Director and, if desired, may also file a written request that lender be permitted to appear before the Veterans Administration and state why suspension should not be effected. In the event the lender does not file written answer to the charges against it and does not make or request permission to make an appearance before the Veterans Administration within the time specified, suspension may be effected immediately, without further authorization, by the Director who will advise the Chief Benefits Director of the action taken.

(c) If an appearance before the Veterans Administration is requested by the lender, the Director will arrange for and notify the lender of the time and place thereof and will appoint a committee of three Veterans Administration employees to hear the lender's statement. The Chief Attorney or his designee will represent the Veterans Administration at such appearance. The proceedings of the committee will be informal. The lender will be informed of the charges and specifications which constitute the basis of the contemplated suspension and will be afforded an opportunity to state either orally or in writing why suspension should not be effected. Written or oral statements of the lender, or its officers, agents, or representatives other than counsel may be required by said Chief Attorney or his designee to be made under oath if in his discretion the nature of the statement is such as to make that procedure advisable. In the event an oral statement is made under oath, a verbatim transcript of such statement will be made. Authority is hereby delegated to the Chief Attorney or his designee to administer oaths to each party making the statement under oath.

(d) If within the specified time, written answer is filed with the Director or the lender makes an appearance, the Director will hold the suspension in abeyance and submit a full report to the Chief Benefits Director including recommendations as to the action to be taken in the case and will await instructions of the Chief Benefits Director before proceeding further.

(e) Where suspension is effected, the lender will be advised in writing of the effective date of the suspension and, unless such was previously furnished, will be given written notice of the charges against the lender and the specifications on which such charges are based. Any lender who is suspended shall have the

right to apply to the Chief Benefits Director for termination or modification of the suspension and, except when the suspension is based upon action taken by the Federal Housing Commissioner, shall also have the right to apply to the Chief Benefits Director for a formal hearing at which opportunity shall be afforded to show why suspension should be modified or terminated. The Chief Benefits Director may postpone the holding of a hearing for a reasonable period in any case in which the Department of Justice or U.S. attorney advises or requests postponement pending the trial of a criminal or civil case or the institution of criminal or civil proceedings against the lender. In the absence of such request, the Chief Benefits Director, as soon as he may deem it feasible to do so, shall designate such time and place as he may deem appropriate for such hearing, shall notify the lender thereof, and shall appoint not less than three persons, who shall constitute the board, to conduct the hearing. The Chief Attorney or his designee shall represent the Veterans' Administration. Authority is hereby delegated to the chairman of the board designated to conduct such hearing to administer oaths to witnesses. The Director may issue subpenas for witnesses or records as provided in 38 U.S.C. 3311. The lender shall have the right to appear at such hearing in person or by attorney, or both, and to introduce evidence showing why such suspension should be modified or terminated. If the Veterans' Administration has knowledge of a pending or contemplated civil or criminal action by the United States against the lender, arising from the facts on which the suspension of the lender was based, the Chief Attorney of the regional office concerned will inform the responsible U.S. attorney of the date and place of hearing and keep him advised of all developments.

(f) As soon as is practicable after the conclusion of the hearing, the board will make findings of fact and recommendations in writing to the Chief Benefits Director. The lender will be furnished with a transcript of the hearing and with a statement of the board's findings of fact. The lender shall have the right within 14 days after receipt of such transcript and statement to file with the Chief Benefits Director a brief of either, or both, facts and law.

(g) Upon receipt of the transcript of the hearing, the findings and recommendations of the board, and the brief of the lender, if one is filed, the Chief Benefits Director shall make a determination in the case, basing his action on such record. Written notice of such determination shall be given to the lender. The lender shall have the right to appeal such decision to the Administrator by giving notice in writing to the Chief Benefits Director within 10 days after the receipt of notice of such determination. In the event of such appeal, the Administrator will decide the matter finally on the record and will notify the lender of his decision in writing. If the lender does not appeal to the Administrator within the period specified, the determination by the Chief Benefits Director shall be final.

(h) Except where acquisition is pursuant to a binding contract antedating the suspension, the purchase of a guaranteed loan by a lender after the date of its suspension shall cancel the guaranty on such loan: *Provided*, The notice to the lender of the suspension expressly bars such lender from acquiring by purchase loans guaranteed by the Administrator.

(i) If after determination by the Chief Benefits Director or the Administrator, as provided in paragraph (g) of this section, the suspension is terminated, all rights and interest of the lender shall be restored. However, any lender suspended by reason of action taken by the Federal Housing Commissioner is not afforded the rights under paragraph (g) of this section and the suspension in any such case will be terminated by the Chief Benefits Director only if the lender furnishes satisfactory evidence of his reinstatement by the Federal Housing Commissioner.

§ 36.4217 Delivery of notice.

Any notice required by the § 36.4200 series to be given the Administrator must be in writing, and delivered, by mail or otherwise, to the Veterans Administration office at which the guaranty was issued, or to any changed address of which the holder has been given notice. Such notice must plainly identify the case by the setting forth the name of the original veteran-obligor and the file number assigned to the case by the Administrator, if available, or otherwise the name and serial number of the veteran. If mailed, the notice shall be by certified mail when so provided by the § 36.4200 series. This section does not apply to legal process. (See § 36.4282.)

§ 36.4218 Payment in full; termination of guaranty.

Upon full satisfaction of a guaranteed loan by payment or otherwise the instrument evidencing the guaranty shall be returned to the Veterans Administration office issuing the same with the holder's cancellation or endorsement of release thereon.

§ 36.4219 Incorporation by reference.

Veterans Administration regulations issued under 38 U.S.C. 1819, and in effect on the date of any loan which is submitted and accepted or approved for a guaranty thereunder, shall govern the rights, duties, and liabilities of the parties to such loan and any provisions of the loan instruments inconsistent with such regulations are hereby amended and supplemented to conform therto.

§ 36.4220 Substantive and procedural requirements; waiver.

(a) Notwithstanding any requirement, condition, or limitation stated in or imposed by the regulations concerning the guaranty of mobile home loans to veterans, the Chief Benefits Director, or the Director, Loan Guaranty Service, within the limitations and conditions prescribed by the Administrator, is hereby authorized, if he finds the interests of the Government are not adversely affected, to relieve undue prejudice to a debtor, holder, or other person, which might otherwise result, provided no such action may be taken which would impair the vested rights of any person affected thereby. If such requirement, condition, or limitation is of an administrative or procedural (not substantive) nature, any employee designated in § 36.4221 is hereby authorized to grant similar relief if he finds the failure or error of the lender was due to misunderstanding or mistake and that the interests of the Government are not adversely affected. Provisions of the regulations considered to be of an administrative or procedural (nonsubstantive) nature are limited to the following:

(1) The requirement in § 36.4209 that a lender originating a loan under a certificate of commitment report the loan for issuance of guaranty evidence within 30 days following actual payment of the full proceeds of the loan. In such cases it is not necessary that a finding be made that the loan is not in default.

(2) The requirement in § 36.4279 that a holder promptly forward an advice of the terms of any agreement effecting a reamortization or extension of a loan.

(3) The requirement in § 36.4280 concerning the giving of notice of default.

(4) The requirement in § 36.4280 that a holder give 30 days advance notice of its intention to foreclose or repossess the security.

(5) The requirement in § 36.4282 that a holder give notice of repossession of personal property within 10 days after such repossession has occurred.

(b) No waiver, consent, or approval required or authorized by the regulations concerning guaranty of loans to veterans shall be valid unless in writing signed by the Administrator or the employee designated in § 36.4221.

§ 36.4221 Delegation of authority.

(a) Except as hereinafter provided, each employee of the Veterans Administration heretofore or hereafter appointed to, or lawfully filling, any position designated in paragraph (b) of this section is hereby delegated authority, within the limitations and conditions prescribed by law, to exercise the powers and functions of the Administrator with respect to the guaranty of mobile home loans and the rights and liabilities arising therefrom, including but not limited to the adjudication and allowance, disallowance, and compromise of claims; the collection or compromise of amounts due, in money or other property; the extension, rearrangement, or acquisition of loans; the management and disposition of secured and unsecured notes and other property; and those functions expressly or impliedly embraced within paragraphs (2) to (6), inclusive, of 38 U.S.C. 1820(a). Incidental to the exercise and performance of the powers and functions hereby delegated, each such employee is authorized to execute and deliver (with or without acknowledgment) for, and on behalf of, the Administrator, evidence of

guaranty and such certificates, forms, conveyances, and other instruments as may be appropriate in connection with the acquisition, ownership, management, sale, transfer, assignment, encumbrance, rental, or other disposition of real or personal property, or of any right, title, or interest therein, including, but not limited to, contracts of sale, installment contracts, deeds, leases, bills of sale, assignments, and releases; and to approve disbursements to be made for any purpose authorized by 38 U.S.C. chapter 37.

(b) Designated positions:

Chief, Benefits Director.
Director, Loan Guaranty Service.
Director, Regional Office.
Director, Veterans Benefits Office (Washington, D.C.).
Loan Guaranty Officer.
Assistant Loan Guaranty Officer.

The authority hereby delegated to employees of the positions designated in this paragraph may, with the approval of the Chief Benefits Director, be redelegated.

(c) Nothing in this section shall be construed (1) to authorize any such employee to excercise the authority vested in the Administrator under 38 U.S.C. 210 (c) or 1815(b) or to sue, or enter appearance for and on behalf of the Administrator, or confess judgment against him in any court without his prior authorization; or (2) to include the authority to exercise those powers delegated to the Chief Benefits Director, or the Director, Loan Guaranty Service, under § 36.4220: *Provided*, That anything in the regulations concerning guaranty of loans to veterans to the contrary notwithstanding, any evidence of guaranty issued on or after the effective date of the § 36.4200 series by any of the employees designated in paragraph (b) of this section or by any employee designated an authorized agent or a loan guaranty agent shall be deemed to have been issued by the Administrator, subject to the defenses reserved in 38 U.S.C. 1821.

§ 36.4222 Hazard insurance.

The holder shall require insurance policies to be procured and maintained in an amount sufficient to protect the security against the risks or hazards to which it may be subjected to the extent customary in the locality. All moneys received under such policies covering payment of insured losses shall be applied to restoration of the security or to the loan balance.

FINANCING MOBILE HOME UNITS

§ 36.4231 Manufacturers warranty.

(a) When a new mobile home purchased with financing guaranteed under 38 U.S.C. 1819 is delivered to the veteran-borrower he will be supplied a written warranty by the manufacturer in the form and content prescribed by the Administrator. Such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument, and the warranty instrument will so provide. No evidence of guaranty shall be issued by the Administrator unless a copy of such warranty duly receipted by the purchaser is submitted with the loan papers.

(b) The Administrator may from time to time conduct inspection of the manufacturing process of mobile homes constructed for sale to veterans and onsite inspections of mobile homes purchased with the assistance of loans guaranteed under 38 U.S.C. 1819.

§ 36.4232 Allowable fees and charges; mobile home unit.

(a) Incident to the origination of a guaranteed loan for the purchase of a mobile home unit only, no charge shall be made against, or paid by, the veteran-borrower without the express prior approval of the Administrator except as follows:

(1) Actual fees or charges for required recordation of documents.

(2) The amount of any documentary stamp taxes levied on the transaction.

(3) The amount of State and local taxes levied on the transaction.

(4) The premium for customary physical damage insurance and vendor's single interest coverage on the mobile home for an initial policy term of not to exceed five (5) years.

(5) The actual cost of transportation or freight not to exceed $400.

(6) Set-up charges for installing the mobile home on site, not to exceed $200.

(b) Any charge against the borrower properly made under paragraph (a) of this section may be included in the loan and paid out of the proceeds of the loan, if such inclusion does not increase the amount of the loan to more than the maximum amount allowable under § 36.4204.

(c) Costs of a credit report, such additional insurance as the veteran may desire, and any other expenses normally charged to a mobile home purchaser under local customs may be paid by the borrower other than from the loan proceeds.

§ 36.4233 Suspension of manufacturers.

(a) The Administrator may refuse to guarantee loans (1) in respect to any mobile homes constructed by any manufacturer who refuses to permit the inspections provided for in § 36.4231, or (2) in respect to any mobile homes constructed by a manufacturer as to whose mobile homes the Administrator has made a determination of nonconformity to the structural standards prescribed in § 36.4207, or (3) in respect to any mobile homes constructed by a manufacturer who fails or is unable to discharge his obligations under the warranty required by the regulations in the § 36.4200 series to be issued by such manufacturer.

(b) Any manufacturer affected by such refusal to guarantee loans shall have the right within 10 days after receipt of written notice of such refusal to file with the Administrator, by registered mail, a request for a hearing. Upon receipt of such request, the Chief Benefits Director shall, as promptly as he deems it feasible to do so, designate a time and place as he deems appropriate for such hearing and shall appoint one or more persons who shall constitute a board to conduct the hearing. The person or persons requesting such hearing shall be afforded full opportunity to appear at the hearing in person, or by counsel, or both, and to introduce evidence showing why the sanction should be terminated or modified. Authority is hereby granted to the persons designated to conduct the hearing to administer oaths to witnesses.

(c) As soon as is practicable after conclusion of the hearing, the board will make findings of fact and recommendations in writing to the Chief Benefits Director. The person requesting the hearing will be furnished with a transcript of the hearing and with a statement of the board's findings of fact. Such person shall have the right within 14 days after receipt of such copy to file with the Chief Benefits Director a brief of either, or both, facts and law.

(d) Upon receipt of the findings and recommendations of the hearing board and the brief of the person requesting the hearing, if a brief is filed, the Chief Benefits Director shall make a determination in the case; i.e., whether the refusal to guarantee or make loans as originally imposed is continued, modified, or terminated, and what terms or conditions, if any, are imposed for termination or modification. Notice of such determination shall be given to the person requesting the hearing. Such person shall have the right to appeal such decision to the Administrator within 30 days after the date of receipt of such notice. In the event of an appeal, the Administrator will decide the matter finally and will notify the person who filed the appeal of his decision.

§ 36.4234 Title and lien requirements.

(a) The interest in the mobile home acquired by the veteran at the time of his purchase shall be either:

(1) Legal title evidenced by such document as is customarily issued to the purchaser of a mobile home in the jurisdiction in which the mobile home is initially sited, or

(2) A full possessory interest convertible into a legal title conforming to subparagraph (1) of this paragraph upon payment in full of the guaranteed loan.

(b) The loan must be secured by a properly recorded financing statement and security agreement or other security instrument that creates a first lien on or equivalent security interest in the mobile home and all of the furnishings, equipment, and accessories paid for in whole or in part out of the loan proceeds.

(c) It is the responsibility of the lender that the veteran initially obtains an interest in the mobile home meeting the requirements of paragraph (a) of this section and to obtain and retain a security interest meeting the requirements of paragraph (b) of this section.

§ 36.4235 Suspension of dealers and mobile home park operators.

(a) The Administrator may refuse to approve as acceptable any site in a mobile home park or subdivision owned or operated by any person whose rental or sale methods, procedures, requirements,

or practices are determined by the Administrator to be unfair or prejudicial to veterans renting or purchasing such sites. The Administrator may also refuse to guarantee loans for veterans to purchase mobile homes offered for sale by any dealer if substantial deficiencies have been discovered in such homes, or if he determines that there has been a failure or indicated inability of the dealer to discharge contractual liabilities to veterans, or that the type of contract of sale or methods, procedures, or practices pursued by the dealer in the marketing of such properties have been unfair or prejudicial to veteran purchasers.

(b) Any person or firm suspended pursuant to paragraph (a) of this section shall have the right within 10 days after receipt of written notice of such refusal to file with the Administrator, by registered mail, a request for a hearing. Upon receipt of such request, the Chief Benefits Director shall, as promptly as he deems it feasible to do so, designate a time and place as he deems appropriate for such hearing and shall appoint one or more persons who shall constitute a board to conduct the hearing. The person or persons requesting such hearing shall be afforded full opportunity to appear at the hearing in person, or by counsel, or both, and to introduce evidence showing why the sanction should be terminated or modified. Authority is hereby granted to the persons designated to conduct the hearing to administer oaths to witnesses.

(c) As soon as is practicable after conclusion of the hearing, the board will make findings of fact and recommendations in writing to the Chief Benefits Director. The person requesting the hearing will be furnished with a transcript of the hearing and with a statement of the board's findings of fact. Such person shall have the right within 14 days after receipt of such copy to file with the Chief Benefits Director a brief of either or both, facts and law.

(d) Upon receipt of the findings and recommendations of the hearing board and the brief of the person requesting the hearing, if a brief is filed, the Chief Benefits Director shall make a determination in the case; i.e., whether the refusal to accept a site or to guarantee loans as originally imposed is continued, modified, or terminated, and what terms or conditions, if any, are imposed for termination or modification. Notice of such determination shall be given to the person requesting the hearing. Such person shall have the right to appeal such decision to the Administrator within 30 days after the date of receipt of such notice. In the event of an appeal, the Administrator will decide the matter finally and will notify the person who filed the appeal of his decision.

SERVICING, LIQUIDATION OF SECURITY AND CLAIM

§ 36.4275 Events constituting default.

(a) The conveyance of or other transfer of title to property by operation of law or otherwise, after the creation of a lien thereon to secure a loan which is guaranteed in whole or in part by the Administrator, shall not constitute an event of default, or acceleration of maturity, elective or otherwise, and shall not of itself terminate or otherwise affect the guaranty.

(b) The inclusion in the guaranteed obligation of a provision contrary to the provisions of this section or § 36.4211 shall not impair the right of the holder to payment of the guaranty provided that:

(1) Default was declared or maturity was accelerated under some other provision of the note, mortgage, or other loan instrument, or

(2) Activation or enforcement of such provision is warranted under § 36.4280, or

(3) The prior approval of the Administrator was obtained.

(c) If the title to real property or a leasehold interest therein which secures a mobile home loan guaranteed after December 22, 1970, is restricted against sale or occupancy on the ground of race, color, religion, or national origin, by restrictions created and filed of record by the borrower subsequent to that date, such action, at the election of the holder, shall constitute an event of default entitling the holder to declare the unpaid balance of the loan immediately due and payable.

(d) The holder of any guaranteed obigation shall have the right, notwithstanding the absence of express provision therefor in the instruments evidencing the indebtedness, to accelerate the maturity of such obligation at any time after the continuance of any default for the period specified in § 36.4280.

(e) If sufficient funds are tendered to bring a delinquency current at any time prior to repossession or foreclosure of the mobile home the holder shall be obligated to accept the funds in payment of the delinquency, unless the prior approval of the Administrator is obtained to do otherwise.

§ 36.4276 Advances and other charges.

(a) A holder may advance any reasonable amount necessary and proper for the maintenance or repair of the security, or for the payment of accrued taxes, special assessments or other charges which constitute prior liens, or premiums on fire or other hazard insurance against loss of or damage to such property and any such advance so made may be added to the guaranteed indebtedness.

(b) In addition to advances allowable under paragraph (a) of this section, the holder may charge (1) against the proceeds of the sale of the security, (2) against gross amounts collected, or (3) in the computation of a claim under the guaranty, if lawfully authorized by the loan agreement and subject to § 36.4284, any of the following items actually paid:

(i) Any expense which is reasonably necessary for preservation of the security,

(ii) Court costs in a foreclosure or other proper judicial proceeding involving the security,

(iii) Other expenses reasonably necessary for collecting the debt, or repossession or liquidation of the security, including a reasonable sales commission to the dealer or sales broker for resale of the security,

(iv) Reasonable trustee's fees or commissions paid incident to the sale of real property,

(v) Reasonable amount for legal services actually performed not to exceed 10 percent of the unpaid indebtedness as of the date of the first uncured default, or $250, whichever is less,

(vi) Any other expense or fee that is approved in advance by the Administrator.

§ 36.4277 Release of security.

(a) Except upon full payment of the indebtedness the holder shall not release a lien or other right in or to property held as security for a guaranteed loan, or grant a fee or other interest in such property, without the prior approval of the Administrator, unless in the opinion of the holder such release does not involve a decrease in the value of the security in excess of $500: *Provided*, That the aggregate of the reduction in the original value of the security resultant from such releases without the Administrator's prior approval does not exceed $500.

(b) Except upon full payment of the indebtedness or upon the prior approval of the Administrator, the holder shall not release a lien under paragraph (a) of this section unless the consideration received for the release is commensurate with the fair market value of the property released and the entire consideration is applied to the indebtedness, or if encumbrance on other property is accepted in lieu of that released it shall be the holder's duty to acquire such lien on property of substantially equal value which is reasonably capable of serving the purpose for which the property released was utilized.

(c) Failure of the holder to comply with the provisions of this section shall not in itself affect the validity of the title of a purchaser to the property released.

(d) The holder shall notify the Administrator of any such release or substitution of security within 30 days after completion of such transaction.

(e) The release of the personal liability of any obligor on a guaranteed obligation resultant from the act or omission of any holder without the prior approval of the Administrator shall release the obligation of the Administrator as guarantor, except when such act or omission consists of

(1) Failure to establish the debt as a valid claim against the assets of the estate of any deceased obligor, provided no lien for the guaranteed debt is thereby impaired or destroyed; or

(2) An election and appropriate prosecution of legally available effective remedies with respect to the repossession or the liquidation of the security in any case, irrespective of the identity or the survival of the original or of any subsequent debtor, if holder shall have given such notice as required by § 36.4280 and if, after receiving such notice, the Administrator shall have failed to notify the holder within 15 days to proceed in

such manner as to effectively preserve the personal liability of the parties liable, or such of them as the Administrator indicates is such notice to the holder; or

(3) The release of an obligor, or obligors, from liability on an obligation secured by a lien on property, which release is an incident of and contemporaneous with the sale of such property to an eligible veteran who assumed such obligation, which assumed obligation is guaranteed on his account pursuant to 38 U.S.C. 1819; or

(4) The release of an obligor or obligors as provided in § 36.4279.

§ 36.4279 Extensions and reamortizations.

(a) The terms of repayment of any loan may, by written agreement between the holder and debtor, be extended in the event of default, to avoid imminent default, or in any other case where the prior approval of the Administrator is obtained. Except with the prior approval of the Administrator, no such extension shall set a rate of amortization less than that sufficient to fully amortize at least 80 percent of the loan balance so extended within the maximum maturity prescribed for loans of its class.

(b) In the event of a prepayment pursuant to § 36.4211, the balance of the indebtedness may, by written agreement between the holder and the debtor, be reamortized, provided the reamortization schedule will result in full repayment of the loan within the original maturity.

(c) Unless the prior approval of the Administrator has been obtained, any extension or reamortization agreed to by a holder which relieves any obligor from liability will release the liability of the Administrator under the guaranty on the entire loan. However, if such release of liability of an obligor results through operation of law by reason of an extension or other act of forbearance, the liability of the Administrator as guarantor will not be affected thereby, *Provided*, The required lien is maintained and the title holder is and will remain liable for the payment of the indebtedness: *And further provided*, That if such extension or act of forbearance will result in the release of the veteran, all delinquent installments, plus any foreclosure expenses which may have been incurred, shall have been fully paid.

(d) The holder shall promptly forward to the Administrator an advice of the terms of any agreement effecting a reamortization or extension of a guaranteed loan.

§ 36.4280 Reporting of defaults.

The holder of any guaranteed loan shall give notice to the Administrator within 15 days after any debtor:

(a) Is in default by reason of nonpayment of two full installments; or

(b) Is in default by failing to comply with any other covenant or obligation of such guaranteed loan which failure persists for a continuing period of 60 days after demand for compliance therewith has been made, except that if the default is due to nonpayment of real estate taxes, the notice shall not be required until the failure to pay when due has persisted for a continuing period of 120 days.

(c) In the event any failure of the debtor to discharge his obligations under the loan continues for a period of 2 months or for more than 1 month on an extended loan, the holder may then or thereafter give the notice in the manner described in paragraph (e) of this section.

(d) The notice prescribed in paragraph (e) of this section may be submitted prior to the time prescribed in paragraph (c) of this section in any case where any material prejudice to the rights of the holder or to the Administrator or hazard to the security warrants more prompt action.

(e) Except upon the express waiver of the Administrator, a holder shall not begin proceedings in court or give notice of sale under power of sale, repossess the security, or accelerate the loan, or otherwise take steps to terminate the debtor's rights in the security until the expiration of 30 days after delivery by certified mail to the Administrator of a notice of intention to take such action; *Provided*, That immediate action may be taken if the property to be affected thereby has been abandoned by the debtor, or has been or may be otherwise subjected to extraordinary waste or hazard.

§ 36.4281 Refunding of loans in default.

Upon receiving a notice of default the Administrator may at any time prior to the termination of the borrower's interest in the property require the holder upon penalty of otherwise losing the guaranty to transfer and assign the loan and the security therefor to the Administrator or to another designated by him upon receipt of payment of the balance of the indebtedness remaining unpaid to the date of such assignment. Such assignment may be made without recourse but the transferor shall not thereby be relieved from the provisions of §36.4286.

§ 36.4282 Legal proceedings (notice of repossession).

(a) When the holder institutes suit or otherwise becomes a party in any legal or equitable proceeding brought on or in connection with the guaranteed indebtedness, or involving title to, or other lien on, the security, such holder, within the time that would be required if the Administrator were a party to the proceeding, shall deliver to the Administrator, by mail or otherwise, by making such delivery to the loan guaranty officer at the office which granted the guaranty, or other office to which the holder has been notified the file is transferred, a copy of every procedural paper filed on behalf of holder, and shall also so deliver, as promptly as possible, a copy of each similar pleading served on holder or filed in the cause by any other party thereto. Notice of, or motion for, continuance and orders thereon are excepted from the foregoing.

(b) A copy of a notice of sale under power by a holder or one acting at his behest (e.g., trustee or public official) shall be similarly delivered to the Administrator at or before the date of first publication, posting, or other notice, but in any event, except in emergency or when waived by the Administrator, not less than 10 days prior to date of sale. Copy of any other notice of sale served on the holder or of which he has knowledge shall be similarly delivered to the Administrator, including any such notice of sale under tax or other superior lien or any judicial sale.

(c) The procedure prescribed in paragraphs (a) and (b) of this section shall not be applicable in any proceeding to which the Administrator is a party, after his appearance shall have been entered therein by a duly authorized attorney.

(d) In any legal or equitable proceeding (including probate and bankruptcy proceedings) to which the Administrator is a party, original process and any other process prior to appearance, proper to be served on the Administrator, shall be delivered to the loan guaranty officer of the office of the Veterans Administration having jurisdiction of the area in which the court is situated. Within the time required by applicable law, or rule of court, the Administrator will cause appropriate special or general appearance to be entered in the cause by his authorized attorney.

(e) After appearance of the Administrator by attorney, all process and notice otherwise proper to serve on the Administrator before or after judgment, if served on his attorney of record shall have the same effect as if the Administrator were personally served within the jurisdiction of the court.

(f) If following a default the holder does not begin appropriate action within 30 days after requested in writing by the Administrator to do so, or does not prosecute such action with reasonable diligence, the Administrator may at his option intervene in, or begin and prosecute to completion any action or proceeding, in his name or in the name of the holder, which the Administrator deems necessary or appropriate, and may fix a date beyond which no further charges may be included in the computation of the guaranty claim. The Administrator shall pay, in advance if necessary, any court costs or other expenses incurred by him, or properly taxed against him, in any such action to which he is a party, but may charge the same, and also a reasonable amount for legal services, against the guaranteed indebtedness, or the proceeds of the sale of the security to the same extent as the holder (see § 36.4276), or otherwise collect from the holder any such expenses incurred by the Administrator because of the neglect or failure of the holder to take or complete proper action. The rights and remedies herein reserved are without prejudice to any other rights, remedies, or defenses, in law or in equity, available to the Administrator.

(g) The holder, no later than 10 days after it has repossessed a property, must advise the Administrator of such repossession. The holder shall proceed thereafter, within a reasonable time after

repossession, to terminate the debtors' rights in the property. If it is a legal requirement or if the Administrator requires that the debtors' rights be terminated by public sale, the holder shall follow the procedures set forth in paragraph (b) of this section. Otherwise, the holder shall proceed in the manner set forth in § 36.4283(f).

§ 36.4283 Foreclosure or repossession.

(a) Upon receipt by the Administrator of notice of a judical or statutory sale, or other public sale under power of sale contained in the loan instruments, to liquidate any security for a guaranteed loan, he may specify in advance of such sale the minimum amount which shall be credited to the indebtedness of the borrower on account of the value of the security to be sold, subject to the provisions of subparagraphs (1), (2), (3), and (4) of this paragraph:

(1) If a minimum amount has been specified in relation to a sale of the property and the holder is the successful bidder at the sale for an amount not in excess of such specified amount the holder shall dispose of the property in the manner set forth in paragraph (f) and the amount realized from the resale of the property shall govern in the final accounting for determining the rights and liabilities of the holder and the Administrator.

(2) If a minimum amount has been specified by the Administrator and:

(i) A third party is the successful bidder at the sale for an amount equal to or in excess of that specified, the holder shall credit to the indebtedness the net proceeds of the sale.

(ii) A third party is the successful bidder at the sale for an amount less than that specified, the holder shall credit to the indebtedness the amount specified less expenses allowable under § 36.4276.

(iii) The holder is the successful bidder at the sale for an amount in excess of the specified amount the indebtedness shall be credited with the net proceeds of the sale or an amount established in accordance with paragraph (f) of this section, whichever is the greater, unless the bid in excess of the specified amount was made pursuant to paragraph (d) of this section.

(3) If a minimum amount has not been specified by the Administrator under subparagraph (1) or (2) of this paragraph, and the Administrator advised the holder that it did not intend to specify an amount, and the property is purchased at the sale by a third party, the holder shall credit against the indebtedness the net proceeds of the sale except as provided in paragraph (d) of this section. However, if the property is purchased at the sale by the holder, the indebtedness will be credited with the net proceeds of the sale or an amount established in accordance with paragraph (f) of this section, whichever is greater.

(4) The holder shall notify the Administrator of the results of the sale within 10 days after the sale is completed.

(b) In the event that any real property which is security for a guaranteed loan is to be acquired by a holder in a manner other than as provided in paragraph (a) or (c) of this section (e.g., by strict foreclosure or by the termination without a public sale of the purchaser's interest in a land sale contract), the holder shall notify the Administrator of the acquisition within 15 days thereafter and account to the Administrator for the proceeds of the liquidation of the security in accordance with paragraph (f) of this section.

(c) When a debtor proposes to convey or transfer any property to a holder to avoid foreclosure or other judicial, contractual, or statutory disposition of the obligation or of the security, the consent of the Administrator to the terms of such proposal shall be obtained in advance of such conveyance or transfer. If the Administrator consents thereto, the holder may acquire the property and account to the Administrator for the proceeds of the liquidation of the security in accordance with paragraph (f) of this section.

(d) If a minimum bid is required under applicable State law, or decree of foreclosure or order of sale, or other lawful order or decree, the holder may bid an amount not exceeding such amount legally required. If an amount has been specified by the Administrator and the holder is the successful bidder for an amount not exceeding the amount legally required, such specified amount shall govern for the purpose of this section.

(e) If the Administrator has specified an amount as provided in this section, and the holder learns of any material damage to the property occurring prior to the foreclosure sale or to the acceptance of a deed in lieu of foreclosure or prior to any other event to which such specified amount is applicable, the holder shall promptly advise the Administrator of such damage. Also, if the holder acquires or repossesses the property and the holder learns of any material damage to it, the holder shall promptly advise the Administrator of such damage.

(f) When the security for a guaranteed loan is acquired by the holder through foreclosure or otherwise, the holder shall resell the property within a reasonable time and may thereafter submit its claim under the guaranty. The holder shall submit to the Administrator a written advice setting forth the price, terms, conditions, and the expenses of the proposed sale at least 10 days in advance thereof, and the Administrator shall thereupon either (1) assent to such sale in which event the holder shall credit against the indebtedness the net proceeds of the sale, or (2) agree to indemnify the holder to the extent of any increased or resultant loss thereon, subject to the provisions of paragraph (h)(4) of this section, and may specify the minimum price for which the security may be sold. If the Administrator has agreed to indemnify the holder, the Administrator shall have the right to reject any offer of sale and require further exposure to the market. The amount realized by the holder from the ultimate sale of the property shall be reported to the Administrator.

(g) If at the end of 6 months from the date of acquisition the holder has been unable to resell the property a claim may be submitted under the guaranty and the Administrator will pay to the holder upon submission of such claim:

(1) The difference between the appraised value of the property as determined by the Administrator and the indebtedness including those costs allowable under § 36.4276 and the costs of repossessing the mobile home not to exceed $100, plus any accrued and unpaid interest to the applicable cut-off date as set forth in § 36.4284(a) at the maximum rate allowable plus accrued interest at a rate of 6 percent from such cut-off date to the date of claim but not to exceed 60 days or,

(2) The amount of the guaranty payable on the total outstanding indebtedness as of the applicable cutoff date set forth in § 36.4284(a), whichever is less.

(h) If the property securing the guaranteed loan is acquired by a holder pursuant to paragraph (a), (b), or (c) of this section, the following provisions shall apply:

(1) The holder's notice to the Administrator after acquisition shall state the amount of the successful bid at public sale.

(2) The holder's notice after acquisition shall also provide complete occupancy data. Except with the prior approval of the Administrator the holder shall not rent the property to a new tenant nor extent the terms of an existing tenancy on other than a month-to-month basis.

(3) Except with the prior approval of the Administrator, any taxes or special assessments which constitute prior liens due and payable after acquisition of the property by the holder shall be paid by the holder sufficiently in advance of the payment due dates to avoid penalties and to take advantage of any discounts. The holder also may include in its accounting with the Administrator any expenditures for repairs made that were reasonably necessary to properly maintain or refurbish the security property, not to exceed $400. Expenditures in excess of $400 shall not be made without the prior approval of the Administrator.

(4) As between the holder and the Administrator, the holder shall be responsible for any loss due to damage to or destruction of the property, ordinary wear and tear excepted, from the date of repossession or acquisition by the holder to the date the property has been liquidated.

(5) The holder shall include as credits in its accounting with the Administrator all rentals and other income collected from the property and insurance proceeds or refunds subsequent to the date of acquisition by the holder.

(i) Definitions: (1) The terms "date of sale" or "date of acquisition" as used in this section are defined as the date of the event (e.g., date of repossession,

date of sale confirmation when required under local practice, date of acceptance of deed in case of voluntary conveyance, etc.) which fixes the rights of the parties in the property.

(2) The term "property" or "real-property" as used in this section shall include:

(i) A leasehold estate therein which at the time of closing the loan was of not less duration than that prescribed by § 36.4253, and

(ii) The rights derived by the holder through a foreclosure sale of real estate whether or not such rights constitute an estate in real property under local law.

(j) The provisions of this section shall not be in derogation of any rights which the Administrator may have under § 36.4284. The Chief Benefits Director, or the Director, Loan Guaranty Service, may authorize any deviation from the provisions of this section, within the limitations prescribed in 38 U.S.C. chapter 37, which may be necessary or desirable to accomplish the objectives of this section if such deviation is made necessary by reason of any laws or practice in any State, Territory, or the District of Columbia: *Provided*, That no such deviation shall impair the rights of any holder not consenting thereto with respect to loans made or approved prior to the date the holder is notified of such action.

§ 36.4284 Computation of guaranty claims.

(a) Subject to the limitation that the maximum amount payable shall in no event exceed the amount originally guaranteed, the amount payable on a claim for the guaranty shall be the percentage of the loan originally guaranteed applied to the indebtedness computed as of the date of claim but not later than (1) the date of judgment or of decree of foreclosure; or (2) in nonjudicial foreclosures, the date of publication of the first notice of sale; or (3) in cases in which the security is repossessed without a judgment, decree, or foreclosure, the date the holder repossesses the security; or (4) if no security is available, the date of claim but not more than 6 months after the first uncured default. Deposits or other credits or setoffs including any escrowed or earmarked funds legally applicable to the indebtedness on the date of the claim computation shall be applied in reduction of the indebtedness upon which the claim is based.

(b) Credits accruing from the proceeds of a sale or other disposition of the security shall be reported to the Administrator incident to such submission, and the amount payable on the claim shall in no event exceed the remaining balance of the indebtedness.

(c) Any allowable expenditures or costs, paid by the holder, and any accrued and unpaid interest to the applicable cutoff date as set forth in paragraph (a) of this section at the maximum rate allowable, plus accrued interest at a rate of 6 percent from such cutoff date to the date of resale or other liquidation but not to exceed 60 days may be deducted from the proceeds of the sale of the property, or may be included in the accounting to the Administrator on such loan.

(d) In computing the indebtedness for the purpose of filing a claim for payment of a guaranty, or in the event of a transfer of the loan under § 36.4281, or other accounting to the Administrator, the holder shall not be entitled to treat repayments theretofore made, as liquidated damages, or rentals, or otherwise than as payments on the indebtedness, notwithstanding any provision in the note, or mortgage, or otherwise, to the contrary.

§ 36.4285 Subrogation and indemnity.

(a) The Administrator shall be subrogated to the contract and the lien or other rights of the holder to the extent of any sum paid on a guaranty, which right shall be junior to the holder's rights as against the debtor or the encumbered property until the holder shall have received the full amount payable under his contract with the debtor. No partial or complete release by a creditor shall impair the rights of the Administrator with respect to the debtor's obligation.

(b) The holder, upon request, shall execute, acknowledge, and deliver an appropriate instrument tendered him for that purpose, evidencing any payment received from the Administrator and the Administrator's resulting right of subrogation.

(c) The Administrator may cause the instrument required by paragraph (b) of this section to be filed for record in the Office of the Recorder of Deeds, or other appropriate office of the proper county, town, or State, in accordance with the applicable State law.

(d) Any amounts paid by the Administrator on account of the liabilities of any veteran guaranteed under the provisions of 38 U.S.C. 1819 shall constitute a debt owing to the United States by such veteran.

(e) Whenever any veteran disposes of residential property securing a guaranteed loan obtained by him under 38 U.S.C. 1819, the Administrator, upon application made by such veteran, shall issue to the veteran a release relieving him of all further liability to the Administrator on account of such loan (including liability for any loss resulting from any default of the transferee or any subsequent purchaser of such property) if the Administrator has determined, after such investigation as he may deem appropriate, that there has been compliance with the conditions prescribed in 38 U.S.C. 1817. The assumption of full liability for repayment of the loan by the transferee of the property must be evidenced by an agreement in writing in such form as the Administrator may require. Release of the veteran from liability to the Administrator will not impair or otherwise affect the Administrator's guaranty on the loan, or the liability of the veteran to the holder. Any release of liability granted to a veteran by the Administrator shall inure to the spouse of such veteran. The release of the veteran from liability to the Administrator will constitute the Administrator's prior approval to a release of the veteran from liability on the loan by the holder thereof. This release will not result in the veteran being entitled to further loan benefits unless the requirements of § 36.4203 are met.

§ 36.4286 Partial or total loss of guaranty.

(a) There shall be no guaranty liability on the part of the Administrator in respect to any loan as to which a signature to the note, the mortgage or other security instrument is a forgery. Except as to a holder who acquired the loan instrument before maturity, for value, and without notice, and who has not directly or by agent participated in the fraud, or in the misrepresentation hereinafter specified, any willful and material misrepresentation or fraud by the lender, or by a holder, or the agent of either, in procuring the guaranty shall relieve the Administrator of liability, or shall constitute a defense against liability on account of the guaranty of the loan in respect to which the willful misrepresentation, or the fraud, is practiced: *Provided*, That if a misrepresentation, although material, is not made willfully, or with fraudulent intent, it shall have only the consequences prescribed in paragraphs (b) and (c) of this section.

(b) In taking security required by 38 U.S.C. 1819 and the § 36.4200 series, a holder shall obtain the required lien on real property the title to which is such as to be acceptable to prudent lending institutions, informed buyers, title companies, and attorneys, generally in the community in which the property is situated: *Provided*, That a title will not be unacceptable by reason of any of the limitations on the quantum or quality of the property or title stated in § 36.4253. If such holder fails in this respect or fails to comply with any of the requirements of 38 U.S.C. 1819 and the § 36.4200 series with respect to:

(1) Obtaining and retaining a lien of the dignity prescribed on all property upon which a lien is required by 38 U.S.C. 1819 or the § 36.4200 series,

(2) Inclusion of power to substitute trustees,

(3) The procurement and maintenance of insurance coverage,

(4) Advice to Administrator as to default,

(5) Notice of intention to begin action,

(6) Notice to the Administrator in any suit or action, or notice of sale,

(7) The release, conveyance, substitution, or exchange of security,

(8) Lack of legal capacity of a party to the transaction incident to which the guaranty is granted,

(9) Failure of the lender to see that any escrowed or earmarked account is expended in accordance with the agreement,

(10) The taking into consideration of limitations upon the quantum or quality of the estate or property,

(11) Any other requirement of 38 U.S.C. 1819 or the § 36.4200 series which does not by the terms of said section or

regulations result in relieving the Administrator of all liability with respect to the loan,

no claim on the guaranty shall be paid on account of the loan with respect to which such failure occurred, or in respect to which an unwillful misrepresentation occurred, until the amount by which the ultimate liability of the Administrator would thereby be increased has been ascertained. The burden of proof shall be upon the holder to establish that no increase of ultimate liability is attributable to such failure or misrepresentation. The amount of increased liability of the Administrator shall be offset by deduction from the amount of the guaranty otherwise payable, or if consequent upon loss of security shall be offset by crediting to the indebtedness the amount of the impairment as proceeds of the sale of security in the final accounting to the Administrator. To the extent the loss resultant from the failure of misrepresentation prejudices the Administrator's right of subrogation acceptance by the holder of the guaranty payment shall subordinate the holder's right to those of the Administrator.

(c) If after the payment of a guaranty, or after a loan is transferred pursuant to § 36.4281, the fraud, misrepresentation, or failure to comply with the regulations concerning guaranty of loans to veterans as provided in this section is discovered and the Administrator determines that an increased loss to the Government resulted therefrom, the transferee or person to whom such payment was made shall be liable to the Administrator for the amount of the loss caused by such misrepresentation or failure.

§ 36.4287 Substitution of trustees.

In jurisdictions in which valid, any deed of trust or mortgage securing a guaranteed loan, if it names trustees or confers a power of sale otherwise, shall contain a provision empowering any holder of the indebtedness to appoint substitute trustees or other person with such power to sell, who shall succeed to all the rights, powers, and duties of the trustees, or other person, originally designated.

These VA regulations are effective upon publication in the FEDERAL REGISTER (1-27-71).

Approved: January 18, 1971.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc. 71-1136 Filed 1-26-71;8:50 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

APPROPRIATION ACT RESTRICTIONS; HAND AND MEASURING TOOLS

Chapter 5A of Title 41 is amended as follows:

PART 5A–6—FOREIGN PURCHASES

Subpart 5A–6.1 is added as follows:

Subpart 5A–6.1—Buy American Act—Supply and Service Contracts

Sec.
5A–6.100 Scope of subpart.
5A–6.104 Evaluating bids for hand and measuring tools.

AUTHORITY: The provisions of this Subpart 5A–6.1 are issued under sec. 205(c), 63 Stat. 390; 40 U.S.C.; 486(c); 41 CFR 5–1.101(c).

Subpart 5A–6.1—Buy American Act—Supply and Service Contracts

§ 5A–6.100 Scope of subpart.

(a) This subpart prescribes procedures for soliciting and evaluating offers involving hand or measuring tools not produced in the United States or its possessions. This subpart is based on sections 512 of Independent Offices and HUD Appropriations Act, 1971.

(b) Solicitations and offers involving the procurement of foreign source supplies other than hand and measuring tools shall be evaluated in accordance with policies and procedures in Subparts 1–6.1 and 5–6.1 of this title.

§ 5A–6.104 Evaluating bids for hand and measuring tools.

(a) *Appropriation Act restriction.* Section 512 of Public Law 91–556 provides as follows:

Sec. 512. No part of any appropriations contained in this Act shall be available for the procurement of or for the payment of the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions or except in accordance with procedures prescribed by section 6–104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970. This section shall be applicable to all solicitations for bids opened after its enactment.

(b) *Definition.* "Hand and measuring tools" are those items listed in Groups 51 and 52, as contained in Cataloging Handbook H2–1, Federal Supply Classification, Part I, Groups and Classes, published by the Defense Supply Agency.

(c) *Solicitation provision.* All solicitations for hand and measuring tools shall include the following special provision:

BUY AMERICAN ACT—HAND AND MEASURING TOOLS

Article 14 of Standard Form 32 is amended by including the following at the end of that provision:

Public Law 91–556 dated December 17, 1970, requires that GSA purchases of hand and measuring tools must be from domestic sources except in accordance with procedures prescribed by 6–104.4(b) of Armed Services Procurement Regulation (as such regulation existed on June 15, 1970). Accordingly, bids under this solicitation offering domestic source end products normally will be evaluated against bids offering other end products by adding a factor of fifty percent (50%) to the latter, exclusive of import duties. Details of the evaluation procedure are set forth in § 5A–6.104 of the General Services Administration Procurement Regulations.

Each bid offering a foreign source end product must state below or on an attachment to the bid the amount of duty included in each bid price. Failure to furnish duty information will result in use of the entire item bid price (inclusive of any unspecified duty) when adding the "Buy American" differential.

Item No.	*Unit*	*Amount of Duty (in dollars and cents)*

[End Of Provision]

(d) *Procedures.* Bids and proposals for hand and measuring tools shall be evaluated in accordance with the following procedures.

(NOTE: Section 512 of Public Law 91–556 requires that the procedures in § 6–104.4(b) of Armed Services Procurement Regulation, as such regulation existed on June 15, 1970, shall govern. Accordingly, the following procedures are FSS adaptions to ASPR 6–104.4(b), the full text of which is shown in § 5A–76.302.):

Bids and proposals shall be evaluated so as to give preference to domestic bids, except that bids offering end products manufactured in Canada shall be evaluated on the same basis as bids offering domestic end products after any applicable duty (whether or not a duty free entry certificate is issued) is included for evaluation purposes. Each foreign bid shall be adjusted for purposes of evaluation either by excluding any duty from the foreign bid and adding 50 percent of the bid (exclusive of duty) to the remainder, or by adding to the foreign bid (inclusive of duty) a factor of 6 percent of that bid, whichever results in the greater evaluated price, except that a 12 percent factor shall be used instead of the 6 percent factor if (i) the firm submitting the low acceptable domestic bid is a small business concern, or a labor surplus area concern, or both, and (ii) any contract award to a domestic concern which would result from applying the 12 percent factor, but which would not result from applying the 6 percent or 50 percent factor, would not exceed $100,000. (If an award for more than $100,000 would be made to a domestic concern if the 12 percent factor is applied, the matter shall be submitted to the Commissioner, FSS, for a decision as to whether the award to the small business or labor surplus area concern would involve unreasonable cost or inconsistency with the public interest.) If the foregoing procedure results in a tie between a foreign bid as evaluated and a domestic bid, award shall be made on the latter. When more than one line item is offered in response to an invitation for bids or request for proposals, the appropriate factor shall be applied on an item-by-item basis, except that the factor may be applied to any group of items as to which the invitation for bids or requests for proposals specifically provides that award may be made on a particular group of items.

(e) *Supplemental instructions.* The following examples illustrate how the procedure in paragraph (d) of this section should be applied. Throughout these examples, "foreign bid" means a bid or offered price for a foreign end product which is not a Canadian end product; "domestic bid—large" means a domestic bid which is not from a small business

or labor surplus area concern, and "domestic bid—small" means a domestic bid which is from either a small business concern or a labor surplus area concern, or both. Bid prices are evaluated net prices including consideration of transportation costs and prompt payment discounts. The same differentials shall be applied when making small purchases under $2,500.

EXAMPLE A

Foreign bid, including duty of $4,500	$14,500
Domestic bid—large	15,100
Domestic bid—small	15,110

Award on domestic bid—large. Domestic bid—small is out because it is not the low acceptable domestic bid. Foreign bid, if adjusted by the 50 percent factor, would be $14,500 less $4,500 duty (i.e., $10,000), plus 50 percent of $10,000 (i.e., $5,000), or $15,000; but if adjusted by the 6 percent factor it would be $14,500 plus 6 percent of $14,500 (i.e., $870), or $15,370; therefore, the 6 percent factor is added and domestic bid—large is the low evaluated bid.

EXAMPLE B

Foreign bid, including duty of $2,000	$12,000
Domestic bid—large	15,000

Award on domestic bid—large. Foreign bid adjusted by 50 percent factor is $15,000; adjusted by 6 percent factor, it is $12,720. Therefore, foreign bid is evaluated at $15,000, resulting in a tie and consequent award on the domestic bid—large.

EXAMPLE C

Foreign bid, including duty of $3,500	$13,500
Domestic bid—large	17,000
Domestic bid—small	15,100

Award on domestic bid—small. Foreign bid adjusted by 50 percent factor is $15,000; adjusted by 12 percent factor, it is $15,120. Therefore, it is evaluated at $15,120, resulting in award on the domestic bid—small.

EXAMPLE D

Foreign bid, including duty of $70,000	$270,000
Domestic bid—large	310,000
Domestic bid—small	302,000

Foreign bid adjusted by 50 percent factor is $300,000, adjusted by 12 percent factor, it is $302,400; adjusted by 6 percent factor, it is $286,200. Therefore, domestic bid—small is in line for possible award only because of the bidder's small business or labor surplus area status. But since the contract award would exceed $100,000, the matter requires submission for decision pursuant to § 5A-6.104(d).

PART 5A-76—EXHIBITS

The table of contents for Part 5A-76 is amended to read as follows:

Sec.
5A-76.302 ASPR 6-104.4(b) as of June 15, 1970.

Effective date. These regulations are effective December 18, 1970.

Dated: January 14, 1971.

L. E. SPANGLER,
Acting Commissioner, FSS.

[FR Doc.71-1075 Filed 1-26-71;8:45 am]

Title 50—WILDLIFE AND FISHERIES

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

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 17—CONSERVATION OF ENDANGERED SPECIES AND OTHER FISH OR WILDLIFE

List of Endangered Foreign Fish and Wildlife

This amendment corrects the scientific name of the gray, fin and sei whales, and the spelling of the generic names of the bowhead and sperm whales in Appendix A of 50 CFR Part 17.

F.R. Doc. 70-16173 appearing on page 18320 in the issue of Wednesday, December 2, 1970, is amended as follows:

1. In the second column entitled "Mammals" the first eight lines common names, scientific names, and where found are amended to read:

Common name	Scientific name	Where found
Bowhead whale	*Balaena mysticetus*	Oceanic.
Right whale	*Eubalaena spp*	Do.
Blue whale	*Balaenoptera musculus*	Do.
Sperm whale	*Physeter catodon*	Do.
Finback whale	*Balaenoptera physalus*	Do.
Sei whale	*Balaenoptera borealis*	Do.
Humpback whale.	*Megaptera spp*	Do.
Gray whale	*Eschrichtius gibbosus*	Do.

Since this amendment makes no substantive changes, but conforms to the scientific names for these species of whales previously published in the FEDERAL REGISTER of April 18, 1968 (33 F.R. 5953) and codified in the Code of Federal Regulations as 50 CFR 230.5, it is determined that notice and public procedure thereon are impracticable, unnecessary, and contrary to the public interest and that this amendment will become effective on February 1, 1971.

(16 U.S.C. 688cc et seq.)

Effective date: February 1, 1971.

SPENCER H. SMITH,
Acting Director, Bureau of Sport Fisheries and Wildlife.

JANUARY 22, 1971.

[FR Doc.71-1098 Filed 1-26-71;8:47 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 71-72]

PART 73—RADIO BROADCAST SERVICES

Further Period of Relaxation of Rules Governing Transmission of Coded Patterns for Electronic Program Identification

JANUARY 21, 1971.

On October 22, 1970, the Commission issued a Public Notice (FCC 70-1148) (35 F.R. 16682), notifying licensees of television broadcast stations that for a period of 90 days the requirements of § 73.682(a)(2) of its rules governing the placement of coded program identification material in the transmitted picture would be relaxed to permit such material to be located within the first and last 10 microseconds of lines 20 through 25, and 258 through 262. This limited waiver of the rule was granted because, as described in the notice, mechanical difficulties encountered in certain steps of the process involved in the coding and electrical reproduction of filmed program material resulted in television station transmission of coded commercials in some cases not meeting the requirements of § 73.682(a)(2). Within the 90-day period, we indicated that we expected International Digisonics Corp. (IDC), the entity responsible for coding the program material, and other interested parties, to resolve the difficulties which had prompted the rule relaxation, or to propose some other permanent solution of the problem.

The 90-day period expires on January 20, 1971. On January 15, 1971, a letter was received from the attorneys for IDC requesting that the period during which television stations would be permitted to operate in limited compliance with with § 73.682(a)(2) of the rules be extended for an additional 120 days. In support of this request, the letter relates in some detail the steps that IDC has taken to correct the conditions which have made expedient the rule relaxation, and the reasons why further time appears necessary in which to achieve a final solution to the problem. In particular, IDC states it has replaced commercials identified to it as having been improperly coded. It has distributed to optical houses new, more accurate matters for the application of code patterns to new commercial films. Its representatives have visited all large film laboratories and have supplied them 16-mm. film alignment clips to improve their procedures. An improved procedure has been instituted for checking the coded commercials which are supplied to stations, and IDC states that it urges its clients to replace the code on

commercials not meeting its specifications.

IDC further asserts it is working with several television station licensees in an effort to improve or modify film alignment practices in accordance with SMPTE Recommended Standards. It understands that an SMPTE committee will make an independent study of film encoding techniques, with the aim of developing recommendations to IDC and to the industry.

It is IDC's contention that these activities have already resulted in a marked reduction in the incidence of faulty code transmissions. IDC urges, however, that it requires further time to analyze the results of the corrective measures taken and to formulate recommendations for a permanent solution of the difficulty, based on meaningful and complete data. It is engaged in a statistical study to develop norms for deviations in code placement which will relate such deviations to a survey of station film alignment procedures. It believes that this study will provide information essential to an adequate understanding of all facets of the problem, and leading to its permanent solution. If the requested extension is granted, IDC will undertake to furnish to the Commission, and to make available to all interested parties a monthly report of the status of its operations and the progress being made in its continuing study.

On January 15, 1971, the National Association of Broadcasters (NAB) submitted a letter to the Commission calling attention to the approaching expiration of the 90-day period, and the fact that IDC, at the time of its letter, had not submitted a written report to the Commission concerning "the technical difficulties encountered in placing the coded patterns on scanning lines other than those specified in § 73.682(a)(22) of the rules." It alleges that based on studies of its Technical Committee and reports from member television stations "the coded patterns furnished by IDC in many instances neither comply with the provisions of the rules adopted by the Commission in its Report and Order in Docket 18605 (FCC 70-386) nor the relaxed provisions specified in the Commission's Public Notice of October 22, 1970 (FCC 70-1148)."

NAB further states that the Commission should not grant an extension of the limited waiver of the rules unless it can be clearly demonstrated that coded commercials supplied on film meet the relaxed standard. If IDC is "unable to provide licensees with coded patterns within the scanning lines specified in the rules" NAB suggests the reopening of the proceeding in Docket 18605, to consider the possible amendment of § 73.682(a)(22), with the opportunity for all interested parties to participate. Such a proceeding "should also consider the related issues of prior notice and licensee control which were discussed in the Commission's Public Notice of October 22, 1970, and which are an integral part of each licensee's mandate under the Communications Act."

We, of course, are disturbed that the various factors, which, it now appears, contribute to the faulty transmission of coded commercial film were not isolated and fully evaluated in the extensive tests which IDC conducted, and upon whose results the Commission relied in adopting §73.682(a)(22) of the rules. Had we not been convinced by the IDC showing of the feasibility of coded transmissions in accordance with the proposed rule, we obviously would not have adopted it.

The fact remains that the rule is in effect, and numerous coded commercials are being transmitted. It is unfortunate that it has become necessary now to institute measures to correct deficiencies which might have been corrected prior to regular use of its system had IDC more thoroughly investigated all facets of the problem. However, we find IDC has acted at all times in good faith, and is presently putting forth an extensive effort to bring the coded transmissions into compliance with the rules. We have had several briefings from IDC, in addition to the information contained in its January 15 letter. It appears to us that substantial progress is being made, and that IDC should be afforded a further period of time in which to demonstrate that the identification code, applied to film, can be transmitted in full accordance with the rules, or to seek an amendment of these rules, should such a course be indicated.

We have no information that code transmissions in accordance with the limited rule waiver are causing picture degradation or viewer annoyance. However, we are concerned that the present situation, in which such transmissions, in many cases, do not meet the basic rule requirements, not continue indefinitely.

We are extending the existing limited waiver of the requirements of § 73.682(a)(2) for an additional 90-day period, and require that IDC submit progress reports at the end of each 30-day period. By the end of this period we expect IDC to be able to demonstrate conclusively that commercials currently being produced are being consistently and correctly coded and that the codes are regularly transmitted in accordance with the present rule, or would meet the rule if a specific tolerance is applied.

If a tolerance appears necessary, and is of reasonable size, the Commission will accept a petition for rule making looking toward any necessary rule amendment. In such circumstances, a still further extension of the present rule relaxation may be necessary for the duration of the proceeding. With this exception, we contemplate no further extension will be granted.

We, of course, expect that during this further period in which the limited waiver of the rule applies, that program identification code transmissions will meet the requirements of the relaxed rule. It may be, as NAB contends, that on occasion a licensee will be furnished coded film whose use he believes will result in transmission of the code which do not meet the requirements of the rule. Under such circumstances, we assume the licensee will refrain from using such material.

Action by the Commission January 20, 1971.[1]

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

[FR Doc.71-1112 Filed 1-26-71;8:48 am]

[1] Commissioners Burch (Chairman), Bartley, Robert E. Lee, Johnson, H. Rex Lee and Wells, with Commissioner Houser not participating.

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Ch. IX]

[Docket No. AO-373]

LETTUCE GROWN IN CALIFORNIA, ARIZONA, COLORADO, NEW MEXICO, AND DESIGNATED PARTS OF TEXAS

Notice of Hearing on Proposed Marketing Agreement and Order

Notice is hereby given of a public hearing to be held in Room 1501, Courthouse Building, 312 North Spring Street, Los Angeles, CA, on March 2, 1971, and in the U.S. Federal Court Room, Federal and U.S. Court Building, 500 Gold Avenue SW., Albuquerque, NM, on March 10, 1971, both beginning at 10 a.m., local time, with respect to a proposed marketing agreement and order regulating the handling of lettuce grown in California, Arizona, Colorado, New Mexico, and designated parts of Texas. The hearing is called pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U.S.C. 601 et seq.), and in accordance with the applicable rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900).

The public hearing is for the purpose of: (a) Receiving evidence with respect to the economic and marketing conditions which relate to the proposed marketing agreement and order, hereinafter set forth, and to any appropriate modifications thereof;

(b) Determining whether the handling of lettuce in the area proposed for regulation is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects interstate or foreign commerce;

(c) Determining whether there is a need for a marketing agreement or order regulating the handling of lettuce in the area; and

(d) Determining whether provisions specified in the proposals or some other provisions appropriate to the terms of the Agricultural Marketing Agreement Act of 1937, as amended, will tend to effectuate the declared policy of the Act.

The proposed marketing agreement and order, the provisions of which are as follows, were submitted with a request for a hearing thereon by the Western States Lettuce Producers Committee and have not received the approval of the Secretary of Agriculture (the sections identified with asterisks (***) apply only to the proposed marketing agreement and not to the proposed order):

DEFINITIONS

§ ___.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may be hereafter delegated, to act in his stead.

§ ___.2 Act.

"Act" means Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

§ ___.3 Person.

"Person" means an individual, partnership, corporation, association or any other business unit.

§ ___.4 Production area.

"Production area" means the States of California, Arizona, Colorado, and New Mexico, and that part of the State of Texas located north of U.S. Highway 90.

§ ___.5 Lettuce.

"Lettuce" means all varieties of Lactuca sativa, commonly known as iceberg type head lettuce, grown within the production area.

§ ___.6 Handler.

"Handler" means any person (except a common or contract carrier of lettuce owned by another person) who handles harvested lettuce on behalf of a producer or on his own behalf.

§ ___.7 Handle.

"Handle" means to purchase harvested lettuce from a producer or to package, sell, ship, deliver, or transport harvested lettuce or to cause such packaging, sale, shipment, delivery, or transportation or in any other way to place harvested lettuce or to cause harvested lettuce to be placed in the current of commerce within the production area or between the production area and any point outside thereof. Such term shall not include the transportation, sale, shipment, or delivery of harvested lettuce by the producer thereof to a registered handler within the production area for the purpose of preparing such lettuce for market.

§ ___.8 Registered handler.

"Registered handler" means any handler who is registered with the committee pursuant to rules established by the committee with the approval of the Secretary, and who has adequate facilities within the production area for preparing lettuce for market, and who customarily does so, or any person who has access to such facilities within the production area and has recorded with the committee his ability and willingness to assume customary obligations of preparing lettuce for market.

§ ___.9 Producer.

"Producer" means any person engaged in a proprietary capacity in the production of lettuce for market.

§ ___.10 Registered producer.

"Registered producer" means any producer who is registered with the committee pursuant to rules established by the committee and approved by the Secretary.

§ ___.11 Grade and size.

"Grade" means any one of the established grades of lettuce and "size" means any one of the established sizes of lettuce as defined and set forth in U.S. Standards for Lettuce (§§ 51.2510–51.2531 of this title) issued by the United States Department of Agriculture, or amendments thereto, or modifications thereof, or variations based thereon, recommended by the committee and approved by the Secretary.

§ ___.12 Pack.

"Pack" means a quantity of lettuce in any type of container and which falls within specific weight limits, numerical limits, grade limits, size limits or any combination of these, recommended by the committee and approved by the Secretary.

§ ___.13 Carton.

"Carton" means the standard container No. 45B as described in section 43607 of the Agricultural Code of California, as amended, or the equivalent thereof or any other container which may be established by the committee with the approval of the Secretary.

§ ___.14 Committee.

"Committee" means the Western States Lettuce Administrative Committee established pursuant to § ___.20.

§ ___.15 Marketing year, season, or fiscal period.

"Marketing year," "season," or "fiscal period" means the period from August 1 to the following July 31, both dates inclusive, or such other 12-month period recommended by the committee and approved by the Secretary: *Provided*, That the initial period shall begin on the effective date of this part and end on the following July 31.

§ ___.16 Base quantity; base quantity period.

"Base quantity" means the number of cartons of harvested lettuce determined for a producer by the committee pursuant to § ___.53 for a base quantity period. "Base quantity period" means each of

the 12 calendar months or other specified period during the marketing year.

§ ___.17 Allocation; allocation period.

"Allocation" means the number of cartons of harvested lettuce which during an allocation period may be purchased from, or handled on behalf of a producer holding a base quantity. "Allocation period" means one week or a number of consecutive weeks as established pursuant to § ___.54.

§ ___.18 Export.

"Export" means shipment of lettuce to any destination which is not within the contiguous 48 States of the United States and the District of Columbia, or Canada.

COMMITTEE

§ ___.20 Establishment and membership.

(a) There is hereby established a Western States Lettuce Administrative Committee consisting of 18 members, each of whom shall have an alternate who shall have the same qualifications as the member for whom he is an alternate.

(b) Fifteen of the members and their respective alternates shall be producers or officers or employees of corporate producers and are hereinafter referred to as "producer members." Three of the members shall be handlers, or officers or employees of handlers and are hereinafter referred to as "handler members." A handler member who is also a producer is not precluded from being nominated and appointed as a producer member and vice versa.

(1) Initial nominations and appointments of producer members and their alternates shall be in such numbers and shall be producers or officers or employees of corporate producers in such districts as follows:

District No. 1—Santa Barbara County in the State of California—one member;

District No. 2—Ventura, Los Angeles, and Orange Counties and that part of San Diego County west of a north-south line through the present post office in the city of Julian in the State of California—one member;

District No. 3—Imperial County and that part of San Diego County east of a north-south line through the present post office in the city of Julian and excluding the Palo Verde Irrigation District in the State of California—two members;

District No. 4—Riverside, Inyo, and Mono Counties and that part of the Palo Verde Irrigation District in Imperial County in the State of California—one member;

District No. 5—San Luis Obispo, Monterey, San Benito, Santa Clara, Santa Cruz, San Mateo, Alameda, Contra Costa, Marion, Napa, Sonoma, Mendocino, Humbolt, and Del Norte Counties in the State of California—three members;

District No. 6—All other counties in the State of California—one member;

District No. 7—Yuma County in the State of Arizona—one member;

District No. 8—All other counties in the State of Arizona—two members;

District No. 9—All counties in the State of New Mexico and El Paso County in the State of Texas—one member;

District No. 10—All territory north of U.S. Highway 90 in the State of Texas excluding El Paso County—one member; and

District No. 11—All counties in the State of Colorado—one member.

(2) The three handler members and their alternates shall be selected from the production area at large and shall have handled lettuce during each of the 12 months of the season.

(c) The committee may recommend, and pursuant thereto, the Secretary may approve, the reapportionment of members among districts, and the reestablishment of districts within the production area. With respect to any such changes, the committee and the Secretary shall give consideration to:

(1) Shifts in lettuce acreage and production within the districts and within the production area during recent years; (2) the importance of new production in its relation to existing districts; (3) the equitable relationship of committee membership and districts; (4) economies to result for producers in promoting efficient administration due to redistricting or reapportionment of members within districts; and (5) other relevant factors.

§ ___.21 Term of office.

(a) The term of office for members and alternates shall be for 1 year, except as otherwise specified. The dates on which such term of office shall begin and end shall be established by the Secretary pursuant to the committee's recommendation, and the term of office may be extended or shortened, including that of the then current membership, to accord therewith.

(b) Each member and alternate shall serve in such capacity during the term of office for which they are selected and have qualified and until their respective successors are selected and have qualified.

§ ___.22 Nominations.

Nominations for committee members and their alternates shall be made in the following manner: (a) A meeting of producers shall be held in each district to nominate producer-members and alternates of the committee in the manner provided for in § ___.20. The committee shall hold or cause to be held such meetings prior to May 15 of each year, or by such other date as may be specified by the Secretary;

(b) At each such meeting the eligibility of the members shall be recorded for the purpose of determining participation;

(c) Each producer is entitled to cast only one vote for each producer member position in the district in which his lettuce was grown in the current season. If a producer grows lettuce in more than one district he may vote at nomination meetings in each such district;

(d) The committee shall, not less than 45 days prior to the upcoming term of office, submit to each handler, a list of those handlers who are qualified to serve as a handler member or an alternate handler member in accordance with § ___.20(b) and ask that they nominate at least three members and three alternates from such list to represent them.

(e) The names of nominees shall be supplied to the Secretary in such manner and form as he may prescribe not later than June 15 of each year, or by such other date as may be specified by the Secretary;

(f) Initial members: Nominations for each of the initial members of the committee and their alternates for each position may be submitted to the Secretary by individual growers and handlers. Such nominations may be made by means of a meeting of handlers and group meetings of growers concerned in each district. Such nominations, if made, shall be filed with the Secretary not later than the effective date of this part. In the event nominations for the initial members are not filed pursuant to and within the time specified within this section the Secretary may select such initial members and alternates without regard to the nominations, but selection shall be on the basis of the representation provided for in § ___.20.

§ ___.23 Selection.

The Secretary shall select the 15 producer-members on the basis of representation provided for in § ___.20 and three handler-members and an alternate for each such member from the nominations made pursuant to § ___.22 or from other eligible persons.

§ ___.24 Failure to nominate.

If recommendations are not made within the time and manner prescribed in § ___.22, the Secretary may, without regard to nominations, select the members and alternates of the committee on the basis of the representation provided for in § ___.20.

§ ___.25 Acceptance.

Any person selected by the Secretary as a member or alternate member of the committee shall qualify by filing a written acceptance with the Secretary within the time specified by the Secretary.

§ ___.26 Vacancies.

To fill committee vacancies, the Secretary may select members or alternates from nominees on the current nomination reports or from nominations made in the manner specified in § ___.22. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, such vacancy may be filled without regard to nominations, but such selection shall be made on the basis of representation provided for in § ___.20.

§ ___.27 Alternate members.

An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate during such member's absence or when designated to do so by the member for whom he is an alternate. In the event of the death, removal, resignation, or disqualification of a member, his alternate shall act for him until a successor for such member is selected and has qualified. The committee may request the attendance of alternates at any or all meetings, notwithstanding the expected

or actual presence of the respective members.

§ ___.28 Procedure.

(a) Other than to recommend a volume regulation and actions relating thereto, 10 members of the committee shall be necessary to constitute a quorum and 10 concurring votes shall be required to pass any motion or approve any committee action. At assembled meetings all votes shall be cast in person. On all motions to recommend volume regulation and actions related thereto, those qualified to vote shall be all handler members and those producer members or their alternates who are appointed from districts which are subject to allocation during the regulation period: *Provided:* That both the quorum and the number of concurring votes in voting on volume regulations and related matters shall be a majority of those present and qualified to vote.

(b) The committee may meet by telephone, telegraph, or other means of communication and any vote cast at such a meeting shall be promptly confirmed in writing.

§ ___.29 Expenses.

Members and alternates of the committee shall serve without compensation, but may be reimbursed for expenses necessarily incurred by them in attending committee and subcommittee meetings and in the performance of their duties under this part.

§ ___.30 Powers.

The committee shall have the following powers:

(a) To administer the provisions of this part in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violation of the provisions of this part; and

(d) To recommend to the Secretary amendments to this part.

§ ___.31 Duties.

It shall be, among other things, the duty of the committee:

(a) As soon as practicable after the beginning of each term of office, to meet and organize, to select from among its members and alternates such officers and subcommittees, and to adopt such rules, regulations, and bylaws for the conduct of its business as it deems necessary;

(b) To act as intermediary between the Secretary and any producer or handler;

(c) To furnish to the Secretary such available information as he may request;

(d) To appoint such employees, agents, and representatives as it may deem necessary, to determine the compensation and define the duties of each such person, and to protect the handling of committee funds through fidelity bonds;

(e) To investigate from time to time and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to lettuce;

(f) To prepare a marketing policy;

(g) To recommend marketing regulations to the Secretary;

(h) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or by his authorized agent or representative. Minutes of each committee meeting shall be reported promptly to the Secretary;

(i) At the beginning of each fiscal period, to prepare a budget of its expenses for such fiscal period, together with a report thereon;

(j) To prepare periodic statements of the financial operations of the committee and to make copies of each such statement available to producers and handlers for examination at the office of the committee and to send two copies to the Secretary.

(k) To cause the books of the committee to be audited by a competent accountant at least once each fiscal period, and at such other time as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant to this part. Two copies of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers; and

(l) To notify producers and handlers of meetings of the committee to consider recommendations for regulations and to give the Secretary the same notice of meetings of the committee and its subcommittees as is given to its members.

(m) To investigate compliance and use means available to prevent violations of the provisions of this part; and

(n) To consult, cooperate, and exchange information with other marketing order committees and other individuals or agencies in connection with all proper committee activities and objectives under this part.

§ ___.32 Annual report.

The committee shall, as soon as is practicable after the close of each marketing season, prepare and mail an annual report to the Secretary and make a copy available to each grower and handler who requests a copy of the report.

EXPENSES AND ASSESSMENTS

§ ___.40 Expenses.

The committee is authorized to incur such expenses as the Secretary may find are reasonable and likely to be incurred during each fiscal period for its maintenance and functioning, and for such purposes as the Secretary, pursuant to this subpart, determines to be appropriate. Each handler's pro rata share of such expenses shall be proportionate to the ratio between the total quantity of lettuce handled by him as the first handler thereof during a fiscal period and the total quantity of lettuce so handled by all handlers as first handlers thereof during such fiscal period.

§ ___.41 Budget.

As soon as practicable after the beginning of each fiscal period and as may be necessary thereafter, the committee shall prepare an estimated budget of income and expenditures necessary for the administration of this part. The committee may recommend a rate of assessment calculated to provide adequate funds to defray its proposed expenditures. The committee shall present such budget to the Secretary with an accompanying report showing the basis for its calculations.

§ ___.42 Assessments.

(a) The funds to cover the committee's expenses shall be acquired by the levying of assessments upon handlers as provided for in this subpart. Each handler who first handles lettuce shall pay assessments to the committee upon demand, which assessments shall be in payment of such handler's pro rata share of the committee's expenses.

(b) Assessments shall be levied during each fiscal period upon handlers at a rate per unit established by the Secretary. Such rates may be established upon the basis of the committee's recommendations and other available information.

(c) At any time during, or subsequent to, a given fiscal period the committee may recommend the approval of an amended budget and an increase in the rate of assessment. Upon the basis of such recommendations, or other available information, the Secretary may approve an amended budget and increase the rate of assessment. Such increase shall be applicable to all lettuce which was handled by the first handler thereof during such fiscal period.

(d) The payment of assessments for the maintenance and functioning of the committee may be required irrespective of whether particular provisions of this part are suspended or become inoperative.

§ ___.43 Accounting.

(a) All funds received by the committee pursuant to the provisions of this subpart shall be used solely for the purposes specified in this part.

(b) The Secretary may at any time require the committee, its members and alternates, employees, agents and all other persons to account for all receipts and disbursements, funds, property, or records for which they are responsible. Whenever any person ceases to be a member of the committee or alternate, he shall account to his successor, the committee, or to the person designated by the Secretary, for all receipts, disbursements, funds and property (including but not being limited to books and

other records) pertaining to the committee's activities for which he is responsible, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor, committee, or designated person, the right to all of such property and funds and all claims vested in such person.

(c) The committee may make recommendations to the Secretary for one or more of the members thereof, or any other person, to act as a trustee for holding records, funds, or any other committee property during periods of suspension of this part, or during any period or periods when regulations under this part are not in effect and, if the Secretary determines such action appropriate, he may direct that such person or persons may act as such trustee or trustees.

§ ___.44 Excess funds.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of the excess assessment, which represents payments by the handler in excess of his pro rata share, shall be credited with such refund against the operations of the following fiscal period or such excess shall be accounted for in accordance with one of the following:

(1) The committee, with the approval of the Secretary, may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in a reserve so established: *Provided*, That funds in the reserve shall not exceed approximately one fiscal period's expenses. Such reserve funds may be used (i) to defray any expenses authorized under this part, (ii) to defray expenses during any fiscal period prior to the time assessment income is sufficient to cover such expenses, (iii) to cover deficits incurred during any fiscal period when assessment income is less than expenses, (iv) to defray expenses incurred during any period when any or all provisions of this part are suspended or are inoperative, and (v) to cover necessary expenses of liquidation in the event of termination of this part. If upon such termination any funds not required to defray the necessary expenses of liquidation, and after reasonable effort by the committee it is found impracticable to return such remaining funds to handlers, such funds shall be disposed of in such manner as the Secretary may determine to be appropriate.

(2) If such excess is not retained in a reserve or used to defray necessary expenses of liquidation, as provided in subparagraph (1) of this paragraph, it shall be refunded proportionately to the handlers from whom collected: *Provided*, That any sum paid by any handler in excess of his pro rata share of the expenses during any fiscal period may be applied by the committee at the end of such fiscal period to any outstanding obligations due the committee from such handler.

RESEARCH AND DEVELOPMENT

§ ___.48 Research and development.

The committee, with the approval of the Secretary, may establish or provide for the establishment of production research and marketing research and development projects designed to assist, improve, or promote the marketing, distribution, and consumption or efficient production of lettuce. The expenses of such projects shall be paid from funds collected pursuant to § ___.42.

REGULATIONS

§ ___.50 Marketing policy.

(a) For each season, prior to or at the same time as initial recommendations are made pursuant to § ___.51 or § ___.61, or both as applicable, the committee shall submit to the Secretary a report setting forth the marketing policy it deems desirable for the industry to follow during such season. The report shall indicate the kinds or types of regulations contemplated during such season and to the extent practical, shall include recommendations for specific volume regulations or other regulations which are deemed necessary to meet market requirements and establish orderly marketing conditions. Additional reports shall be submitted if the committee adopts a new or modified marketing policy because of changes in the supply and demand situation with respect to lettuce.

(b) In determining each such marketing policy, committee considerations shall include:

(1) Prospective lettuce production within the production area by districts and periods and in competing areas;

(2) Prospective lettuce demand, recognizing trend and level of consumer income;

(3) Market prices for lettuce, including prices by grade, size, quality, and pack; and

(4) Other relevant factors.

(c) The committee shall publicly announce the submission of each marketing policy (including new or modified policies) and notice and contents thereof shall be provided to producers, handlers, and other interested parties by bulletins, newspapers, or other appropriate media.

VOLUME REGULATION

§ ___.51 Recommendation for volume regulation.

(a) The committee may recommend to the Secretary the total quantity of lettuce which it deems advisable to be purchased from, or handled on behalf of, producers during an allocation period. Each such recommendation shall be made prior to the beginning of the allocation period.

(b) In making its recommendation the committee shall give due consideration to the following factors: Market prices for lettuce, supply of lettuce on track and enroute to the principal markets, supply, maturity, and condition of the lettuce in the production areas, market prices and supply of lettuce from competing producing areas, and any other relevant factors.

(c) At any time during an allocation period for which the Secretary, pursuant to § ___.52 has fixed the total quantity of lettuce which may be purchased from or handled on behalf of producers, the committee may recommend to the Secretary that such quantity be increased. Each such recommendation, together with the committee's reason for such recommendation, shall be promptly submitted to the Secretary.

§ ___.52 Issuance of volume regulation.

(a) Whenever the Secretary finds on the basis of a committee recommendation or other information, that limiting the total quantity of lettuce to be purchased from, or handled on behalf of, producers during an allocation period, and establishing a total allocation or increasing a total allocation previously established, would tend to effectuate the declared policy of the act, he shall establish the total allocation which handlers may purchase from, or handle on behalf of, producers as first handlers for such period, or increase a previously established total allocation.

(b) When a total allocation, including an increased total allocation, is established for any allocation period, no handler may purchase from, or handle on behalf of, producers any harvested lettuce during such period unless (1) it is within the unused allocation of a producer holding a base quantity pursuant to § ___.53 and (2) such producer authorized the first handler thereof to purchase or otherwise handle it, and (3) the committee has been notified of the proposed handling as provided in § ___.54(c).

§ ___.53 Base quantities.

(a) Upon request of the committee, each producer desiring one or more base quantities shall register with the committee and furnish to it, on forms provided by the committee, a report of the number of cartons of lettuce produced and sold by him, or on his behalf, during the five seasons, 1965–66 through 1969–70, broken down by cartons, handlers, and such time periods thereof as may be required by the committee and approved by the Secretary.

(b) (1) For the initial season the base quantities shall be established for each registered producer in accordance with the option of such producer as either (i) the number of cartons of harvested lettuce produced and sold by him or on his behalf in the corresponding base quantity period during the 1969–70 season or (ii) the average number of cartons of harvested lettuce produced and sold by him or on his behalf in such corresponding periods in one of the following combinations of seasons: 1968–69 and 1969–70; 1967–68 through 1969–70; 1966–67 through 1969–70; or 1965–66 through 1969–70: *Provided*, That only one such option may be employed by any producer to apply to all his base quantity periods during the season in which this part

becomes effective and in determining the base quantities of any applicant who has acquired the land and facilities of a producer no longer operating in the production area, the applicant may include the quantity sold by or handled on behalf of such producer in previous applicable seasons.

(2) For each season subsequent to the initial season under this part, base quantities for each registered producer shall be adjusted to recognize trends in sales volume of individual operations. This shall be accomplished by annually recalculating all base quantities for all base quantity periods according to the applicable one of the following procedures:

(i) The base quantity computed on a five-season basis shall be adjusted by: (*a*) Adding the producer's latest season's sales for the corresponding base quantity period to his five-season total sales used in computing his existing base quantity; (*b*) subtracting the sales recorded for the corresponding base quantity period in the earliest season included in the existing base, and (*c*) recalculating a new five-season simple average which shall be the new base quantity.

(ii) Base quantities computed on a less than five-season basis shall be adjusted by weighting each season in the original base quantity by the following values and adding a weight of one-fifth to the producer's sales during the initial season of regulation under this part and to such producer's sales in each subsequent season:

Number of years in original base	Year of adjustment			
	First	Second	Third	Fourth
	weight of each year in original base			
4	1/5			
3	1/15	1/5		
2	2/5	3/10	1/5	
1	4/5	3/5	2/5	1/5

(3) A condition for the continuing validity of a base quantity is production of lettuce thereunder. If no bona fide effort is made to produce and sell lettuce thereunder for commercial purposes during any two consecutive seasons such base quantity may be declared invalid due to lack of use and canceled at the end of the second consecutive season of nonproduction.

(c) (1) It shall be a policy under this part to continually provide the American public with high quality lettuce in adequate volume at a reasonable cost. In carrying out this policy the committee shall, for 1972–73 season and each subsequent season, recommend to the Secretary an adjustment in base quantities covered by this part which will reflect (i) changes in per capita consumption of lettuce in the United States; (ii) changes in population of the United States; (iii) other factors which reflect an increase in consumer demand for lettuce; (iv) desires of new producers to gain entry, and established producers to expand, as evidenced by applications for base quantities or increased base quantities; and (v) any additional factors which bear on industry adjustments to new and changing conditions.

(2) Notwithstanding the provisions of subparagraph (1) the annual increase in the quantity of lettuce provided for by all base quantities covered by this part shall be no more than 5 percent of the total base quantities encompassed by this part during the previous season. Such increase shall be distributed proportionately among all base quantity periods in the season.

(3) Any person may apply, under rules and procedures to be established by the committee with the approval of the Secretary, either for a new base quantity or for an increase in an existing base quantity. Said applications may be submitted annually, but must be filed with the committee on or before January 1 of a given season in order to be considered for an award of a new base quantity or the adjustment of an existing base quantity to take effect the following season.

(4) The committee may, with the approval of the Secretary, establish rules, guides, bases, or standards to be used in determining base quantity awards or adjustments that are to be recommended to the Secretary taking into account among other things, the minimum economic enterprise requirements for lettuce production.

(5) (i) The committee's recommendations, with justification, supporting data, and a listing and summary of all applications for new or adjusted base quantities, shall be submitted to the Secretary no later than February 1 of each season. Not more than sixty (60) days after receipt of the committee's recommendations, the Secretary shall either approve said recommendations or make whatever alterations therein that he deems necessary in the public interest.

(ii) The decision of the Secretary shall be final: *Provided*, That he shall communicate his decision and the reasons therefor to the committee in writing.

(6) Within thirty (30) days after receipt of the Secretary's decision, the committee shall notify each producer of his base quantity or quantities, by period, for the following season.

(d) (i) The committee shall have the authority and responsibility to correct any technical errors or inaccuracies in base quantity determinations.

(ii) All base quantity applications and determinations covered by this section shall be subject to review by the Secretary.

§ ___.54 Allocations.

(a) When the Secretary establishes an allocation period consisting of a specified week or number of consecutive weeks, and fixes the total allocation for such period, a uniform percentage for such period shall be determined by dividing such total allocation by the total of all existing base quantities. The percentage so determined shall be the uniform percentage for the entire allocation period unless changed by a revised total allocation.

(b) For each allocation period, the allocation for each producer holding a base quantity shall be established by the committee by multiplying his base quantity by such period's uniform percentage. The committee shall notify each such producer of the allocation established for him pursuant to this section.

(c) Prior to the handling of harvested lettuce during an allocation period, each holder of a base quantity shall notify the committee in such manner as it may prescribe, of the handler or handlers who will first handle all or a portion of such allocation during such period. The committee shall then notify the respective handlers.

§ ___.55 Transfers.

(a) Base quantities, allocations, or both may be transferred in whole or in part, for specified periods of time, in accordance with rules and procedures established by the committee.

(b) Details of all such transfers shall be confirmed to the committee by both parties thereto within 48 hours.

(c) The committee shall be notified if a different amount will be handled by a handler or handlers due to any transfer authorized in paragraph (a) of this section. The committee, upon receipt of such notification, shall advise the handler or handlers involved of the adjustments in the amount each may handle as the first handler thereof, based upon the number of cartons involved in the transfer, and shall revise as necessary the base quantities of, and allocations to, the producers involved.

§ ___.56 Overages.

Any handler who purchases from or handles on behalf of a producer during any allocation period, a quantity of lettuce covered by a regulation issued pursuant to § ___.52 may purchase from or handle on behalf of such producer and in addition to such producer's allocation, an amount equal to 10 percent of such producer's allocation; *Provided*, That the quantity of lettuce so handled in excess of each such producer's allocation shall be deducted from such producer's allocation for the next allocation period and that such an overage shall not be so purchased or handled in any two consecutive allocation periods; *Provided further*, That the committee, with the approval of the Secretary, may change the overage percentage permitted and shall adopt rules and regulations to ensure repayment of any such overages and to effectuate the provisions of this section.

§ ___.57 Shortages.

Any handler who purchases from or handles on behalf of a producer during any allocation period, a quantity of lettuce covered by a regulation issued pursuant to § ___.52, in any amount less than such producer's allocation for such period, may so purchase or handle, in addition to such producer's allocation for the next allocation period only, an amount equal to any such shortage but not to exceed 25 percent of the allocation for

the period in which the shortage occurred; *Provided*, That the committee, with the approval of the Secretary, may change this percentage.

§ ___.58 **Priority of allocations.**

Any handler who, during any allocation period, has the right to purchase from or handle on behalf of a producer a quantity of lettuce in addition to such producer's allocation issued pursuant to § ___.52 by reason of a shortage of such producer's immediately preceding allocation pursuant to § ___.57 and such handler so purchases or handles a quantity of lettuce which is less than the total quantity of lettuce which he may so purchase or handle during such period, the amount of such lettuce so purchased or handled shall first apply to such producer's current allocation. The remainder, if any, shall be applied to any shortage of his immediately preceding allocation.

OTHER REGULATIONS

§ ___.61 **Recommendations for regulation.**

(a) Whenever the committee deems it advisable to regulate the handling of lettuce in the manner provided in § ___.62 it shall so recommend to the Secretary.

(b) In arriving at its recommendations for regulation pursuant to paragraph (a) of this section, the committee shall give consideration to current information with respect to the factors affecting the supply and demand for lettuce during the period or periods when it is proposed that such regulation should be made effective. With each such recommendation for regulation, the committee shall submit to the Secretary the data and information of which such recommendation is predicted and such other available information as the Secretary may request.

§ ___.62 **Issuance of regulations.**

(a) The Secretary shall regulate, in the manner specified in this section the handling of lettuce whenever he finds, from the recommendations and information submitted by the committee, or from other available information, that such regulations will tend to effectuate the declared policy of the act. Such regulations may:

(1) Limit in any or all portions of the production area during any period or periods, the handling of particular grades, sizes, qualities, maturities, containers, or packs, or any combination thereof, of any variety or varieties of lettuce grown in the production area; also limit the handling of particular grades, sizes, or qualities of lettuce differently for different varieties, for different markets, for different sizes and types of containers, or for any combination of the foregoing, during any period.

(2) Limit the handling of lettuce during any fiscal period with respect to which it is determined by the Secretary that the seasonal average returns will exceed the applicable season average parity by establishing minimum standards of quality and maturity in terms of grades, sizes, or both.

(3) Fix the size, capacity, weight, dimensions, markings, or pack of the container, or containers, which may be used in the packaging or handling of lettuce.

(b) The committee shall be informed immediately of any such regulation issued by the Secretary and the committee shall promptly give notice thereof to handlers.

§ ___.63 **Modification, suspension, or termination of regulations.**

(a) In the event the committee at any time finds that, by reason of changed conditions, any regulation issued pursuant to § ___.62 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds from the recommendations and information submitted by the committee or from other available information that a regulation should be modified, suspended or terminated with respect to any or all shipments of lettuce in order to effectuate the declared policy of the act, he shall modify, suspend, or terminate such regulation. If the Secretary finds that a regulation obstructs or does not tend to effectuate the declared policy of the act, he shall suspend or terminate such regulation. On the same basis and in like manner the Secretary may terminate any such modification or suspension.

§ ___.64 **Special purpose shipments.**

(a) Except as otherwise provided in this section, any person may, without regard to the provisions of §§ ___.42, ___.52, ___.62, and ___.70 and the regulations issued thereunder, handle lettuce (1) for consumption by charitable institutions; (2) for export; or (3) for distribution by relief agencies.

(b) Upon the basis of recommendations and information submitted by the committee, or from other available information, the Secretary may relieve from any or all requirements under or established pursuant to §§ ___.42, ___.52, ___.62, and ___.70 the handling of lettuce for such specified purposes including shipments to facilitate the conduct of production or marketing research and development projects established pursuant to § ___.48, or in such minimum quantities or types of shipments, as may be prescribed.

(c) The committee shall, with the approval of the Secretary, prescribe such rules, regulations, and safeguards as it may deem necessary to prevent lettuce handled under the provisions of this section from entering the channels of trade for other than the specific purposes authorized by this section. Such rules, regulations, and safeguards may include the requirements that handlers shall file applications and receive approval from the committee for authorization to handle lettuce pursuant to this section, and that such applications be accompanied by a certification by the intended purchaser or receiver that the lettuce will not be used for any purpose not authorized by this section.

INSPECTION

§ ___.70 **Inspection and certification.**

(a) Whenever the handling of lettuce is regulated pursuant to § ___.62, or at other times when recommended by the committee and approved by the Secretary, no handler shall handle lettuce unless it is inspected by an authorized representative of the Federal or Federal-State Inspection Service and it is covered by a valid inspection certificate, except when relieved from such requirements pursuant to § ___.64, or paragraph (b) of this section.

(b) Regrading, resorting, repacking any lot of lettuce, or breaking any lot (without continuing identification of applicable inspection or subcertification thereof, shall invalidate any prior inspection certificate insofar as the requirements of this section are concerned. No handler shall handle lettuce after a lot has been broken, regraded, repacked, or resorted, or in any other way additionally prepared for market, unless such lettuce is inspected by an authorized representative of the Federal or Federal-State Inspection Service. Such inspection requirements on regraded, resorted, repacked, or broken lots of lettuce may be modified, suspended, or terminated upon recommendation by the committee, and approval of the Secretary.

(c) Upon recommendation of the committee and approval by the Secretary, any or all lettuce so inspected and certified shall be identified by appropriate seals, stamps, or tags, to be affixed to the containers by the handler under the direction and supervision of a Federal or Federal-State inspector or the committee.

(d) Insofar as the requirements of this section are concerned, the length of time for which an inspection certificate is valid may be established by the committee with the approval of the Secretary.

(e) When lettuce is inspected in accordance with the requirements of this section, a copy of each inspection certificate issued shall be made available to the committee by the Federal-State Inspection Service.

(f) The committee may recommend and the Secretary may require that no handler shall transport or cause the transportation of lettuce by motor vehicle or by other means unless such shipment is accompanied by a copy of the inspection certificate issued thereon, or other document authorized by the committee to indicate that such inspection has been performed. Such certificate or document shall be surrendered to such authority as may be designated.

(g) The committee may enter into an agreement with the Federal and Federal-State Inspection Service with respect to the cost of the inspection required by paragraph (a) of this section and may collect from handlers their respective prorata share of such costs.

MINIMUM QUANTITY EXEMPTION

§ ___.75 Minimum quantity exemption.

The committee, with the approval of the Secretary, may establish a minimum quantity of lettuce which may be handled free from regulations issued pursuand to: § ___.52 Issuance of volume regulation; § ___.62 Issuance of regulations; § ___.70 Inspection and certifications; and § ___.42 Assessments.

REPORTS

§ ___.80 Weekly report.

On or before such day of each week as may be designated by the committee, each handler shall report to the committee, on forms prepared by it, the following information with respect to lettuce shipped by such handler during the immediate preceding week:

(a) Quantity handled.

(b) Quantity sold or otherwise disposed of for export, showing the destination and quantity of each such destination.

(c) Total quantity disposed of otherwise, showing the manner and quantity of each such disposition.

§ ___.81 Manifest report.

Each handler shall furnish to the committee, at such times and for such periods as the committee may designate, certified reports covering each shipment of lettuce as follows:

(a) Name of shipper and shipping point.

(b) The car or truck license number.

(c) The date of shipment.

(d) The number of cartons of lettuce.

(e) The quantity shipped, showing grade and size of the lettuce.

(f) The destination.

(g) Identification of the inspection certificate number of each shipment of lettuce so handled.

§ ___.82 Other reports.

(a) Upon request of the committee, with the approval of the Secretary, each handler shall furnish to the committee such information as may be necessary to enable the committee to perform its duties under this part.

(b) When necessary for determining compliance with regulations, the committee may request reports from individual handlers. Such reports may include, but are not limited to:

(1) Information regarding specific sales, transportation, or other handling of lettuce.

(2) Anticipated lettuce planting intentions for the next 3 successive weeks.

(3) Fields or blocks of lettuce owned or controlled by applicant.

(4) Quantity of lettuce harvested from particular fields or blocks of lettuce with dates of harvest.

(5) Identification of each lot by original base quantity holder and subsequent transfers.

(c) All reports shall be held under appropriate protective classification and custody by the committee, or duly appointed employees or agents thereof, so that the information contained therein which may adversely affect the competitive position of any handler or producer in relation to other handlers or producers will not be disclosed. Compilations of general reports from data submitted by handlers and producers is authorized, subject to the prohibition of disclosure of individual handler's or producer's identities or operations: *Provided,* That all individual base quantities shall be considered public information.

§ ___.83 Handler records.

Each handler shall maintain for at least 2 succeeding years after the end of the season to which they relate such records of the lettuce received, and of lettuce disposed of by him as may be necessary to substantiate the reports he submits to the committee pursuant to this section.

§ ___.84 Verification of reports and records.

For the purpose of assuring compliance with recordkeeping requirements and verifying reports of producers and handlers, the Secretary and the committee, through their duly authorized employees or agents, shall have access to any premises where applicable records are maintained, where lettuce is handled, and at any time during reasonable business hours shall be permitted to inspect such producer and handler premises and any and all records of such persons with respect to matters within the purview of this part.

Any person filing a report, record, or application that is willfully misrepresented shall be subject to the legal penalties for such misrepresentation on government reports, as well as subject to correcting any base quantity or allocation issued by the committee based upon any such misrepresentation.

§ ___.85 Compliance.

Except as provided in this subpart, no handler shall handle lettuce, the handling of which has been prohibited by the Secretary in accordance with provisions of this subpart, or the rules and regulations thereunder, and no handler shall handle lettuce except in conformity to the provisions of this subpart. Any person exceeding any unused allocation fixed for him under § ___.52 and any person knowingly participating or aiding in exceeding of such allocation shall forfeit to the United States a sum equal to the value of such excess at the current market price for such commodity at the time of violation pursuant to section 608a of the Act.

§ ___.86 Right of the Secretary.

The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ ___.87 Effective time.

The provisions of this subpart, or any amendment thereto, shall become effective at such time as the Secretary may declare and shall continue in force until terminated in one of the ways specified in this subpart.

§ ___.88 Termination.

(a) The Secretary may, at any time, terminate the provisions of this subpart by giving at least 1 day's notice by means of a press release or in any other manner which he may determine.

(b) The Secretary may terminate or suspend the operation of any or all of the provisions of this subpart whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(c) The Secretary shall terminate the provisions of this subpart at the end of any fiscal period whenever he finds that such termination is favored by a majority of producers who, during a representative period, have been engaged in the production of lettuce for market: *Provided,* That such majority has, during such representative period, produced for market more than 50 percent of the volume of such lettuce produced for market.

(d) The provisions of this subpart shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

§ ___.89 Proceeding after termination.

(a) Upon the termination of the provisions of this subpart the then functioning members of the committee shall continue as joint trustees for the purpose of settling the affairs of the committee by liquidating all funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(b) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person as the Secretary may direct; and shall, upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such persons full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

§ ___.90 Effect of termination or amendments.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or of any regulation issued pursuant to this subpart, or the issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued under this subpart, or (b) release or extinguish any violation of this subpart or of any regulation issued under this subpart, or (c) effect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ ___.91 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this subpart shall cease upon the termination of this subpart, except with respect to acts done under and during the existence of this subpart.

§ ___.92 Agents.

The Secretary may, by designation in writing, name any person, including any officer or employee of the U.S. Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this subpart.

§ ___.93 Derogation.

Nothing contained in this subpart is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ ___.94 Personal liability.

No member or alternate of the committee nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatever, to any handler or to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, agent, or employee, except for acts of dishonesty, willful misconduct or gross negligence.

§ ___.95 Separability.

If any provision of this subpart is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this subpart, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ ___.96 Amendments.

Amendments to this subpart may be proposed, from time to time, by the committee or by the Secretary.

§ ___.97 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original. * * *

§ ___.98 Additional parties.

After the effective date hereof, any handler may become a party to this agreement if a counterpart is executed by him and delivered to the Secretary. This agreement shall take effect as to such new contracting party at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party. * * *

§ ___.99 Order with marketing agreement.

Each signatory handler hereby requests the Secretary to issue, pursuant to the act, an order providing for regulating the handling of lettuce in the same manner as is provided for in this agreement. * * *

Copies of this notice may be procured from the Hearing Clerk, Room 112, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250; also Warren C. Noland, C&MS, F&V, USDA, 312 North Spring Street, Room 1733, Los Angeles, CA 90012; David B. Fitz, C&MS, F&V, USDA, Commercial Arts Building, 2217 North 10th Street, McAllen, TX 78501; or Robert B. Case, C&MS, F&V, USDA, U.S. Customhouse, Room 365, 721 19th Street, Denver, CO 80202.

Signed at Washington, D.C., on January 22, 1971.

JOHN C. BLUM,
Deputy Administrator.

[FR Doc.71-1134 Filed 1-26-71;8:50 am]

[7 CFR Part 1032]

MILK IN SOUTHERN ILLINOIS MARKETING AREA

Notice of Proposed Suspension of Certain Provision of the 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 Illinois marketing area is being considered for the month of January 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, Washing, D.C. 20250, not later than 5 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 contained in subparagraph (2) of § 1032.14(b) and consists of: "during the months of May, June, and July, during the months of August and December for not more than 12 days of production of producer milk by such producer, and in any other month for not more than 8 days of production of producer milk by such producer."

Statement of consideration. The proposed suspension would remove for the month of January 1971 the provision which limits the quantity of producer milk that may be diverted.

Suspension was requested by a cooperative association representing producers on the market. Nine other cooperatives have indicated support of the suspension request.

The cooperative states that suspension of the diversion provision is necessary to accommodate the disposal of reserve milk supplies for January 1971 because supplies of producer milk have increased in relation to Class I sales and severe weather conditions have curtailed usual movements of milk to the market.

Signed at Washington, D.C., on January 22, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-1133 Filed 1-26-71;8:50 am]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 541]

EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL AND OUTSIDE SALESMEN EXEMPTIONS

Status of Certain Employees; Clarification of Hearing Announcement

There has been a good deal of misunderstanding concerning the public hearing on this matter scheduled to begin February 2, 1971, as announced in the September 10, 1970, and November 6, 1970, editions of the FEDERAL REGISTER (35 F.R. 14268 and 35 F.R. 17116). This notice is intended solely to clarify the purpose of the hearing and to emphasize that written testimony may be submitted in lieu of personal appearance at the hearing.

No specific proposals have been made by the Wage and Hour Division with respect to either outside salesmen or the other occupations involved. The primary purpose of this hearing is twofold: (1) To provide the Wage and Hour Division with information which will assist in developing guidelines for more clearly determining the status of data processing, paramedical, and highly paid technical employees for the purposes of the executive, administrative, and professional exemptions, and (2) to solicit comment on the feasibility of a minimum earnings requirement for outside salesmen.

Upon completion of the hearing an analysis will be made of all oral and written data, views, and arguments received on this matter. If such an analysis indicates that changes in the present regulations are appropriate, specific proposals will then be published in the

FEDERAL REGISTER with a period of time allowed for comment by interested persons. Thereafter, the proposals may be adopted, modified, or not adopted, depending upon the comments.

The question of a minimum earnings requirement for outside sales employees is being considered at this time because it has been brought to the attention of the Wage and Hour Division through inquiries and complaints from persons who work as outside sales employees that they are, in many cases, being exploited. Complaints range from those who receive no pay even though commissions have been earned, to those who must work excessively long hours to earn a disappointing payment, including instances of questionable promises by commission salesmen under pressure to produce. At present, because of the definition of the term "outside salesman" in 29 CFR Part 541, no action can be taken to assist such persons.

The Wage and Hour Division assures those interested persons who prefer to submit written testimony by mail instead of presenting oral testimony at the hearing (including those persons who have already informed the Wage and Hour Division of their intention to appear at the hearing) that equal weight will be given to written statements containing data, views, and arguments pertinent to the subjects being considered and to oral testimony. Written statements may be submitted any time prior to the conclusion of the hearing.

Signed at Washington, D.C., this 21st day of January 1971.

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

[FR Doc.71-1086 Filed 1-26-71;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 130]

RADIOACTIVE NEW DRUGS

Proposal Regarding New-Drug Applicatiaon Requirements

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052–53, as amended, 1055; 21 U.S.C. 355, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), and in cooperation with the Division of Biologics Standard of the National Institutes of Health and the Atomic Energy Commission, the Commissioner of Food and Drugs proposes that the following new section regarding radioactive new drugs be added to Part 130, Subpart A:

§ 130.____ **Requirements regarding certain radioactive drugs.**

(a) On January 9, 1963 (28 F.R. 183), the Commissioner of Food and Drugs exempted investigational radioactive new drugs from § 130.3 provided they were shipped in complete conformity with the regulations issued by the Atomic Energy Commission. This exemption also applied to investigational radioactive biologics.

(b) It is the opinion of the Atomic Energy Commission, the Division of Biologics standards of the National Institutes of Health, and the Food and Drug Administration that this exemption should not apply for certain specific drugs and that these drugs should be appropriately labeled for uses for which safety and effectiveness can be demonstrated by new-drug applications or through licensing by the Public Health Service in the case of biologics. Continued distribution under the investigational exemption when the drugs are intended for established uses will not be permitted.

(c) Based on its experience in regulating investigational radioactive pharmaceuticals, the Atomic Energy Commission has compiled the following list of reactor-produced isotopes for which it considers that applicants may reasonably be expected to submit adequate evidence of safety and effectiveness for use as recommended in appropriate labeling; such use may include, among others, the uses in this tabulation:

Isotope	Chemical form	Use
Cesium 137	Encased in needles and/or applicator cells.	Interstitial or intracavitary treatment of cancer.
Do	Teletherapy source.	Treatment of cancer.
Chromium 51	Chromate	Spleen scans.
Do	do	Placenta localization.
Do	do	Red blood cell labeling and survival studies.
Do	Labeled human serum albumin.	Gastrointestinal protein loss studies.
Do	do	Placenta localization.
Do	Labeled red blood cells.	Do.
Cobalt 58 or Cobalt 60.	Labeled cyanocobalamin.	Intestinal absorption studies.
Cobalt 60	Teletherapy source.	Treatment of cancer.
Do	Encased in needles and/or applicator cells.	Interstitial or intracavitary treatment of cancer.
Gold 198	Colloidal	Liver scans.
Do	do	Intracavitary treatment of pleural effusions and/or ascites.
Do	do	Interstitial treatment of cancer.
Do	Seeds	Do.
Iodine 131	Iodide	Diagnosis of thyroid functions.
Do	do	Thyroid scans.
Do	do	Treatment of hyperthyroidism and/or cardiac dysfunction.
Do	do	Treatment of thyroid carcinoma.
Do	Iodinated human serum albumin.	Blood volume determinations.
Do	do	Brain tumor localization.
Do	do	Placenta localization.
Do	do	Cardiac scans for determination of pericardial effusions.
Do	Rose Bengal	Liver function studies.
Do	do	Liver scans.
Do	Iodopyracet, sodium iodohippurate, sodium diatrizoate, diatrizoate methylglucamine, sodium diprotrizoate, sodium acetrizoate, or sodium iothalamate.	Kidney function studies and kidney scans.
Iodine 131	Labeled fats and/or fatty acids.	Fat absorption studies.
Do	Cholografin	Cardiac scans for determination of pericardial effusions.
Do	Macroaggregated iodinated human serum albumin.	Lung scans.
Do	Colloidal microaggregated human serum albumin.	Liver scans.
Iodine 125	Iodine	Diagnosis of thyroid function.
Do	Iodinated human serum albumin.	Blood volume determinations.
Do	Rose Bengal	Liver function studies.
Do	Iodopyracet, sodium iodohippurate, sodium diatrizoate, diatrizoate methylglucamine, sodium diprotrizoate, sodium acetrizoate, or sodium iothalamate.	Kidney function studies.
Do	Labeled fats and/or fatty acids.	Fat absorption studies.
Iron 59	Chloride, citrate and/or sulfate.	Iron turnover studies.
Iridium 192	Seeds encased in nylon ribbon.	Interstitial treatment of cancer.
Krypton 85	Gas	Diagnosis of cardiac abnormalities.
Mercury 197	Chlormerodrin	Kidney scans.
Do	do	Brain scans.
Mercury 203	do	Do.
Phosphorus 32.	Soluble phosphate	Treatment of polycythemia vera.
Do	do	Treatment of leukemia and bone metastas's.
Do	Colloidal chromic phosphate.	Intracavitary treatment of pleural effusions and/or ascites.
Do	do	Interstitial treatment of cancer.
Potassium 42	Chloride	Potassium space studies.
Selenium 75	Labeled methionine.	Pancreas scans.
Strontium 85	Nitrate or chloride	Bone scans on patients with diagnosed cancer.
Strontium 90	Medical applicator	Treatment of superficial eye conditions.
Technetium 99m.	Pertechnetate	Brain scans.
Do	do	Thyroid scans.
Do	Sulfur colloid	Liver and spleen scans.
Do	Pertechnetate	Placenta localization.
Do	do	Blood pool scans.
Do	do	Salivary gland scans.
Xenon 133	Gas	Diagnosis of cardia abnormalities. Cerebral blood-flow studies. Pulmonary function studies. Muscle blood-flow studies.

(d) (1) In view of the extent of experience with the isotopes listed in paragraph (c) of this section, the Atomic Energy Commission, the Division of Biologics Standards of the National Institutes of Health, and the Food and Drug Administration conclude that they should not be distributed under investigational-use labeling when they are actually intended for use in medical practice.

(2) It is further concluded that manufacturers or distributors interested in continuing to ship in interstate commerce drugs containing the isotopes listed in paragraph (c) of this section for any of the indications listed should submit, within 90 days after the effective date of this section, to the Bureau

of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852, a new-drug application or a "Notice of Claimed Investigational Exemption for a New Drug" for each such drug for which the manufacturer or distributor does not have an approved new-drug application pursuant to section 505(b) of the Federal Food, Drug, and Cosmetic Act. Any "Notice of Claimed Investigational Exemption for a New Drug" should be submitted in accordance with § 130.3, and any new-drug application should be submitted in accordance with § 130.4.

(3) If the drug is a biologic, a "Notice of Claimed Investigational Exemption for a New Drug" or an application for a license under the Public Health Service Act of July 1, 1944, should be submitted to the Division of Biologics Standards of the National Institutes of Health, Public Health Service, Building 29, 9000 Rockville Pike, Bethesda, Md. 20014.

(4) After such 90-day period, the isotopes listed in paragraph (c) of this section, in the "chemical form" and intended for the uses stated, will no longer be exempt from § 130.3.

(e) No exemption from section 505 of the act or from § 130.3 is in effect or has been in effect for radioactive drugs prepared from accelerator-produced radioisotopes, naturally occurring isotopes, or cold substances used in conjunction with isotopes.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: January 12, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71-880 Filed 1-26-71;8:45 am]

[21 CFR Part 191]

BANNED HAZARDOUS SUBSTANCES

Repurchase or Rectification; Extension of Time for Filing Comments

The notice published in the FEDERAL REGISTER of December 19, 1970 (35 F.R. 19275), proposing § 191.202 *Repurchase or rectification of banned hazardous substances*, provided for the filing of comments within 30 days after said date.

The Commissioner of Food and Drugs has received a request to extend such time and, good reason therefor appearing, the time for filing comments regarding proposed § 191.202 is hereby extended to February 17, 1971.

This action is taken pursuant to provisions of the Federal Hazardous Substances Act (sec. 15, 83 Stat. 189-90; 15 U.S.C. 1273) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: January 18, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-1072 Filed 1-26-71;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Ch. I]

[Docket No. 10664; Notice No. 70-44A]

CIVIL AIRPLANE NOISE REDUCTION RETROFIT REQUIREMENTS

Advance Notice of Proposed Rule Making; Extension of Comment Period

The Federal Aviation Administration, on October 30, 1970, issued Notice 70-44, published in the FEDERAL REGISTER (35 F.R. 16980) on November 4, 1970. That advance notice of proposed rule making requested public comments for consideration by the FAA in rule making to establish noise reduction requirements that would involve modification or "retrofit" of currently type certificated subsonic turbofan engine powered airplanes. The comment period expires January 29, 1971.

It appears that the original comment period is insufficient to permit an adequate technical analysis and response from persons who would be regulated by the proposed rules. The International Air Transport Association has indicated that insufficient time was given for consolidation of replies from its worldwide membership. The Aerospace Industries Association of America, Inc., and the Air Transport Association of America have also stated that more time is needed to prepare detailed, coordinated industry comments.

In view of the effect that fleetwide retrofit will have on air transportation and the statutory obligation of the FAA to consider economic and technological factors in its noise regulations, and because a limited extension of time will not delay the development of the proposed rules, I find that petitioners have shown a substantive interest in the proposed rule, that good cause exists for extension of the comment period, and that a limited extension is consistent with the public interest.

Therefore, pursuant to the authority delegated to me by the Administrator in 14 CFR 11.45, the time within which comments on Notice 70-44 will be received is extended to February 26, 1971.

Issued in Washington, D.C., on January 22, 1971.

JOSEPH K. POWER,
Acting Deputy Director, Office of Environmental Quality.

[FR Doc.71-1101 Filed 1-26-71;8:47 am]

[14 CFR Part 75]

[Airspace Docket No. 70-WA-42]

AREA HIGH ROUTES

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would designate 10 area high routes as a part of the overall program to establish an area navigation jet route structure.

Amendments to Parts 71 and 75 of the Federal Aviation Regulations were published in the FEDERAL REGISTER on July 1, 1970 (35 F.R. 10653), which estabished regulatory bases for the designation of specific area high and area low routes.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. All communications received within 60 days after publication of this notice will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590.

The FAA proposes to amend Part 75 of the Federal Aviation Regulations by designating area high routes as follows:

J812R (MIAMI, FLA., TO CHICAGO, ILL.)

Vero Beach, Fla., 187.5 M/89.8 NM lat. 26° 11'22" N., long. 80°42'24" W.;

Vero Beach, Fla., 311.2 M/82 NM lat. 28°34' 32" N., long. 81°39'31" W.;

Alma, Ga., VORTAC, lat. 31°32'11" N., long. 82°30'30" W.;

Chattanooga, Tenn., 066.7 M/48.5 NM lat. 35°15'54" N., long. 84°14'25" W.;

Bowling Green, Ky., 064.8 M/61 NM lat. 37° 19'34" N., long. 85°16'22" W.;

Indianapolis, Ind., 328 M/73 NM lat. 40°51' 20" N., long. 87°11'36" W.;

Indianapolis, Ind., 331 M/115.6 NM lat. 41° 30'36" N., long. 87°34'17" W.

J811R (CHICAGO, ILL., TO MIAMI, FLA.)

Lewis, Ind., 352.6 M/58.2 NM lat. 40°14'20" N., long. 87°22'35" W.;
Nashville, Tenn., 143.1 M/131 NM lat. 34° 16'03" N., long. 85°05'51" W.;
Macon, Ga., 251.5 M/40.8 NM lat. 32°29'12" N., long. 84°24'51" W.;
Gainesville, Fla., 297.3 M/70.2 NM lat. 30° 07'24" N., long. 83°33'01" W.;
Miami, Fla., 269 M/28 NM lat. 25°57'14" N., long. 80°58'42" W.

J814R (NEW ORLEANS, LA., TO ATLANTA, GA.)

New Orleans, La., VORTAC, lat. 30°01'47" N., long. 90°10'20" W.;
Montgomery, Ala., 226.4 M/69.8 NM lat. 31° 27'37" N., long. 87°21'10" W.;
Montgomery, Ala., 045.6 M/74.8 NM lat. 33° 02'35" N., long. 85°12'27" W.

J813R (ATLANTA, GA., TO NEW ORLEANS, LA.)

Montgomery, Ala., 029.7 M/102.6 NM lat. 33° 39'32" N., long. 85°12'55" W.;
Montgomery, Ala., VORTAC, lat. 32°13'20" N., long. 86°19'11" W.;
Montgomery, Ala., 226.4 M/69.8 NM lat. 31° 27'37" N., long. 87°21'10" W.;
New Orleans, La., VORTAC, lat. 30°01'47" N., long. 90°10'20" W.

J816R (ATLANTA, GA., TO WASHINGTON, D.C.)

Spartanburg, S.C., 227.1 M/119.1 NM lat. 33° 37'10" N., long. 83°36'42" W.;
Spartanburg, S.C., 080 M/50 NM lat. 35°12' 11" N., long. 80°55'57" W.;
Richmond, Va., VORTAC, lat. 37°30'08" N., long. 77°19'14" W.;
Richmond, Va., 015 M/61 NM lat. 38°30'27" N., long. 77°07'05" W.

J815R (WASHINGTON, D.C., TO ATLANTA, GA.)

Gordonsville, Va., 025.7 M/40 NM lat. 38° 38'28" N., long. 77°51'57" W.;
Spartanburg, S.C., 246.4 M/96.7 NM lat. 34° 19'21" N., long. 83°40'53" W.

J818R (WASHINGTON, D.C., TO BOSTON, MASS.)

Sea Isle, N.J., 284.1 M/57.4 NM at lat. 39°10'-29" N., long. 76°01'32" W.;
Sea Isle, N.J., 333.3 M/40 NM lat. 39°38'-09" N., long. 75°18'12" W.;
Putnam, Conn., 210.5 M/70.9 NM lat. 40°49'-17" N., long. 72°17'15" W.;
Putnam, Conn., 094.6 M/38.9 NM lat. 42°03'-28" N., long. 70°59'13" W.

J817R (BOSTON, MASS., TO WASHINGTON, D.C.)

Huguenot, N.Y., 080.3 M/126.7 NM lat. 42°-07'31" N., long. 71°56'13" W.;
Sea Isle, N.J., 329.9 M/63.8 NM lat. 39°55'-04" N., long. 75°40'16" W.;
Sea Isle, N.J., 284.2 M/101.7 NM lat. 39°13'-41" N., long. 76°58'22" W.

J820R (CHICAGO, ILL., TO BOSTON, MASS.)

Pullman, Mich., 250.9 M/85.2 NM lat. 41°59'-16" N., long. 87°54'17" W.;
Pullman, Mich., 097.9 M/96.1 NM lat. 42°13'-36" N., long. 83°58'14" W.;
Chardon, Ohio, 023 M/31 NM lat. 42°00'19" N., long. 80°56'16" W.;
Syracuse, N.Y., 258 M/47 NM lat. 42°51'00" N., long. 77°11'07" W.;
Boston, Mass., 296.5 M/104.3 NM lat. 42°40'-52" N., long. 73°18'11" W.;
Boston, Mass., 298.8 M/48.6 NM lat. 42°32'-45" N., long. 72°03'31" W.

J819R (BOSTON, MASS., TO CHICAGO, ILL.)

Albany, N.Y., 104.5 M/114.5 NM lat. 42°40'00" N., long. 71°13'00" W.;
Albany, N.Y., 310 M/44 NM lat. 43°04'37" N., long. 74°41'42" W.;
Buffalo, N.Y., 006.4 M/6.5 NM lat. 43°02'15" N., long. 78°38'58" W.;
Flint, Mich., 256 M/53 NM lat 42°42'07" N., long. 84°53'12" W.;
Northbrook, Ill., 076 M/15 NM lat. 42°14'36" N., long. 87°37'17" W.

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

Issued in Washington, D.C., on January 20, 1971.

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

[FR Doc.71-1091 Filed 1-26-71;8:46 am]

ENVIRONMENTAL PROTECTION AGENCY

[42 CFR Part 481]

AIR QUALITY CONTROL REGIONS IN OHIO

Proposed Designation and Revision of Regions; Consultation With Appropriate State and Local Authorities

Notice is hereby given of a proposal to designate Intrastate Air Quality Control Regions in the State of Ohio as set forth in the following new §§ 481.200—481.205 inclusive which would be added to Part 481 of Title 42, Code of Federal Regulations. It is proposed to make such designations effective upon republication.

In addition to the proposal to designate the new Intrastate Air Quality Control Regions, it is proposed to revise the boundaries of the designated Huntington—Ashland—Portsmouth-Ironton Interstate Air Quality Control Region within Ohio.

Interested persons may submit written data, views, or arguments in triplicate to the Office of the Acting Commissioner, Air Pollution Control Office, Environmental Protection Agency, Room 17–82, 5600 Fishers Lane, Rockville, MD 20852. All relevant material received not later than 30 days after the publication of this notice will be considered.

Interested authorities of the States of Ohio, Indiana, Pennsylvania, Michigan, Kentucky, and West Virginia, and appropriate local authorities, both within and without the proposed regions, who are affected by or interested in the proposed designations and revision are hereby given notice of an opportunity to consult with representatives of the Administrator concerning such designations and revisions. Such consultation will take place at 10 a.m., February 8, 1971, Veterans Memorial Auditorium, Room 201, 300 West Broad Street, Columbus, OH 43215.

Mr. Doyle J. Borchers is hereby designated Chairman for the consultation. The Chairman shall fix the time, date, and place of later sessions and may convene, reconvene, recess, and adjourn the sessions as he deems appropriate to expedite the proceedings.

State and local authorities wishing to participate in the consultation should notify the Chairman, Mr. Doyle J. Borchers, Air Pollution Control Office, Environmental Protection Agency, Parklawn Building, Room 17–82, 5600 Fishers Lane, Rockville, MD 20852.

In Part 481 the following new sections are proposed to be added to read as follows:

§ 481.200 Metropolitan Columbus Intrastate Air Quality Control Region.

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

In the State of Ohio:

Delaware County.	Madison County.
Fairfield County.	Perry County.
Franklin County.	Pickaway County.
Licking County.	Union County.

§ 481.201 Mansfield-Marion Intrastate Air Quality Control Region.

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

In the State of Ohio:

Ashland County.	Morrow County.
Crawford County.	Richland County.
Holmes County.	Wayne County.
Knox County.	Wyandot County.
Marion County.	

§ 481.202 Northwest Ohio Intrastate Air Quality Control Region.

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

In the State of Ohio:

Allen County.	Logan County.
Auglaize County	Mercer County.
Champaign County.	Paulding County.
Defiance County	Putnam County.
Fulton County	Shelby County.
Hancock County.	Van Wert County.
Hardin County.	Williams County.
Henry County.	

§ 481.203 Sandusky Intrastate Air Quality Control Region.

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

In the State of Ohio:

Erie County.	Sandusky County.
Huron County.	Seneca County.
Ottawa County.	

§ 481.204 Wilmington-Chillicothe-Logan Intrastate Air Quality Control Region.

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

In the State of Ohio:

Clinton County.	Jackson County.
Fayette County.	Pike County.
Highland County.	Ross County.
Hocking County.	Vinton County.

§ 481.205 Zanesville-Cambridge Intrastate Air Quality Control Region.

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

In the State of Ohio:

Carroll County.	Muskingum County.
Coshocton County.	Noble County.
Guernsey County.	Tuscarawas County.
Harrison County.	

§ 481.64 [Amended]

The Huntington (West Virginia)-Ashland (Kentucky)-Portsmouth-Ironton (Ohio) Interstate Air Quality Control Region (§ 481.64) presently is designated as the territorial area encompassed by the boundaries of the following jurisdictions (including the territorial area of all municipalities (as defined in section 302(f) of the Clean Air Act, 42 U.S.C. 1857h(f)) geographically located within the outermost boundaries of the area so delimited):

In the State of West Virginia:

Cabell County.	Mason County.
Wayne County.	

In the State of Kentucky:

Boyd County.	Greenup County.
Lawrence County.	

In the State of Ohio:

Gallia County.	Lawrence County.
Scioto County.	

It is now proposed to add Adams and Brown Counties in the State of Ohio.

This action is proposed under the authority of section 301(a), 81 Stat. 504; 42 U.S.C. 1857g(a), as amended by section 15(c)(2) of Public Law 91-604.

Dated January 22, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.71-1113 Filed 1-26-71;8:48 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Termination of Proposed Withdrawal and Reservation of Lands

JANUARY 19, 1971.

Notice of an application, Anchorage Serial No. AA–4543, for withdrawal and reservation of lands was published as F.R. Doc. 68–15085 on page 18943 of the issue for December 19, 1968.

The Bureau of Land Management has canceled its application in its entirety involving the lands described below. Therefore, pursuant to the regulations contained in 43 CFR Part 2350, the subject lands will be at 10 a.m. on January 22, 1971, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

KAKE TOWNSITE, ALASKA

Block 20, U.S. Survey No. 1871.
Tracts A & B, U.S. Survey No. 3851.
Lot 1, U.S. Survey No. 3852.

Containing 164.66 acres.

T. G. BINGHAM,
Acting State Director.

[FR Doc.71–1083 Filed 1–26–71;8:46 am]

National Park Service

BLUE RIDGE PARKWAY

Notice of Intention To Issue a Concession Permit

Pursuant to the provisions of section 5, of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20) public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Superintendent, Blue Ridge Parkway, Roanoke, Va., proposes to issue a concession permit to Hylton's Livestock Rental & Sales, Inc., authorizing it to provide concession facilities and services for the public at Rocky Knob on the Blue Ridge Parkway for a period of 1 year from January 1, 1971, through December 31, 1971.

The foregoing concessioner has performed its obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Superintendent, Blue Ridge Parkway, Post Office Box 1710, Roanoke, VA 24008, for information as to the requirements of the proposed permit.

GRANVILLE B. LILES,
Superintendent,
Blue Ridge Parkway.

DECEMBER 23, 1970.

[FR Doc.71–1084 Filed 1–26–71;8:46 am]

Office of the Secretary

CENTRAL AND FIELD ORGANIZATION

Organization and Functions

The organization statement for the Department of the Interior published at 35 F.R. 17125 is revised as follows to: (1) Reflect the transfer of functions and the abolishment of the Bureau of Commercial Fisheries in the Department of the Interior in accordance with the provisions of Reorganization Plan No. 4 of 1970; (2) reflect the transfer of the functions and the abolishment of the Federal Water Quality Administration in the Department of the Interior in accordance with the provisions of Reorganization Plan No. 3 of 1970; (3) the abolishment of the Office of Marine Affairs; and (4) other miscellaneous organization changes.

The Section Table of Contents is revised as follows:

Sec.

* * * * *

110.1.6 Assistant Secretary—Water and Power Resources. [Revised Title]
110.1.7 Assistant Secretary—Water Quality and Research. [Deleted]

* * * * *

111.3 Office of Marine Affairs. [Deleted]

* * * * *

141.1 Bureau of Commercial Fisheries. [Deleted]

* * * * *

175.1 Federal Water Quality Administration. [Deleted]

* * * * *

110.1.3 *Assistant Secretary for Fish and Wildlife and Parks.* The Assistant Secretary for Fish and Wildlife and Parks discharges the duties of the Secretary with respect to the development, conservation, and utilization of the fish, wildlife, and national park resources of the Nation. The Assistant Secretary represents the Department in the coordination of marine and ocean resources programs with other Federal agencies. The Assistant Secretary exercises Secretarial direction and supervision over the Commissioner of Fish and Wildlife, the Bureau of Sport Fisheries and Wildlife, and the National Park Service.

* * * * *

110.1.6 *Assistant Secretary — Water and Power Resources.* The Assistant Secretary—Water and Power Resources discharges the duties of the Secretary with respect to the development of water and power and the coordination of programs concerned with water resources research. The Assistant Secretary exercises Secretarial direction and supervision over the Bureau of Reclamation, Bonneville Power Administration, Southeastern Power Administration, Southwestern Power Administration, Alaska Power Administration, Office of Water Resources Research, and the Office of Saline Water. He is also responsible for carrying out the defense functions of the Secretary with respect to electric power.

110.1.7 *Assistant Secretary — Water Quality and Research.* [Deleted]

* * * * *

110.3 *Field Committees, Field Representatives, and Regional Coordinators.* (The address for the Field Representative, Alaska Region is changed to 338 Denali Street, Mackay Building, Suite 1407, Anchorage, AL 99501.)

* * * * *

110.5 *Office of Information.* The Office of Information exercises technical and general functional supervision over all information activities of the Department. The Office of Information, Northwest Regional Office, located in Portland, Oreg., assists and directs the information programs of bureaus operating in that area.

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111.3 *Office of Marine Affairs.* [Deleted]

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111.6 *Office of Water Resources Research.* (The reference in paragraph one to "Assistant Secretary—Water Quality and Research" is changed to "Assistant Secretary—Water and Power Resources").

111.7 *Office of Saline Water.* (The reference in paragraph one to "Assistant Secretary—Water Quality and Research" is changed to "Assistant Secretary—Water and Power Resources").

* * * * *

140.1 *U.S. Fish and Wildlife Service.* [For pertinent codified regulations see Code of Federal Regulations, Title 50, Chapter IV.] The U.S. Fish and Wildlife Service was created in the Department of the Interior on November 6, 1956, as provided by the Fish and Wildlife Act of 1956 [70 Stat. 1119]. The functions of the Service are administered under the supervision of the Commissioner of Fish and Wildlife, who subject to the supervision of the Assistant Secretary for Fish and Wildlife and Parks.

141.1 *Bureau of Commercial Fisheries.* [Deleted]

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160.1 *Bonneville Power Administration.* (Under the listing of major field offices, the address of the Portland Area Office is changed to 919 Northeast 19th Avenue, Portland, OR 97208).

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175.1 *Federal Water Quality Administration.* [Deleted]

RICHARD R. HITE,
Deputy Assistant Secretary for Administration.

JANUARY 19, 1971.

[FR Doc.71-1130 Filed 1-26-71;8:50 am]

DEPARTMENT OF COMMERCE

Patent Office

PLANT VARIETY PROTECTION

German Protection for Kentucky Bluegrass & Roses

Printed below is a translation of the pertinent portion of the official Federal Republic of Germany "Announcement Governing Protection Equivalent to Varietal Protection Outside the Area where the Breeders' Rights Act Applies" (Bundesgesetzblatt p. 1123/1970) dated July 17, 1970.

This announcement, together with Article 23, paragraph 1(3) of the West German Breeders' Rights Act of May 20, 1968, permits U.S. nationals to apply for the grant of plant variety protection in the Federal Republic of Germany on new varieties of Kentucky bluegrass and roses.

WILLIAM E. SCHUYLER, JR.,
Commissioner of Patents.

JANUARY 4, 1977.

ANNOUNCEMENT GOVERNING PROTECTION EQUIVALENT TO VARIETAL PROTECTION OUTSIDE THE AREA WHERE THE BREEDERS' RIGHTS ACT APPLIES DATED JULY 17, 1970

The Federal Minister for Food, Agriculture and Forestry announces in accordance with section 23, paragraph 1 (3) of the Breeders' Rights Act of May 20, 1968 (Bundesgesetzblatt I p. 439) that protection equivalent to protection under the Breeders' Rights Act is granted German citizens or persons with residence or place of business in the area where the Act applies for varieties of the following species:

Kentucky bluegrass—Poa pratensis L. Rose—Rosa L. hort. in the United States of America.

Bonn, July 17, 1970.

The Federal Minister for Food, Agriculture, and Forestry.

[FR Doc.71-1099 Filed 1-26-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

EMERGENCY SCHOOL ASSISTANCE PROGRAM

Notice of Closing Dates

Notice is hereby given with respect to the following matters relating to the administration of the Emergency School Assistance Program (assistance to desegregating local educational agencies) (Public Law 91-380). Regulations with respect to this program appear in the FEDERAL REGISTER for August 22, 1970 (35 F.R. 13442-13448).

Pursuant to 45 CFR § 181.5, the Commissioner of Education is authorized to reallot funds which have been previously allotted for use in a State pursuant to that section and which he determines will not be needed in that State. Such funds are to be reallotted among other States in proportion to their original allotments under the Program with appropriate adjustments to assure that no State receives a portion of the funds being reallotted in excess of its needs.

In order equitably to carry out such reallotment which will be made as of March 1, 1971, the Commissioner has established a final closing date for receipt of applications by local educational agencies and other public or non-profit private agencies, organizations, and institutions eligible for assistance under the Emergency School Assistance Program. Such applications must be received by the Commissioner of Education, Office of Education, 400 Maryland Avenue SW., Washington, DC., no later than 31 days after the date of publication of this notice in the FEDERAL REGISTER.

A number of States have unused balances in their allotments under the Emergency School Assistance Program after taking into account the funding of all applications from eligible applicants which have been received. However, prospective applicants should be aware that in the case of a number of other States which originally received ESAP allotments, the allotments have either been completely consumed or the small amounts remaining in the allotments will be consumed by proposed awards under previously filed applications, and additional applications by eligible applicants remain pending. It is not anticipated that funds sufficient to cover new applications in these States will become available in the event of reallotment. Further information with respect to the Emergency School Assistance Program, including the current status of individual State allotments, may be obtained by contacting the appropriate Regional Commissioner of Education.

(42 U.S.C. 2812; 45 CFR Sec. 181.5; 20 U.S.C. 1119-1119a, 20 U.S.C. 331-332b, 42 U.S.C. 2000c-2000c-9; 20 U.S.C. 887, 20 U.S.C. 1222)

S. P. MARLAND, JR.,
U.S. Commissioner of Education.

JANUARY 22, 1971.

[FR Doc.71-1139; Filed 1-26-71;8:51 am]

Food and Drug Administration

[DESI 8200]

CERTAIN RADIOACTIVE PREPARATIONS CONTAINING THERAPEUTIC OR DIAGNOSTIC SODIUM IODIDE I-131

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following radioactive iodine drugs:

1a. Sodium iodide I-131 capsules; marketed as Radiocaps-131 by Abbott Laboratories, 14th and Sheridan Road, North Chicago, Ill. 60064 (NDA 8-200).

b. Sodium iodide I-131 sterile solution; marketed as tracervial-131; Abbott (NDA 8-200).

c. Sodium iodide I-131 oral solution; marketed as Oriodide-131; Abbott (NDA 8-200).

d. Sodium iodide I-131 capsules; marketed as Theriodide-131, Abbott (NDA 8-200).

e. Sodium iodide I-131 sterile solution; Abbott (NDA 8-200).

2a. Sodium iodide I-131 capsules; marketed as Iodotope by E. R. Squibb and Sons, Inc., Georges Road, New Brunswick, New Jersey 08903 (NDA 10-929).

b. Sodium iodide I-131 oral solution; marketed as Iodotope; Squibb (NDA 10-929).

c. Sodium iodide I-131 injection; marketed as Iodotope; Squibb (NDA 10-929).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new-drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. Sodium iodide I-131 is effective as a diagnostic agent of thyroid function; in localizing metastases associated with thyroid malignancies.

2. As a therapeutic agent, sodium iodide I-131 is effective for the treatment of hyperthyroidism and selected cases of carcinoma of the thyroid.

3. Sodium iodide I-131 is possibly effective for use in the management of euthyroid heart disease, such as angina pectoris and congestive heart failure.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated

new-drug applications and abbreviated supplements to previously approved new-drug applications under conditions described herein.

1. *Form of drug.* Sodium iodide I–131 preparations are in capsule or solution form suitable for oral administration or sterile solution form suitable for parenteral administration.

2. *Labeling conditions.* a. The labels bear the statement "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. The labeling bears adequate information for safe and effective use of the drug and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" section is as follows: (Labeling guidelines for the drug are available from the Administration on request.)

INDICATIONS

Radioiodide is indicated for use in performance of the radioactive iodide (RAI) uptake test to evaluate thyroid function. Diagnostic doses may also be employed in localizing metastases associated with thyroid malignancies.

Therapeutic doses of radioiodide may be indicated in the treatment of hyperthyroidism and selected cases of carcinoma of the thyroid. Palliative effects may be seen in patients with papillary and/or follicular carcinoma of the thyroid. Stimulation of radioiodide uptake may be achieved by the administration of thyrotropin. (Radioiodide will not be taken up by giant cell and spindle cell carcinoma of the thyroid or by amyloid solid carcinomas.)

The possibly effective indication may also be included for 6 months.

3. *Marketing status.* Marketing of such drugs may be continued under conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new-drug applications (i.e., an application which became effective on the basis of safety prior to Oct. 10, 1962), the submission of a supplement for revised labeling, an abbreviated supplement for updating information, and adequate data to show the biologic availability of the drug in the formulation which is marketed as described in paragraphs (a) (1) (i), (ii), and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new-drug application, the submission of an abbreviated new-drug application, to include adequate data to assure the biologic availability of the drug in the formulation which is or is intended to be marketed, as described in paragraph (a) (3) (ii) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as possibly effective (not included in the "Indications" section above), continued use as described in paragraphs (d), (e), and (f) of that notice.

A copy of the NAS–NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE–200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 8200, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.

Original abbreviated new-drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: January 4, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71–1073 Filed 1–26–71;8:45 am]

DEPARTMENT OF TRANSPORTATION

Hazardous Materials Regulations Board

TRANSPORT OF RADIOACTIVE MATERIALS

Request for Public Advice on Revision of International Regulations

Purpose. This notice is intended to inform interested persons of the recent issuance and availability of a draft of proposed changes to the international regulations for the transportation of radioactive materials and to invite comments.

Background. In 1959, at the request of the Economic and Social Council of the United Nations, the International Atomic Energy Agency (IAEA) undertook the development of international regulations for the safe transportation of radioactive materials. The initial regulations published by the Agency in 1961 were recommended to member states as the basis for national regulations and for application to international transportation. As a result of extensive revision in 1963 and 1964, and further effort in 1966, the present version of the IAEA "Regulations for Safe Transport of Radioactive Materials, Safety Series No. 6," was published in 1967. The IAEA regulations have since been adopted generally by most nations of the world as a basis for their own national regulations governing the transportation of radioactive materials.

Since 1966, the U.S. Atomic Energy Commission has issued regulations which are substantially in conformance with IAEA standards for fissile radioactive materials and large quantities of radioactive materials. On October 4, 1968, the Hazardous Materials Regulations Board of the Department of Transportation published amendments which were also in substantial conformance with the IAEA standards (Docket HM–2, 33 F.R. 14918).

In February 1969, recognizing that the international standards should be revised from time to time on the basis of scientific and technical advances, as well as accumulated experience in their application, the IAEA invited all of its member states to submit comments and suggested changes to the regulations. Another aim was to remove any ambiguities and to simplify the presentation of the text of the regulations.

Comments and suggested revisions to the IAEA regulations were then collected by the Department from the U.S. Atomic Energy Commission, the American National Standards Institute, Atomic Industrial Forum, and others. As a result of that effort, a compilation of some 40 comments was then forwarded by the Department to the IAEA in July 1969. Some of these suggested changes were intended to make a more positive alignment of the U.S. regulations with the IAEA regulations possible.

In all, the IAEA received more than 300 pages of comments from the member states. During the period of February 2–13, 1970, the IAEA convened a panel of experts to review the regulations and consider the comments which had been submitted by member states. The U.S. delegation on this review panel consisted of a three-man team, headed by the U.S. Department of Transportation representative, with one advisor from the U.S. Atomic Energy Commission and another from private industry. At this panel, 14 countries and 10 international organizations were represented.

As a result of this review panel's efforts, a first working draft of a revision of the regulations was developed. It was circulated to the chairmen of the working groups of the review panel in April 1970. Subsequently, a second revised draft was prepared and issued in June 1970 to all of the review panel participants for their review. The second draft was also circulated by the USAEC to many interested persons. On December 3, 1970, the Secretary General transmitted a third revised draft to all IAEA member states and to interested international organizations.

The purpose of this public notice is to inform all interested persons of the issuance and availability of this third revised draft, identified as IAEA Document No. PL–383, entitled "Regulations for the Safe Transport of Radioactive Materials, Third Revised Draft, November 1970."

In cooperation with the U.S. Atomic Energy Commission, the Department is making every effort to solicit comments on this third draft. Copies are presently being distributed to all USAEC operating contractors, as well as to the Atomic Industrial Forum and the American National Standards Institute (ANSI) Subcommittee N-14 (Transportation of Fissile and Radioactive Materials) for redistribution to their members and other interested persons.

A copy of this document may be obtained, free of charge, by writing to the Director, Office of Hazardous Materials, U.S. Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Copies are also available from the Atomic Industrial Forum, 850 Third Avenue, New York, NY 10022.

Comments on the third draft are invited and should be submitted in duplicate to the Director, Office of Hazardous Materials at the above address, prior to April 1, 1971.

Formal U.S. comments have been requested by the IAEA by May, 31, 1971. These comments will be forwarded through the U.S. State Department by the Department of Transportation.

A final meeting of the review panel of experts is presently scheduled to be convened by the IAEA in late October 1971, for the purpose of considering the final comments by the member states, and to prepare a final draft for submission to the IAEA Board of Governors for their approval. It is contemplated that this would be followed by a formal revision of IAEA Safety Series No. 6 sometime during 1972.

Dated: January 22, 1971.

WILLIAM K. BYRD,
Director,
Office of Hazardous Materials.

[FR Doc.71-1104 Filed 1-26-71;8:48 am]

ATOMIC ENERGY COMMISSION

ASSISTANT GENERAL MANAGER FOR MILITARY APPLICATION ET AL.

Notice of Basic Compensation

Pursuant to the provisions of 5 U.S.C. 5364, the salaries of the following positions, established by the Atomic Energy Act of 1954, as amended, were adjusted from $35,505 to $36,000 per annum, effective January 10, 1971:

Title of position	*Authorizing section of Atomic Energy Act of 1954, as amended*
Assistant General Manager for Military Application, and Program Division Directors.	Section 25a.
Director, Division of Inspection.	Section 25c.
Executive Management Positions.	Section 25d.

Dated: January 20, 1971.

W. B. MCCOOL,
Secretary of the Commission.

[FR Doc.71-1082 Filed 1-26-71;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 22931 etc.; Order 71-1-99]

APACHE AIRLINES, INC.

Order To Show Cause

Issued under delegated authority January 21, 1971.

The Postmaster General filed a petition December 23, 1970, pursuant to 14 CFR Part 298, requesting the Board to establish for Apache Airlines, Inc. (Apache), an air taxi operator, final service mail rates for the transportation of mail by aircraft between Kingman and Prescott, Ariz.

No service mail rates are currently in effect for this transportation by Apache. The Postmaster General requests on behalf of Apache that the multielement service mail rates established for priority mail by Order E-25610, August 28, 1967, in the Domestic Service Mail Rate Investigation, and for nonpriority mail by Order 70-4-9, April 2, 1970, Nonpriority Mail Rates, be made applicable to this carriage of mail.[1] He states that the Postal Service and Apache agree that the applicable multielement rates are the fair and reasonable rates of compensation for the proposed services.

The rates established by Orders E-25610 and 70-4-9 have been open since December 12, 1970, pursuant to Order 70-12-48, December 8, 1970, instituting an investigation of the domestic service mail rates for priority and nonpriority mail. Therefore, the present domestic service rates for the transportation of priority and nonpriority mail by air are subject to such retroactive adjustment to December 12, 1970, as the final decision in the current domestic service mail rate investigation may provide.

We propose to establish service rates for the transportation by Apache of priority and nonpriority mail at the levels established in Orders E-25610 and 70-4-9, respectively. These rates and provisions will be subject to retroactive adjustment when the current domestic service mail rate investigation is concluded. Furthermore, Apache will be made a party to that proceeding.

The Board finds it in the public interest to fix, determine and establish the fair and reasonable rates of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[2] to include the following findings and conclusions:

The fair and reasonable service mail rates to be paid to Apache Airlines, Inc., entirely by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Kingman and Prescott, Ariz., shall be:

(a) For priority mail, the multielement rates established by the Board in Order E-25610, August 28, 1967, as amended;

(b) For nonpriority mail, the multielement rates established by the Board in Order 70-4-9, April 2, 1970; and

(c) The rates and provisions of Orders E-25610 and 70-4-9 shall be applicable to Apache Airlines, Inc., on a temporary basis, subject to such retroactive adjustment as the decision in Dockets 22671 and 22731 may provide.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, the Board's regulations 14 CFR Part 302, 14 CFR Part 298, and the authority duly delegated by the Board in its organization regulations, 14 CFR 385.16(f),

It is ordered, That:

1. Apache Airlines, Inc., the Postmaster General, Hughes Air Corp., and all other interested persons, are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the rates specified above, as the fair and reasonable temporary rates of compensation to be paid to Apache Airlines, Inc., for the transportation of priority and nonpriority mail by aircraft, the facilities used and useful therefor, and the service connected therewith as specified above;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, as specified, in the attached appendix;

3. Apache Airlines, Inc., is hereby made a party in Dockets 22671 and 22731;

4. This order shall be served upon Apache Airlines, Inc., the Postmaster General, and Hughes Air Corp.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

1. Further procedures related to the attached order shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed therein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

2. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed therein

[1] The service mail rates established by those orders provide for terminal charges per pound of mail originated of 9.36 cents at Kingman and at Prescott, plus line-haul charges per mail ton-mile of 24 cents for priority mail and 11.33 cents for nonpriority mail.

[2] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in section 385.16(g).

and fix and determine the final rate specified therein;

3. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

[FR Doc.71-1132 Filed 1-26-71;8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19129; FCC 71-64]

AMERICAN TELEPHONE & TELEGRAPH CO., AND ASSOCIATED BELL SYSTEM COMPANIES

Order Instituting Investigation

In the matter of American Telephone & Telegraph Co. and the Associated Bell System Companies; Docket No. 19129 charges for interstate telephone service, Transmittals Nos. 10989 and 11027.

1. The Commission has before it for consideration the following items: (a) proposed tariff changes filed by the American Telephone & Telegraph Co. on November 20, 1970, to be effective January 19, 1971, calling for increased rates for long distance message toll telephone service under Tariff FCC No. 263; (b) numerous petitions and letters opposing such rate changes and seeking to participate in any hearings held thereon; [1]

(c) replies of A.T. & T. to certain of these public filings; (d) our letter of January 12, 1971 to A.T. & T.; (e) its reply thereto of January 13, 1971; and (f) further tariff changes filed by A.T. & T. on January 14, 1971, to be effective January 21, 1971.

2. Since the latter revised tariff schedules which contain increased charges to the public will become effective January 21, 1971, without suspension or any accounting order unless the Commission takes prompt action, we are hereby suspending such schedules until 12:01 a.m., January 26, 1971, and imposing an accounting and refund order. Time does not permit full consideration herein of the many questions and issues raised by the enumerated pleadings and the schedules themselves. A further document will be subsequently issued herein which will deal more fully with these matters and set forth in detail the procedures which will govern the conduct of this proceeding.

3. Since the Commission is unable to determine that the proposed tariff schedules are or will be lawful, the rights and interests of the public may be adversely affected absent the action taken hereby.

4. *Accordingly, it is ordered,* That pursuant to sections 201(b), 202(a), 204, 205, and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the tariff schedules filed by A.T. & T. under Transmittals Nos. 10989 and 11027 and hearings will be held on a date and on issues to be specified by further order of the Commission;

5. *It is further ordered,* That the effectiveness of the tariff schedules filed under Transmittal No. 11027 is suspended until 12:01 a.m., January 26, 1971;

6. *It is further ordered,* That pending the determination of this proceeding, or until further order of the Commission, the carriers collecting amounts under the above-mentioned tariff schedules shall keep accurate account of such amounts, specifying by whom and on whose behalf such amounts were paid except in the case of sent-paid coin box and hotel guest-initiated toll telephone calls, and that for the latter classes of users such accounting procedures shall be established and records maintained as will permit respondents to account for the revenues collected pursuant to the rates filed on January 14, 1971, for each class as a whole. Such latter sums will be held for further disposition as further order of the Commission may direct;

7. *It is further ordered,* That American Telephone and Telegraph Co. and the Associated Bell System Companies are hereby made parties respondent to this proceeding.

Adopted: January 20, 1971.

Released: January 20, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-1105 Filed 1-26-71;8:48 am]

[1] Formal pleadings were filed by the following parties: Equal Employment Opportunities Commission; Secretary of Defense on behalf of all Executive Agencies; Silver Beehive Telephone Co.; city of Chicago; Anthony Martin-Trigona; Utility Users League; Microwave Communications, Inc.; National Association for the Advancement of Colored People; National Organization for Women; Telephone Users Association of the District of Columbia. In addition, numerous letters and telegrams have been received expressing interest in the proposed rate increases and any hearings to be held with respect thereto, or commenting on the merits of the proposed increases. A.T. & T. filed replies to the petitions of EEOC, Secretary of Defense, Utility Users League, and city of Chicago. A further telegram was received from the EEOC on Jan. 14, 1971, seeking certain information relating to the Commission's deliberations and consideration of the proposed rate increases and the EEOC petition. Numerous additional pleadings have subsequently been filed.

[2] Commissioner Wells concurring in result.

[Docket No. 19129; FCC 71-74]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Memorandum Opinion and Order Specifying Issues

In the matter of American Telephone and Telegraph Co., Docket No. 19129; Charges for Domestic Telephone Service; A.T. & T. Transmittals Nos. 10989 and 11027.

1. The Commission has before it for consideration the following items: (a) Proposed tariff changes filed by the American Telephone and Telegraph Co. on November 20, 1970, to be effective January 19, 1971, calling for increased rates and changes in the rate structure in the provision of long distance message toll telephone service under Tariff FCC No. 263; (b) numerous petitions and letters opposing such rate changes and seeking to participate in any hearings held thereon; [1] (c) replies of A.T. & T. to certain of these public filings; (d) our letter of January 12, 1971, to A.T. & T.; (e) its reply thereto of January 13, 1971; and (f) further tariff changes filed by A.T. & T. on January 14, 1971, to be effective January 21, 1971.

2. The major increases included in the tariffs as filed on November 20, 1970, are in the rates for person to person calls, operator handled calls and customer dialed calls made during the "Day" period (8 a.m. to 5 p.m.) on the weekdays, i.e., during the business period of the workweek. The revised tariffs provide for increased charges for operator assisted calls (both person and station calls) by 30 cents for the initial 3-minute period and 5 cents per minute for the additional time over 3 minutes in most mileage steps. Increases for daytime customer dialed calls would average about 9 cents for the initial period and 3 cents per minute thereafter. Increases would be proportionately greater for the shorter distances allegedly to reflect costs more accurately and to lessen the interstate/intrastate rate disparity. In its filing, A.T. & T. is also proposing some relatively minor decreases in evening, night and weekend rates for customer dialed

[1] Formal pleadings were filed by the following parties: Equal Employment Opportunities Commission; Secretary of Defense on behalf of all Executive Agencies; Silver Beehive Telephone Co.; City of Chicago; Anthony Martin-Trigona; Utility Users League; Microwave Communications, Inc.; National Association for the Advancement of Colored People; National Organization for Woman; Telephone Users Association of the District of Columbia. In addition, numerous letters and telegrams have been received expressing interest in the proposed rate increases and any hearings to be held with respect thereto, or commenting on the merits of the proposed increases. A.T. & T. filed replies to the petitions of EEOC, Secretary of Defense, Utility Users League, and City of Chicago. Following a public notice issued Jan. 12, 1971, a further telegram was received from the EEOC on Jan. 14, 1971, seeking certain information relating to the Commission's deliberations and consideration of the proposed rate increases and the EEOC petition. Further petitions for suspension, Intervention and Declaration of Unlawfulness were filed on Jan. 18, 1971, by California Rural Legal Assistance, Inc., Mexican American Legal Defense Fund, NAACP, American Civil Liberties Union, and the NOW Legal Defense and Education Fund. On Jan. 19, 1971, a petition for suspension was filed by Mr. Ralph Nader. Further pleadings and responsive pleadings have been recently filed.

calls (generally reductions of 5 cents or less). These decreases are designed, in conjunction with the increases described above, to create a pattern whereby evening rates are at least 20 percent below daytime rates and night and weekend rates are at least 40 percent below daytime rates. The tariffs also provide for rates for paid station calls originated at coin-box telephones which are lower than other operator handled calls in the first seven mileage steps (0 to 70 miles). The increases range from 67 percent from some short-haul operator handled station calls (3-minute rate increased from 15 cents to 25 cents in step one—1 to 10 miles—and from 45 cents to 75 cents in step seven—56 to 70 miles) down to 7 percent for cross-country customer dialed day calls ($1.35 rate increased to $1.45).

3. A straight repricing of interstate calls at the revised rates (i.e., assuming no change in volume or composition of messages projected for 1971) would result in increased revenues of about $760 million annually. The Company estimates that only $385 million additional annual revenues will be realized because of the following: (1) Shrinkage—the reduction in the volume of interstate calls because of the higher rates; (2) Shifts—the lower revenue derived because of customers shifting their calls to a time period where lower rates prevail, e.g., calling at night rather than daytime; and (3) Reclassifications—the lower revenues derived due to customers using a class of service where lower rates prevail, e.g., making customer dialed calls rather than person or operator handled calls. The rate schedules were specifically designed to encourage shifts and reclassification of calls in a continuation of the changes in the message toll rate structure designed to encourage the use of the network in off-peak periods and to place calls without operator assistance when feasible. In addition to reducing the additional amount of revenues expected to be derived from the rate revisions, these factors also reduce costs. The Company estimates the cost reduction to be about $160 million for the year 1971. Therefore, the improvement in operating results before income taxes is estimated to be about $545 million ($385 million increased revenues plus the $160 million reduction in costs).

4. In its transmittal letter, A.T. & T. states that the rate increase

> * * * is required in order (1) to offset the effect of the new separations methods shifting $130 million of annual revenue requirements from intrastate to interstate operations by order of the Commission effective January 1, 1971; (2) to recoup the reduction in revenues of over $150 million annually made earlier this year on the basis of estimates of economic and financial conditions which have been proved inaccurate by experience; and, (3) to improve earnings to a level which will sustain the financial integrity of the Bell System and permit the attraction of additional capital needed to satisfy consumer requirements for telecommunications service.

The Company has also filed 17 statements by Company officials and outside consultants and 22 volumes of related data and workpapers in support of various aspects of the rate increase.

5. In support of the need for a 9½ percent rate of return, A.T. & T. places primary stress on the change in economic conditions and substantial increases in costs of debt and equity capital since the 1966 test period on which the Commission's July 5, 1967 decision was based in phase 1A of the A.T. & T. rate case in which the Commission found that a rate of return in the range of 7 percent to 7½ percent was appropriate for Bell's interstate operations. See 9 FCC 2d 30. With respect to the cost of debt capital to the Bell System the Company notes the increase in the current cost of debt capital of about 3 percentage points, from a range of 5½ percent to 6 percent in 1966 to the range of 8.6 percent to 9.4 percent in 1970 and the increase in embedded debt cost from 4.0 percent in 1966 to 6.0 percent which Bell estimates it will reach shortly. A.T. & T. contends that because of the vast amounts of capital it will require in the near future (about $4 billion annually) and its current debt ratio of about 45 percent it will be necessary to acquire a substantial amount of equity capital; that a return on equity of 12 percent to 12½ percent will be required to attract the necessary new equity capital, that the increase in return on equity to a level of 12 percent to 12½ percent over that allowed in the Commission's July 1967 decision is well justified by the changed economic and financial conditions and the increase in bond interest rate since 1966.

6. The revised tariff changes, as filed on January 14, 1971, provide for an increase in revenue of $175 million and associated costs savings of $75 million, for a total increase in net earnings before income taxes of $250 million annually. The following summarizes the major reductions from the November 20, 1970, filing for increased rates provided for in the revised tariffs filed on January 14, 1971:

(1) The increases in the initial period rate for customer dialed daytime calls were reduced generally from 10 cents to 5 cents. The increases in the additional minute rate for such calls were also generally reduced.

(2) The increases in the initial period rates for daytime operator station-to-station calls were reduced from 30 cents to 15 cents.

(3) The increases in the initial period rates for person-to-person calls were, with some exceptions, reduced from 30 cents to 25 cents.

The Company estimates that earnings for the year 1971 would be 7.9 percent absent any rate rate change and without the implementation of the recent separations change (Ozark Plan) adopted by the Commission. With the Ozark Plan, which became effective January 1, 1971, in effect the estimate for 1971 is 7.4 percent[2] again absent any rate change. The Company indicates that each deviation from their forecasts of message volumes and expenses of one percent and their forecast of average revenues per message by 1 cent, would alter the results by one-half of 1 percent above or below the projected figure.

7. Upon consideration of the proposed tariff changes and the material submitted therewith, the Commission adopted its letter of January 12, 1971, wherein it requested that A.T. & T. voluntarily postpone the effective date of the tariffs as filed pending the outcome of an expedited hearing, and simultaneously granted special permission to the company to refile revised tariffs providing for increases in MTT rates that will produce additional annual net earnings, before income taxes, of not more than $250 million. It stated that such new rates would be suspended and would also be subject to accounting and refund by the carriers, pending a final determination by the Commission on the justness and reasonableness of the rates sought by A.T. & T. In so acting, the Commission indicated that it had taken into account its decision in 1967 in Docket No. 16258 that an allowable rate of return for A.T. & T.'s interstate operations was within a range of 7 percent to 7.5 percent, whereas the present rate of return objective was substantially higher. The Commission's letter also referred to the pendency of proceedings in Docket No. 18128 in which the determination of appropriate relationships among the earnings level of each of A.T. & T.'s several classes of interstate service is to be made. At the same time, the Commission recognized that interstate annual revenue requirements, as of January 1, 1971, would be increased by about $130 million as a consequence of recent revisions in jurisdictional separations procedures prescribed by the Commission; it also noted that changes occurring in the capital structure and the costs thereof of A.T. & T. subsequent to the 1967 decision, particularly the net increase in embedded cost of debt, were of particular importance.

8. The Commission stated in its letter to A.T. & T. that if the carrier would agree to postpone the effective date of the pending tariff changes and would file new tariff schedules designed to generate the lower net earnings level specified in the letter, the Commission would, nevertheless, proceed immediately to institute an expedited hearing under section 204 of the Act to inquire into the justness and reasonableness of the rates, both as originally filed and as modified by the carrier. The Commission felt that under these circumstances it should expedite the proceeding with a view to completing it within a time frame of 6 to 9 months (barring extraordinary developments). It also stated that the concurrent proceedings in Docket No. 18128 would also be expedited with the objective that determinations in this docket should be available in a timely fashion to implement the conclusions reached in the rate proceeding to be initiated with respect to the revised tariff schedules. The Commission made it clear that the procedures set out in its letter should not be construed as in any way indicating approval

[2] In a letter of Jan. 4, 1971, A.T. & T. indicated that further data on operating results for Dec. 1970 suggest that the estimate for 1971 should be adjusted downward to 7.2 percent.

or acceptance of the rates filed pursuant to the special permission being granted. Instead, it specifically stated that its findings and conclusions in this matter would be reached only after it had before it the entire record resulting from the hearing and investigation it would institute. It noted that the new rates were subject to protest and to any action that the Commission might deem warranted prior to the effective date. The Commission further noted that the carrier would be free to make a showing that the rates originally filed and the resulting rate of return change, which the carrier felt to be justified, were warranted and would be in the public interest. Conversely, any party participating in the projected hearing would, of course, be given equal opportunity to show that other rates or another rate of return should be found to be just and reasonable. Implicit in the Commission's request to the company to refile the lower rates was the strong feeling that an increase of the magnitude first proposed, even with a 90-day suspension, was not warranted until it had been explored on the basis of a complete record in the projected hearing. On the other hand, the Commission recognized that by its own action in Docket No. 18688, the company's interstate revenue requirements had been increased by some $130 million annually, effective January 1, 1971, and that changes had taken place in the various elements which make up the cost of capital since the Commission's 1967 decision in Docket No. 16258. Accordingly, any long term suspension of the revised proposed rate increases would inevitably prevent the company from recovering any of these sums during the period of such suspension. On the other hand an accounting order with provision for refund would protect the using public if any or all of the increases collected by the company during this period were not justified by the company. Under such circumstances, the public which had paid the sums found to be excessive would secure prompt refunds with interest for the time the company held the sums found to be excessive. As already noted, A.T. & T. has, in fact, refiled at the lower rates pursuant to the special permission granted. In view of all of the foregoing considerations including the company's refiling of rates substantially below those originally filed, the Commission adopted an order herein on January 20, 1971, suspending the refiled rate increases until 12:01 a.m., January 26, 1971, and requiring appropriate accounting with provision for possible refund. This order was premised on the Commission's inability to find the rates either as initially filed or refiled to be just, reasonable, and nondiscriminatory and, therefore, requiring investigation and hearing pursuant to section 204 of the Act. In its present posture, therefore, there is before the Commission a filing by A.T. & T. which that company must justify on a record with leave, of course, to justify the higher rates and the associated rate of return originally filed by the company.

9. In addition to the determination to be made herein regarding the just and reasonable rate of return to be allowed A.T. & T. on its interstate operations, a number of other important issues are presented for determination, as indicated in our letter of January 12, 1971. The subject tariff filings rest on an implicit conclusion that the additional revenue requirements claimed by A.T. & T. and the Bell System companies should be met by imposing higher charges on MTT users, to the exclusion of increases or adjustments in the rates of other classes of service provided by them. The basis for this assumption is not shown and we expect A.T. & T. to carry the burden of proof on this issue in Docket No. 18128, in which we also expect A.T. & T. to demonstrate that the instant rate increases do not involve any cross-subsidization of other services provided by the carriers involved.

10. An additional matter warranting specific inquiry is that of the expense level used by the company in making its revenue requirement calculations. In our continuing review of Bell's operating results, we have noted an unusually sharp upswing in interstate operating expenses excluding Federal income taxes. For the first 9 months of 1970 such expenses were 15.7 percent greater than the same period in 1969 and for the year 1969 the growth was 15.8 percent, whereas since 1960 the annual growth rates ranged from 7.4 percent in 1962 to 13.9 percent in 1965 and averaged 10.6 percent for the 1961–68 period. The growth rates for maintenance expenses assigned to interstate were 20.3 percent for the first 9 months of 1970 and 20 percent for 1969 compared to 10.7 percent in 1968 and 9.6 percent in 1967. There may be valid reasons for these unusual growth rates. However, the question arises whether these growth rates are to continue in the foreseeable future or whether adjustments should be made in the company's operating results to reflect the nonrecurring nature of these expenses if they are not expected to continue at such high level. A specific issue is included herein to deal with this matter.

11. Included by the company in its material filed in support of the original tariff changes is considerable testimony and data related to the regulatory problems posed by the integration of Western Electric into the A.T. & T.'s corporate structure. That matter is already in issue in Phase II of Docket No. 16258, and we believe it would be appropriate to inquire specifically into the question whether the costs and expenses for Western Electric equipment and plant should result in earnings in excess of those necessary to give A.T. & T. a fair rate of return; we expect A.T. & T. to demonstrate what justification there is for a return to Western Electric which is different from that allowed A.T. & T. generally, and why charges higher than those sufficient to maintain the same rate of return as that allowed to A.T. & T. overall for its interstate operations should not be disallowed for rate making purposes.

12. We also wish to explore in this proceeding issues going to the appropriateness of the rate structure for MTT service as proposed by A.T. & T. herein and a specific issue on this matter will be included. Both the November 20, 1970, and the January 14, 1971 filings effect substantial changes in the MTT rate structure. We wish to investigate the MTT rate structure to determine whether each subclass of MTT users bears an appropriate share of the burden and whether there is any discrimination in favor of or against any MTT users or class thereof.

13. While we are concerned with a prompt resolution of the issues herein, we stress that we do not intend to preclude the parties from making the presentations necessary to permit a full and fair exploration of the issues specified. However, in view of the fact that we have recently held a full hearing on the rate of return issues for A.T. & T. and since A.T. & T. has already filed its case in chief, we believe that at least the rate of return issue can be resolved within a 6- to 9-month period. We propose, therefore, to consider the question of the fair and allowable rate of return first. To the extent that actual experience, as the hearing proceeds, makes it possible and feasible to explore the other issues in the first phase, we believe it would be desirable to do so.

13a. Turning now to other procedural questions we are of the opinion that in light of all of the circumstances involved in this matter and discussed herein, it would be desirable to provide for the submission of an initial decision by a hearing examiner and we have done so below. Moreover, we believe it would be desirable for the trial staff of the Common Carrier Bureau to be separated both from the Commission and from the Examiner. We will therefore follow the procedures recommended by the Administrative Conference. See Selected Reports of the Administrative Conference of the United States, 88th Cong., first session S. Doc. 24 at pp. 109–110. After the record has been completed on the rate of return issue the parties may file proposed findings of fact and conclusions of law, but in establishing procedural dates for the conduct of the hearings the examiner should bear in mind the need for expedition as outlined above and consistent with a full and fair hearing should strive to issue an initial decision within approximately 6 months of the publication hereof in the FEDERAL REGISTER. Such a schedule would permit the parties sufficient time to brief and argue the issues on appeal from the examiner's decision, and to permit us sufficient time to prepare a final decision within the time frame specified above.[4] After the parties have concluded their participation in the rate of return phase, they may address themselves to the remaining issues and every effort should be made to expedite that phase of this

[4] We will at this time order all intervenors filing a direct case to do so within 30 days of the prehearing conference.

proceeding, although we do not, at this time, impose any time limitations on the conduct of that aspect of the matter.

14. As indicated above, we are prepared to handle the issues in phases since this will "best conduce to the ends of justice and the proper dispatch of business" 47 U.S.C. 154(j). This may result in rate adjustments at the end of the first phase, but before the resolution of other important issues. This, in turn, again calls for full protection of the public while these further issues are being explored. Thus, any such rate changes as may be authorized in the final decision or any appropriate further orders may be of an interim nature and may be accompanied by appropriate accounting and refund orders pending the outcome of the further hearing on questions related to expenses, rate level and structure, and other associated matters.

15. In view of our inability to find that the rate increases or rate structure changes proposed by A.T. & T. comply with all statutory requirements and are in the public interest, it is necessary, in order to adequately protect the rate payers, to require A.T. & T. to undertake such accounting procedures as will permit it to make appropriate refunds to subscribers if the rates refiled on January 14, 1971, subsequently prove to be too high or otherwise contrary to the public interest. In response to an inquiry from the Chief of the Common Carrier Bureau, A.T. & T. indicated, in a letter of December 1, 1970, that it could institute a procedure for maintenance of collection records, at minimal cost and complexity, which would assure equitable treatment to all but coin-box patrons or hotel guests paying for toll calls. We have been assured that other carriers will also be able to estabish such procedures.[5] According to A.T. & T. the cost of maintaining individual records for sent paid coin-box calls and for hotel guests calls would be approximately five times the additional revenue from such users sought by A.T. & T. in its November 20, 1970 filing. Accordingly, with respect to those classes of service we provided that accounting procedures be established sufficient to provide revenue data for the classes as a whole rather than on an individual user basis. Should the rates ultimately be reduced or modified as a consequence of this proceeding in such a way as to require further consideration of the total revenue collected from these user classes, the carrier shall dispose of such funds as directed by the Commission.

16. As indicated in footnote 1, numerous petitions and informal filings have been submitted in response to the proposed rate increase. One group of petitions in particular warrants particular mention at this time. The Equal Employment Opportunities Commission (hereafter EEOC) filed a petition for intervention, asking the Commission to suspend the proposed rate increases, conduct a hearing, and declare the proposed increases illegal until the operating companies of the Bell System "have ceased their unlawful discrimination against women, blacks, Spanish-surnamed Americans, and other minorities." The EEOC also seeks numerous other forms of relief, arguing that for many years, and continuing to the present time, the operating companies of the Bell System have engaged in massive, deliberate, illegal discrimination against blacks, women, Spanish-surnamed Americans, and other minorities in hiring, promotion, job classification, and wage scales.

17. The EEOC contends that because A.T. & T. has operated in widespread and flagrant disregard of the equal employment laws, the proposed rate increase is unjust and unreasonable as contrary to the public interest, and therefore unlawful. It notes that the Bell System, as a regulated utility, is a public trustee and as a company of enormous economic power and influence, is particularly bound to serve the national goal of eradicating employment discrimination; it contends that, in considering the "public interest," the Commission is bound to consider issues other than the narrow and traditional ones which are related to the economic factors generally considered in public utility regulation. Finally, the EEOC contends that to approve the rate increases in issue here would be to authorize the discrimination to continue and would contravene the Fifth and Fourteenth Amendments to the Constitution.

18. A.T. & T. responded with an opposition to the petition on December 21, 1970, denying, with varying degrees of specificity, the charges lodged by the EEOC, and urging the Commission not to consider the issues raised by the EEOC petition in its disposition of the pending request for rate increases. A.T. & T. argues that it would be "incongruous to hear and investigate charges of discrimination simply because an employer files new rates while ignoring the employment practices of those who enjoy adequate earnings." (Oppos., p. 3). Moreover, A.T. & T. argues that to delay the rate increases in issue would seriously injure the public interest inasmuch as the additional funds are required to permit attraction of capital for construction programs which must be maintained to provide telecommunications service. Subsequently, numerous petitions for "Rate Suspension, Hearing Intervention, and Declaration of Unlawfulness" were filed by California Rural Legal Assistance, Inc., Mexican American Legal Defense Fund, the NOW Legal Defense and Education Fund, and the American Civil Liberties Union. Each of these pleadings adopts and incorporates the petition filed by EEOC.

19. We agree with the EEOC that the matters raised by it are indeed crucial considerations in effectuating our statutory responsibilities. As the Commission recently said in adopting its nondiscrimination rules applicable to common carrier operations: "It is clear to us that discriminatory employment practices by a common carrier licensee or permittee are not compatible with the public interest." Employment Practices by Common Carriers, 24 FCC 2d 725 at 729 (1970). We also observed that "The Commission has an independent responsibility to effectuate the strong national policy against discrimination in employment * * *." Id. at 727. See also Potomac Electric Power Co. (D.C.), 83 PUR 3d 113 at 147–149 (1970); 84 PUR 3d 236. Moreover, on the basis of the pleadings now before us on this issue, we believe there are outstanding substantial and material questions of law and fact which can be resolved only after full evidentiary hearing and briefing of the issues by the parties.

20. It is therefore our intention to vigorously pursue the questions raised by the EEOC and related filings and to reach appropriate determinations on a full record. No showing has been made, however, or even attempted, as to any logical or functional relationship between rate levels and the company's policies and practices in the matter of equal employment opportunity.

21. In these circumstances, we believe the most appropriate way to proceed is as follows: We will treat the EEOC and related petitions as formal complaints filed under our antidiscrimination rules, and will establish a separate docketed proceeding in which the questions raised by EEOC may be fully considered. We will include an issue in that proceeding inquiring into the effect, if any, of the employment practices or policies of A.T. & T. and the Associated Bell System Companies on the company's revenue requirements, so as to permit the complainants an opportunity to demonstrate some logical or causal relationship between the matters raised by them and the determination of just and reasonable rates under section 201 of the Act. Pending a final resolution of this separate proceeding, we will retain jurisdiction of the instant case until such time as the employment discrimination issue and its relationship, if any, to revenue requirements has been resolved.[6] Any of the civil rights groups is of course free to intervene, upon appropriate notice, in this proceeding, in its capacity as a telephone subscriber or representative of telephone subscribers, and for the purpose of assisting in the determinations of the issues set forth herein; the petitions to intervene filed by the City of Chicago, Telephone Users Association, MCI Inc., Martin-Trigona, and Silver Beehive Telephone Co. will be granted.

22. In its telegram of January 14, 1971 (see n. 1, supra), EEOC asks that the Commission provide, in addition to certain documents which are readily available, and certain relief which is mooted

[5] United Utilities, Inc. has suggested an accounting procedure less costly than A.T. & T.'s but also less precise. In view of the magnitude of the sums in issue here we believe A.T. & T.'s approach is the more appropriate.

[6] The petitions filed by the civil rights groups specifically state that they are not complaints filed under § 1.721 of our rules. However, the alternative to so construing them is to dismiss them outright, a result we believe would not be in the public interest.

by this order, a transcript of the Commission proceeding at which the Commission's letter of January 12, 1971, was authorized, a copy of each correspondence item received or sent by the Commission in relation thereto, and a report of all telephone calls, meetings and other communications between commissioners and officers of the carrier in relation to the letter of January 12, 1971. EEOC also seeks a transcript of the Commission proceeding which dealt with the petition. The Commission responded to that telegram by letter dated January 19, 1971. We adopt that letter (Att. A hereto) as our response.

23. The Petitions filed by the Civil Rights groups on January 18, 1971, uniformly make two additional arguments: (1) That the lower rate increase proposed by A.T. & T. is a Commission-prescribed rate and as such is violative of numerous statutory provisions; and (2) that no "good cause" has been shown to permit the rate increase to become effective prior to the 60-day period specified in 47 U.S.C. section 203(b). They also request that if the Commission denies the relief requested in the petition, it stay its actions pending judicial review. We find no merit in any of these points. We believe the language of this order makes clear beyond quibble that we have not established any rates pursuant to section 205 of the Communications Act; instead we have suspended these rates with an accounting order and placed the burden of justifying them upon A.T. & T. The determination that good cause does exist for waiving the usual statutory waiting period of 60 days is one which is committed to our discretion and we believe, on the basis of all the circumstances presented, that our decision in this respect, for the reasons set forth above, is well within the bounds of a reasonable exercise of such discretion. As to the imposition of a stay, we note that the parties have neither alleged nor proven that a denial of such extraordinary relief would result in irreparable injury either to themselves or to the public, particularly in view of our accounting order, nor have they demonstrated that they have a substantial likelihood of prevailing on the merits. In such circumstances we see no reason to grant a stay. See Virginia Petroleum Jobbers Ass. v. FPC, 259 F. 2d 921 (D.C. Cir., 1958). As indicated above, we have also received a letter from Mr. Ralph Nader protesting the Commission's actions and policies and requesting suspension of the proposed rate increases. Many of the points raised in that letter are dealt with either in our response to the EEOC of January 19, 1971, cited above, or in this memorandum opinion and order. We reemphasize, however, that the accounting and refund provisions included in this proceeding will adequately protect the public; that by our action here we have not approved any rate increases or higher rate of return and that we are holding a full evidentiary hearing on the public interest issues raised by the proposed rates increases. Mr. Nader or any other interested party is free to seek intervention in this proceeding, pursuant to § 1.223(b) of our rules, and to make any relevant showing with respect to the issues set forth herein.

24. We wish to make clear that as to all the issues specified below, A.T. & T., as the proponent of higher rates, shall bear not only the burden of proof, but also the burden of going forward with the evidence. We will provide by order that the proceedings in Docket No. 18128 be expedited and it is our expectation that a resolution of that proceeding insofar as it relates to the rate adjustments proposed by A.T. & T. in its filing of November 20, 1970, as well as in the tariff schedule suspended herein, will occur in less than 1 year. We shall retain jurisdiction herein to implement our conclusions in Docket No. 18128 insofar as they relate to the assignment of any revenue requirements of A.T. & T. to MTT.

In view of all the foregoing matters:

It is ordered, That, pursuant to the provisions of sections 201(b), 202(a), 204, 205 and 403 of the Communications Act of 1934, as amended, an investigation is hereby instituted into the lawfulness of the charges of the American Telephone and Telegraph Co. and the Associated Bell System Companies for interstate and foreign communication service; [7]

It is further ordered, That, without in any way limiting the scope of the proceeding, it shall include consideration of the following:

(1) What are the revenue requirements of the Bell System Companies applicable to their interstate and foreign communication services and the basis upon which such revenue requirements are to be determined, including:

(A) The amounts properly includible as the net investment of the above-mentioned companies in property and plant used and useful for providing interstate and foreign communication service;

(B) The fair rate of return required by the Bell System on the amounts of net investment determined pursuant to the foregoing;

(C) The amounts properly includible as expenses and taxes incurred by the above-mentioned companies in the provision of interstate and foreign communication service.

(2) The amount of operating revenues that are or may reasonably be expected to accrue in the foreseeable future from interstate and foreign communication services rendered by use of the plant and facilities, the costs of which are included in the net investment to be determind herein as a consequence of the particular MTT rate levels proposed by respondent in its filing of November 20, 1970, as well as those suspended herein, with particular reference to the projected gross revenues to be derived therefrom, the changes in traffic level and usage patterns anticipated as a result of the rate change, and the associated changes in expense level;

(3) The cost justification, demand factors and other pertinent considerations in respect to the structure and differing rate levels proposed for various classes of MTT service proposed by A.T. & T. in its filing of November 20, 1970, as well as that included in the tariff schedules suspended herein;

(4) In light of our determinations as to the foregoing, whether the instant rate increases sought by the Bell System Companies are just and reasonable within the meaning of section 201(b) of the Communications Act of 1934, as amended;

(5) Whether the specific charges for the above-mentioned service proposed by A.T. & T. in its filing of November 20, 1970, as well as those suspended herein, will subject any person or class of persons to unjust or unreasonable discrimination, or give any undue preference or advantage to any person, class of persons, or locality, or subject any person, class of persons or locality to any undue or unreasonable prejudice or disadvantage within the meaning of section 202(a) of the Communications Act of 1934, as amended;

(6) Whether the Commission should prescribe just and reasonable charges or maximum or minimum or maximum and minimum charges to be hereafter followed with respect to message toll telephone service, and, if so, what charges should be prescribed;

It is further ordered, That the hearings in this investigation shall be held at the offices of the Commission in Washington, D.C., at a time to be later specified and that the Examiner appointed to preside at the hearings shall conduct a hearing with the objective of issuing, if practicable and fully consistent with the requirements for a full and fair hearing, an initial decision no later than 6 months following the publication hereof in the FEDERAL REGISTER on the rate of return issue, and on such other issues as the foregoing schedule will permit.

It is further ordered, That upon issuance of its final decision herein, consideration will be given to what action, if any, should be taken by the Commission to effect such interim rate adjustments as may be warranted on the basis of the record as it is then constituted, and such further order or orders will issue as may be appropriate to this end;

It is further ordered, That the petition for intervention filed by the EEOC and the relief sought in its telegram of January 14, 1971, is denied to the extent indicated herein;

It is further ordered, That the American Telephone and Telegraph Co. and the Associated Bell System Companies are hereby made parties respondent in this proceeding, and subject to the procedures set forth in paragraph 13 above the Common Carrier Bureau is named a party hereto;

It is further ordered, That any connecting or concurring carrier, the General Telephone and Electronics Corp., United Utilities, Inc., Anthony Martin-

[7] See 2 FCC 2d 876 (1966) for a full listing of the corporate parties included.

Trigona, Microwave Communications, Inc., Silver Beehive Telephone Co., The Telephone Users Association, and the city of Chicago are hereby granted leave to intervene upon the filing of a notice of intention to appear and participate in these proceedings within 15 days from the date of publication of this order in the FEDERAL REGISTER, and that any interested parties desiring to intervene herein may do so by filing a petition for leave to intervene pursuant to 47 CFR § 1.223(b), but no later than 15 days after the publication hereof in the FEDERAL REGISTER;

It is further ordered, That the burden of proof, as well as the burden of going forward with the proof, is upon the American Telephone and Telegraph Co. and the Associated Bell Companies;

It is further ordered, That the petitions for hearings and suspension of the increased rates are granted to the extent indicated herein and are in all other respects denied, and that the petitions for denial, declarations of unlawfulness or for similar forms of relief are denied;

It is further ordered, That the Commission will retain jurisdiction of this proceeding until such time as a final determination in the proceedings in Docket No. 19143 In the matter of petitions filed by the Equal Employment Opportunity Commission (EEOC) and others is reached as to the effect, if any, of the alleged discriminatory hiring and employment practices of A.T. & T. and the Associated Bell System Companies on the revenue requirements of the parties respondent herein. Jurisdiction will also be retained until we are able to implement our conclusions in Docket No. 18128 insofar as they relate to the assignment of any revenue requirements of A.T. & T. to MTT.

Adopted: January 21, 1971.

Released: January 21, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-1106 Filed 1-26-71;8:48 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC), ET AL.

Memorandum Opinion and Order Instituting Hearing

INTRODUCTION

1. On November 19, 1970, the American Telephone and Telegraph Co. (hereafter A.T. & T.) filed with the Commission a revised tariff schedule to be effective January 19, 1971, which provided for increases in rates for long distance message telephone service in the 48 contiguous States, and was designed to raise A.T. & T.'s rate of return from 7.5 percent to 9.5 percent (Transmittal No. 10989). On December 10, 1970, the Equal Employment Opportunity Commission (hereafter EEOC) filed a petition to intervene in the above matter wherein it opposed the instant rate increase and alleged generally that A.T. & T. and it operating companies engage in pervasive, systemwide discrimination in employment against women, Negroes, Spanish-surnamed Americans, and other minorities. Specifically, the EEOC petition claims that employment practices by A.T. & T. and its operating companies violate sections 201(b), 202(a), 214, 501, and 502 of the Communications Act of 1934, as amended, §§ 21.307 and 23.49 of the Commission's rules and regulations, section 703 (a) and (d) of title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1866, the Equal Pay Act of 1963, Executive Order 11246, and the fair employment practices acts of numerous States and cities. On the basis of the foregoing assertions, the EEOC urges that the Commission deny the proposed rate increase, bring actions against A.T. & T. and its officials for violations of the Commission's rules and regulations, and take whatever appropriate steps may be necessary to insure that A.T. & T. and its operating companies will cease their discriminatory employment practices.

2. The Commission has also received other filings in the instant matter which also raise questions of discriminatory employment practices in the A.T. & T. system. The National Association for the Advancement of Colored People (hereafter NAACP) has filed a petition for suspension of rates, hearing, and declaration of unlawfulness with the Commission. In its petition, the NAACP claims violations by A.T. & T. of Federal and State laws and of Commission rules and regulations which correspond to the violations alleged by the EEOC in its petition. The NAACP also states that it "incorporates by reference the entire Memorandum in Support of EEOC Petition to Intervene * * *" The Commission has also received a petition for suspension from the National Organization for Women (hereafter NOW) and a telegram from the American GI Forum which states that it is prepared to produce evidence that the charges of discrimination were true. Both of these latter two filings also fully support and incorporate the petition filed by the EEOC. The California Rural Legal Assistance, Inc. (CRLA), and the Mexican American Legal Defense Fund (MALD), filed a joint petition for rate suspension, hearing intervention, and declaration of unlawfulness.[1] In their petition, the CRLA and the MALD raise identical issues with those raised by the EEOC petition to intervene, and incorporate the EEOC petition by reference. The American Civil Liberties Union (ACLU) has also filed a petition for suspension of rates, hearing and declaration of unlawfulness, similarly raising those issues contained in the EEOC petition and incorporating that petition by reference. The Commission has received other filings in the instant rate matter, but these do not raise the issue of discriminatory hiring policies and need not be discussed here.[2]

3. On December 21, 1970, A.T. & T. filed a petition in opposition to the petition for intervention filed by the Equal Employment Opportunity Commission. In its opposition, A.T. & T. denies generally the allegations of the EEOC in its petition and offers to show that it has, in fact, conformed to provisions of Federal and State law, Commission rules and regulations, and has actively promoted minority hiring and promotion in its employment practices and policies. A.T. & T. also claims that the introduction of the broad allegations raised by the EEOC in the present rate matter falls beyond the scope of a rate proceeding and is not relevant to any proceeding used to determine the adequacy of rates for telephone service. A.T. & T. has also filed oppositions to the filings of the NAACP and NOW.[3]

DISCUSSION

4. The Commission has repeatedly stated its concern regarding discriminatory employment practices by its licensees. In its notice of proposed rule making to require communications common carriers to show nondiscrimination in their employment practices, adopted November 19, 1969 (Docket No. 18742), 34 F.R. 19200, the Commission, in noting that the common carriers operate in a unique public interest capacity, stated that when consideration regarding authorization of a communications common carrier is undertaken, "the Commission must consider whether the applicant has violated or is in violation of the Civil Rights Act or pertinent State or local laws or ordinances in the field". In the same proceeding, the Commission went on to say that "both because of the special position granted communications common carriers by the government, and the relationship between service to the public and the carriers' employment practices,

[3] Concurring statement of Commissioner Johnson filed as part of original document. Commissioner Houser not participating.

[1] The filings by CRLA and MALD are made in response to A.T. & T. Transmittal No. 11027, rather than Transmittal No. 10989. Transmittal No. 11027, which asks for a lesser rate increase in the same revised tariff schedule as referred to in Transmittal No. 10989, was filed pursuant to Commission action requesting postponement of the effective date of the proposed increased rates and giving A.T. & T. special permission to file for a lesser rate increase (see FCC News Release No. 61049, Jan. 12, 1971). The ACLU, EEOC, and NAACP have also filed new petitions with respect to Transmittal No. 11027, raising essentially the same issues as in their earlier filings. For the purposes of this decision, however, these filings shall be considered along with those filed in response to Transmittal No. 10989 without special reference to which transmittal they refer.

[2] Other parties who have filed in the instant proposed rate increase (A.T. & T. Transmittal No. 10989) include: Utility Users League, city of Chicago, Silver Beehive Telephone Co., Microwave Communications, Inc., city of Los Angeles, Anthony R. Martin-Trigona, Ralph Nader, and the Secretary of Defense filing on behalf of all U.S. Executive Agencies.

[3] There have been subsequent filings and replies which we have considered in making our conclusions herein. None of these affect the conclusions reached herein.

it would be intolerable to countenance discriminatory employment practices".

5. On August 5, 1970, the Commission adopted comprehensive rules and regulations requiring communications common carriers to show nondiscrimination in their employment practices (24 F.C.C. 2d 725), becoming the first independent regulatory agency to adopt such a program applicable to its regulated industries.[4] In adopting its proposed rules prohibiting discriminatory employment practices by its licensees and permittees, the Commission recognized its "independent responsibility to effectuate the strong national policy against discrimination in employment, and that it need not be dependent upon the judgment of some other forum to maintain its own affirmative program for insuring compliance with this Act". 24 FCC 2d 725.

6. By the adoption of the above referenced rules requiring communications common carriers to show nondiscrimination in their employment practices, contained in new §§ 1.815, 21.307, and 23.49 of the Commission's rules and regulations, 47 CFR §§ 1.815, 21.307, 23.49, the Commission has undertaken a systematic program to insure equal employment in the communications industry. As regards communications common carriers, the general policy of nondiscrimination is expressed in §§ 21.307(a) and 23.49(a) of the Commission's rules and regulations.[5] To insure nondiscriminatory employment practices by communications common carriers, the Commission has provided, in §§ 21.307(d) and 23.49(d), 47 CFR §§ 2.307(d), 23.49(d), that complaints "indicating a general pattern of disregard of equal employment practices" received against a particular licensee or permittee, could be investigated by the Commission.

7. The subject filing by the EEOC clearly alleges "a general pattern of disregard of equal employment practices" pursuant to the above noted rules. The EEOC has not, however, submitted its petition pursuant to the above noted Commission rules. It has rather chosen to file its petition in the form of a Petition for Suspension of Tariff Schedules, as foreseen in § 1.773 of the Commission's rules and regulations, 47 CFR § 1.773.[6]

8. As we have already stated this day in our decision in Docket No. 19129 In the matter of American Telephone and Telegraph Co. Revision of Tariff FCC No. 263, no showing has been made as to any logical or functional relationship between rate levels and the company's policies and practices in the matter of equal employment opportunity. The EEOC has claimed, in Appendix A to its petition, that section 202(a) of the Communications Act of 1934, as amended, 47 U.S.C. 202(a), prohibits, "on its face", employment discrimination by a carrier. We do not agree. The language in section 202(a) is designed to protect the users of telecommunications services against discriminatory rates; it does not apply to the employees of a carrier except insofar as they may be discriminated against through rates and charges as users of the system.[7] Accordingly, we feel that the petitions by the EEOC and others raising the issues of discriminatory employment practices should not be introduced in the subject rate hearing referred to above.

9. We reaffirm our position that in divorcing these claims from the subject rate proceeding we are not intimating that they are without merit. On the contrary, we feel that the claims made by the EEOC and the other aforementioned organizations raise serious questions under those provisions of our rules requiring common carriers to show nondiscrimination in their hiring and employment policies. Accordingly, as we have already mentioned in our decision in Docket No. 19129, we are setting this matter down for a separate hearing to allow us to determine the outstanding questions of law and fact. We are including an issue herein as to whether and in what manner any of the alleged practices, if proved, affect revenues, expenses, and rates of A.T. & T. At the same time we are retaining jurisdiction in our proceeding in Docket No. 19129 to enable us to take any conclusions we may reach on the subject into account before finally disposing of the issues raised therein. Such procedures are designed to afford the petitioners full opportunity to make any relevant showing while at the same time ensuring due and orderly dispatch of our responsibilities to all interested parties.

10. *Accordingly, it is ordered,* That pursuant to the provisions of sections 4(i), 4(j), 208, 218, and 403 of the Communications Act of 1934, as amended, a public hearing shall be held at a time and place to be hereinafter designated upon the following specific issues:

ISSUES

(A) Whether the existing employment practices of A.T. & T. tend to impede equal employment opportunities in A.T. & T. and its operating companies? Contrary to other purposes and requirements of the Commission's rules and the Civil Rights Act of 1964.

(B) Whether A.T. & T. has failed to inaugurate and maintain specific programs, pursuant to Commission rules and regulations, insuring against discriminatory practices in the recruiting, selection, hiring, placement, and promotion of its employees?

(C) Whether A.T. & T. has engaged in pervasive, systemwide discrimination against women, Negroes, Spanish-surnamed Americans, and other minorities in its employment policies?

(D) Whether any of the employment practices of A.T. & T, if found to be discriminatory, affect the rates charged by that company for its services, and if so, in what ways is this reflected in the present rate structure?

(E) To determine, in light of the evidence adduced pursuant to the foregoing issues, what order, or requirements, if any, should be adopted by the Commission?

11. *It is further ordered,* That the above-designated hearing shall be an adjudicatory hearing, and that the rules of procedure as set forth in the Commission's rules and regulations pertaining to Hearing Proceedings, sections 1.201 et. seq., shall govern.

12. *It is further ordered,* That the American Telephone and Telegraph Co., the American Civil Liberties Union, the California Rural Legal Assistance, the Equal Employment Opportunity Commission, the Mexican American Legal Defense Fund, the National Association for the Advancement of Colored People, the National Organization for Women, and the American GI Forum of the United States are hereby designated parties to this proceeding.

13. *It is further ordered,* That the Common Carrier Bureau is named a party herein.

14. *It is further ordered,* That in the presentation of evidence, the petitioner-complainants shall open and close, pursuant to these provisions of section 1.255 of the Commission's rules and regulations.

15. *It is further ordered,* That interested parties may avail themselves of an opportunity to be heard by filing with the Commission, pursuant to § 1.221(c) of the Commission's rules, within 20 days of the release date hereof, a written notice stating an intention to appear on the date set for the hearing and present evidence on the issues specified in the memorandum opinion and order.

16. *It is further ordered,* That a Hearing Examiner shall be designated to preside in the proceeding ordered herein, who shall prepare an initial decision on

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[4] The Commission had earlier adopted similar rules applicable to its Broadcast licensees. In this regard see 18 F.C.C. 2d 240 (1969) and 23 F.C.C. 2d 430 (1970).

[5] Sections 21.307(a) and 23.49(a) provide: "Equal Opportunity in employment shall be afforded by all common carrier licensees or permittees to all persons, and no personnel shall be discriminated against in employment because of sex, race, color, religion, or national origin."

[6] Although entitled A Petition for Intervention, it cannot be considered as such in that the proceeding had not, at the time of the filing of the petition, been set for hearing, and section 1.223 of the Commission's rules and regulations provides for petitions to intervene "not later than 30 days after the publication in the FEDERAL REGISTER of the hearing issues or any substantial amendment thereto."

[7] Section 202(a) provides: "It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communications service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage."

all of the issues in the complaint proceeding as provided in § 1.267 of the Commission's rules and regulations.

Adopted: January 21, 1971.

Released: January 21, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-1107 Filed 1-26-71;8:48 am]

[Dockets Nos. 18128, 18684; FCC 71-76]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Memorandum Opinion and Order Expediting Hearing

In the matter of American Telephone and Telegraph Co. Long Lines Department, Docket No. 18128; revisions of Tariff FCC No. 260, private line services, Series 5000 (TELPAK); American Telephone and Telegraph Co., Docket No. 18684; revisions of American Telephone and Telegraph Co. Tariff FCC No. 260, Series 6000 and 7000 Channels (Program Transmission Services).

1. The Commission has under consideration the record in this proceeding to date, together with the issues presented, as stated and interpreted by our previous orders. We also have under consideration recent tariff filings by American Telephone and Telegraph Co. which propose substantial increases in the rates for Long Distance Message Telecommunications Service (MTT).

2. One of the determinations to be made in the instant proceeding is an appropriate rate level for each of A.T. & T.'s major categories of service, such as private line telephone and telegraph, program transmission, TWX, WATS, and MTT. As set forth in past Commission orders, our examination herein of the rate levels for the various categories of service will enable us, if warranted to make adjustments in the relative earnings level of the services in question. In light of A.T. & T.'s recently proposed tariff revisions for MTT service, and the critical importance of the present proceeding to the disposition of the question of the proper distribution of A.T. & T.'s overall revenue requirements among its various services, we believe that due and timely execution of our functions necessitates that we expedite this proceeding.[1] Therefore, we request that the Chief Hearing Examiner meet with the Hearing Examiner in this proceeding, review the Hearing Examiner's case assignments, and, insofar as practicable, relieve the Hearing Examiner of other case assignments in order that this proceeding may be heard continuously. The Hearing Examiner should bear in mind the schedule we have established on A.T. & T.'s proposed tariff revisions and make every reasonable effort consistent with the compilation of the necessary record to complete this hearing within 6 months of the publication of this order.

3. One other specific measure which we feel will enable us to accomplish the necessary expedition of Dockets 18128 and 18684 is a requirement that the intervenors file their direct cases within 60 days from the release of this order so as to preclude any delay after the conclusion of cross-examination on A.T. & T.'s direct case. The intervenors have had A.T. & T.'s direct case for an extended amount of time; i.e., substantially since April 1, 1970. In addition, the intervenors have made numerous requests for and have obtained from A.T. & T. a considerable amount of data supporting the various exhibits. Moreover, by the release date of this order, cross-examination of several key witnesses will have been completed and the essential methodology of LRIC will have been subjected to detailed analysis. The same LRIC methodology, in essence, has apparently been applied by A.T. & T. to other private line services and, apart from relevant differences in the details applicable to video, etc., the intervenors should by this time find no inherent difficulty in preparing and submitting their direct evidence.

4. Accordingly, on the basis of the foregoing: *It is hereby ordered,* That, insofar as practicable, the Hearing Examiner shall be relieved of other case assignments and hear this proceeding continuously; and

5. *It is further ordered,* That within 60 days from the release of this order the intervenors shall file their direct cases.

Adopted: January 21, 1971.

Released: January 21, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-1108 Filed 1-26-71;8:48 am]

[Dockets Nos. 19055-19057; FCC 71R-18]

FIDELITY BROADCASTING CORP., ET AL.

Memorandum Opinion and Order Enlarging Issues

In re applications of Fidelity Broadcasting Corp., Guayama, P.R., Docket No. 19055, File No. BP-17777; Lucas Tomas Muniz, Yabucoa, P.R., Docket No. 19056, File No. BP-17990; James Calderon, Yabucoa, P.R., Docket No. 19057, File No. BP-18003; for construction permits.

1. The above captioned mutually exclusive applications for new AM stations operating on 840 kHz, with 250 w. power, in various communities in Puerto Rico were designated for consolidated hearing by memorandum opinion and order, FCC 70-1118, released October 19, 1970, 25 F.R. 16559, 26 FCC 2d 93, 20 RR 2d 477. The Review Board now has before it a petition to enlarge issues, filed on November 9, 1970, by Fidelity Broadcasting Corp., requesting the inclusion of the following issues:

(1) To determine whether grant of the application of Lucas Tomas Muniz would be consistent with the Commission's rules and policies relating to the multiple ownership and control of broadcast facilities.

(2) To determine whether James Calderon has the requisite technical and character qualifications to be a Commission licensee.

(3) To determine whether the proposals of James Calderon and Lucas Tomas Muniz for Yabucoa, P.R., will realistically provide a local transmission facility for their specified station location or for another larger community, in light of all the relevant evidence, including, but not necessarily limited to, the showing with respect to:

(a) The extent to which the specified station location has been ascertained by the applicants to have separate and distinct programing needs;

(b) The extent to which the needs of the specified station location are being met by existing standard broadcast stations;

(c) The extent to which the applicants' program proposals will meet the specific unsatisfied programing needs of their specified station location; and

(d) The extent to which the projected sources of the applicants' advertising revenues within their specified station location are adequate to support their proposals, as compared with their projected sources from all other areas.[1]

Since each of the issues requested is based on a separate set of allegations, we will discuss the issues in series.

MULTIPLE OWNERSHIP ISSUE

2. Petitioner alleges that the island of Puerto Rico is particularly small, about 100 miles long by 35 miles wide at its largest point, and that there are 7 VHF television stations on the island associated with 3 networks, each network providing or attempting to provide island-wide coverage. It further alleges that Lucas Tomas Muniz is a program producer who produces a large number of live programs which are carried by the WAPA-TV network, and that the WAPA-TV network attains complete coverage of the island of Puerto Rico. It also alleges that Mr. Muniz is a 50 percent owner of radio Station WUNA, Aguadilla, P.R., and the licensee of Station WLUZ, Bayamon, P.R. In view of these circumstances, the petitioner argues that the requested issue is required by Commission policy articulated in its

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[5] Commissioner Johnson concurring; Commissioner Houser not participating.

[1] In our memorandum opinion and order on A.T. & T.'s proposed MTT tariff revisions we specifically retained jurisdiction until we are able to implement our conclusions in Docket No. 18128 insofar as they relate to the assignment of revenue requirements of A.T. & T. to MTT.

[3] Commissioner Johnson concurring; Commissioner Houser not participating.

[1] The Board also has before it for consideration oppositions to the petition, filed on Dec. 2 and 4, 1970, respectively, by Lucas Tomas Muniz and James Calderon; the Broadcast Bureau's comments on petition to enlarge, filed on Dec. 4, 1970; and Fidelity's reply to oppositions and comments, filed on Dec. 28, 1970.

First Report and Order in the Matter of Amendment of §§ 73.35, 73.240 and 73.636 of the Commission's Rules Relating to Multiple Ownership of Standard, FM and Television Stations. 22 FCC 2d 306, 18 RR 2d 1735 (1970). Both Muniz and the Bureau oppose the addition of the requested issue. Muniz points out that there is no allegation that there will be prohibited overlap between the requested station and the stations in which he has ownership. Moreover, he notes that the programs which he produces are subject to the managerial responsibilities of licensees of the television stations which carry them. Both Muniz and the Bureau note that Muniz' relationship with the WAPA–TV network does not constitute ownership or control, and does not afford Muniz an opportunity to dictate policies of those stations or otherwise bring Muniz' activity within the Commission's policy prohibitions.

3. The requested issue will be denied. The factual allegations set forth by the petitioner do not constitute a showing which warrants an inquiry into possible violations of the multiple ownership provisions of section 73.35 of the Commission's rules, nor do they provide a factual basis for an assumption that the licensees of those stations which broadcast the programs produced by Muniz, have abandoned their responsibility to manage their station, thus raising the possibility that a grant of the proposed application would violate the Commission's policy concerning concentration of control of mass media of communications.[2]

QUALIFICATIONS OF JAMES CALDERON

4. In support of its second requested issue, petitioner alleges that International Broadcasting Corp., the licensee of Station WVOZ, Carolina, P.R., paid a forfeiture in the amount of $7,500, levied because of numerous violations of the Commission's technical rules which the Commission noted:

> point[ed] to serious and continued failures on the part of [the licensee] to meet the standards of radio stewardship which the Commission has set for its broadcast licensees. 19 FCC 2d 793 (1969).

Petitioner further alleges that at the time of these derelictions, Mr. James Calderon was a 10 percent stockholder of International and an engineer employed by that corporation. In view of these circumstances, petitioner argues that the Commission must inquire into the relationship between Calderon and International Broadcasting Corp. to ascertain what bearing International's shortcomings have on Calderon's qualifications to be a station licensee. The Bureau observes that since Calderon was a stockholder, officer, and employee of International at the time of the noted violations, an issue must be added to establish Calderon's relationship with the station and the extent to which the station's violations may affect Calderon's qualifications.

5. In opposition, Calderon argues that the allegations of the petitioner fall short of the degree of specificity required by § 1.229(c) of the Commission's rules.[3] Calderon submits his personal affidavit and that of the secretary of International for the purpose of establishing that Calderon was not the engineer involved in the technical violations referred to in connection with the forfeiture proceeding; that Calderon gave engineering assistance to the station only as a favor to the station and that, after 1967, he did not have any technical responsibility for the station's operation. Furthermore, those affidavits purport to establish that although Calderon had a 10 percent interest in the station, he did not participate in its management or policy direction.

6. The requested issue will be included. While the better procedure would have been for the petitioner to make more specific allegations concerning the activities of Calderon, it has, nevertheless, raised questions which we believe can best be resolved through the hearing process. The violations referred to in International Broadcasting Corporation, 19 FCC 2d 793, are numerous and cover a wide scope of technical failures on the part of the licensee. The fact that Calderon appears to have been actively associated with the station during this period raises questions which we are unable to resolve on the basis of the pleadings before us.[4] The issues will be enlarged accordingly.

307(b) SUBURBAN COMMUNITY ISSUE

7. Petitioner bases his request for this issue on the fact that the town of Yabucoa is located within 7½ miles of the town of Humacao, and that the population of Yabucoa in 1960 was 3,734 persons, and the population of Humacao was 8,005 persons; and that the proposed 5 mv/m contour of either of the proposed Yubucoa stations would completely encompass the town of Humacao. Thus, argues the petitioner, a factual situation is present which warrants the inclusion of a "suburban community" issue, (citing V.W.B., Inc., 8 FCC 2d 744, 10 RR 2d 563; and Outer Banks Radio Co., 15 FCC 2d 994, 15 RR 2d 471). Muniz Calderon and the Bureau all oppose the inclusion of this issue arguing that the 1970 census shows a population for the town of Yabucoa of 5,071 persons and for the municipio (equivalent to a county in the continental United States) of 29,997, while the 1970 population figures for the town and municipio of Humacao were 12,333 and 35,655, respectively. The oppositions also note that these communities are separate and distinct from each other, each having its own government with all the appurtenances thereof, as well as its civic and community activities, and that the petitioner has made no allegations that Yabucoa is, in any way, dependent upon Humacao. Thus, they argue, V.W.B., Inc., and Outer Banks are inapposite to the facts before us.

8. The requested issue will be denied. The fact that a specified community is somewhat smaller than another nearby community does not per se establish that the smaller community is economically, socially or governmentally dependent upon the larger community, nor does it establish that the larger community will in fact have a dominant influence over the licensee or station for the smaller community. In the absence of more specific factual allegations, the requested issue must be denied.

9. *Accordingly, it is ordered,* That the petition to enlarge issues, filed by Fidelity Broadcasting Corp., November 9, 1970, is granted to the extent indicated herein, and is denied in all other respects;

10. *It is further ordered,* That the issues will be enlarged to include the following issue: To determine the relationship of James Calderon to radio Station WVOZ, Carolina, P.R., and whether, in view of that relationship Calderon has the requisite qualifications to be the licensee of a new standard broadcast station operating on 840 kHz, with 250 w. of power, in Yabacoa, P.R., and;

11. *It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof shall be on James Calderon.

Adopted: January 15, 1971.

Released: January 18, 1971.

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

[FR Doc.71-1109 Filed 1-26-71;8:48 am]

[2] Comparing the population and area of Puerto Rico to that of Connecticut, petitioner suggests in his reply that the Commission would not grant a third license to a single applicant from the State of Connecticut. This supposition is supported by no authority or precedent and must be regarded as purely speculative.

[3] Section 1.229(c) requires that: "Such motions, oppositions thereto, and replies to oppositions shall contain specific allegations of fact sufficient to support the action requested. Such allegations of fact, except for those of which official notice may be taken, shall be supported by affidavits of a person or persons having personal knowledge thereof."

[4] Calderon declares that he has had no technical responsibility for the operation of Station WVOZ since 1967. However, this appears to be inconsistent with what purports to be an agreement, dated Jan. 30, 1967, and filed with the Commission, between International Broadcasting Corp. and James Calderon, whereby, for a fee to be determined, Calderon undertakes to "make required inspections as required by the rules of the Commission, as well as to make himself available whenever required to make the station meet the requirements and rules of the FCC." It also appears to be inconsistent with the understanding of Mr. Pedro Collazo, secretary of International Broadcasting Corp., who filed a document with the Commission on Aug. 13, 1968, which states that Mr. Jose Arzuga, Jr. will be paid $100 a week and take responsibility for inspections as required by the FCC. The same document noted that International would employ another first class radio operator to perform major maintenance which, at that time, was being performed by Mr. James Calderon.

[Docket No. 19120; FCC 71-38]

SHELL BROADCASTING, INC.

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

In regard application of Shell Broadcasting, Inc., Docket No. 19120, File No. BR-2278; for renewal of license of Station WHEL, New Albany, Ind.

1. We have before us for consideration: (a) The above-captioned application of Shell Broadcasting, Inc., for renewal of license of Station WHEL, New Albany, Ind.; (b) our letter of October 21, 1970, advising the applicant that the application could not be granted without an evidentiary hearing in view of a Complaints and Compliance Division investigation involving the activities of Grady A. Sanders in connection with Station KGA, Spokane, Wash.; (c) a letter of November 12, 1970, from the attorney for Shell Broadcasting, Inc., stating: "The licensee does intend to prosecute its license renewal application," and requesting an additional 30 days to respond to our letter of October 21, 1970; and (d) our letter of December 9, 1970, denying the requested extension of time.

2. As indicated by our letter of October 22, 1970, information developed as the result of the Complaints and Compliance Division's field investigations and responses by Grady A. Sanders, under oath, to certain written inquiries of the Complaints and Compliance Division following the field investigations, raised serious questions regarding the character qualifications of Grady A. Sanders, who has an 87 percent ownership interest in Shell Broadcasting, Inc. On the basis of this information, it appears that Grady A. Sanders misrepresented his financial condition in connection with a proposal (BTC-5678) to acquire 100 percent ownership of Station KGA; that the effect of these misrepresentations was substantially to overstate the net worth of Grady A. Sanders; and that such misrepresentations were made for the purpose of misleading the Commission respecting Grady A. Sanders' financial ability to acquire control of Station KGA under BTC-5678. It further appears that Grady A. Sanders, in his efforts to promote the sale of stock in KGA, Inc. (a company which intended subsequently to acquire the KGA license from Sanders), issued a brochure which misrepresented purported security interests which KGA, Inc., allegedly had in Stations KGA and WHEL, and that such misrepresentations were intended to mislead prospective purchasers of the stock of KGA, Inc. And, finally, it appears that a copy of an agreement dated April 20, 1968 (later canceled), to sell Liddie Broadcasting Corp. (the then licensee of Station KGA) to Grady A. Sanders and William Campbell was never filed with the Commission, in apparent violation of § 1.613(b)(3) of the Commission's rules and regulations.

3. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned renewal application is designated for hearing, at a time and place to be specified in a subsequent order, on the following issues:

(a) To determine whether Grady A. Sanders misrepresented his financial condition to the Commission in connection with his earlier proposal to acquire control of Station KGA, Spokane, Wash., with particular reference to the balance sheet (Exhibit 6) contained in the application covering that proposal, BTC-5678;

(b) To determine whether the financial condition of Grady A. Sanders was further misrepresented in his notarized statement of December 11, 1968, made in response to certain questions directed by the Complaints and Compliance Division in a letter of November 18, 1968, with particular reference to the "Pro Forma Personal Financial Statement" as of October 18, 1968, submitted in connection with his notarized statement;

(c) To determine the reason for the discrepancies between the balance sheet submitted with BTC-5678 (Exhibit 6, BTC-5678) and the "Pro Forma Personal Financial Statement" as of October 18, 1968, furnished in connection with the notarized response of December 11, 1968;

(d) To determine whether Grady A. Sanders misrepresented security interests which KGA, Inc., assertedly had in Stations KGA and WHEL, in connection with issuance of the brochure for sale of the stock in KGA, Inc.;

(e) To determine whether Grady A. Sanders failed to file a copy of an agreement dated April 20, 1968 (later canceled) for the sale of Liddie Broadcasting Corp. to Grady A. Sanders and William Campbell, in violation of § 1.613(b)(3) of the Commission's rules and regulations; and

(f) To determine whether, in light of all the evidence, a grant of the application for renewal of license of Station WHEL would serve the public interest, convenience, and necessity.

4. *It is further ordered,* That in accordance with section 309(e) of the Act the ultimate burden of proof as to each issue shall be on the applicant.

5. *It is further ordered,* That to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.221(c) of the Commission's rules, in person or by its attorney, shall, within twenty (20) days of the date of this order file with the Commission, in triplicate, a written appearance stating its intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

6. *It is further ordered,* That the parties herein shall, pursuant to § 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, within the time and manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

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

[FR Doc.71-1110 Filed 1-26-71;8:48 am]

[Docket No. 19127; FCC 71-44]

TEXAS KEY BROADCASTERS, INC. (KTXS-TV)

Order and Notice of Apparent Liability Designating Application for Hearing on Stated Issues

In regard application of Texas Key Broadcasters, Inc. (KTXS-TV), Docket No. 19127, File No. BMLCT-706; for authority to change the main studio location of Station KTXS-TV from Sweetwater, Tex., to Abilene, Tex.

1. The Commission has before it for consideration: (a) The above-captioned application of Texas Key Broadcasters, Inc. (Texas Key), licensee of television boadcast station KTXS-TV, Channel 12, Sweetwater, Tex., filed July 24, 1970; (b) the informal objections of Abilene Radio and Television Co. (ARTC), licensee of television broadcast station KRBC-TV, Channel 9, Abilene, Tex., filed August 31, 1970, and November 9, 1970; and (c) Texas Key's response to ARTC's informal objections filed October 6, 1970, and November 24, 1970.

2. An application for a move in a station's main studio location is considered an application for a minor change in the station's license, and § 1.580(a)(1) of the Commission's rules provides that petitions to deny do not lie against such applications. However, because ARTC is a competitor of Texas Key and has a definite interest in this matter, its petition will be treated as an informal objection under section 1.587 of the rules.

3. Section 73.613(b) of the Commission's rules provide for the location of a television station's main studio outside of its community of license only when (a) it would not be inconsistent with the public interest; and (b) good cause has been shown. In this case, the main studio of Station KTXS-TV is located just beyond the city limits of Sweetwater, Tex., and an auxiliary studio is maintained in Abilene, Tex., a town approximately 35 miles east of Sweetwater. Texas Key now requests authority to designate the Abilene facility as its main studio for the following reasons: Abilene is the cultural, economic, and governmental center of the essentially homogeneous west central Texas region; only 8 percent of Station KTXS-TV's local advertising revenues come from Sweetwater; Sweetwater is losing population;[1] the Commission's requirement that a station originate at least 50 percent of its programing from its main studio is an unreasonable and wasteful burden which serves to degrade the quality of programing Station KTXS-TV is able to provide; Station KTXS-TV operates at a competitive disadvantage relative to its main competitor, Station KRBC-TV, Channel 9, Abilene; the Commission has previously authorized similar main studio moves; and it would continue to maintain a

[1] Preliminary returns from the 1970 census list the population of Sweetwater as 11,317 and the population of Abilene as 88,433. These figures represent a decline from the 1960 census of 18.6 percent for Sweetwater and 2.1 percent for Abilene.

studio in Sweetwater and otherwise serve that community. Basically, Texas Key contends that there has been such a significant change in the relative size of Sweetwater and Abilene since Channel 12 was allocated to Sweetwater in 1952 that it is no longer possible to efficiently operate a television station there.

4. Texas Key was granted authority to identify Station KTXS–TV as a Sweetwater-Abilene station on February 16, 1966, and later that year was acquired by group owner Grayson Enterprises, Inc. (Grayson).[2] Grayson proceeded to change the call sign of the Sweetwater station from KPAR–TV to KTXS–TV; increase its height and power and move its main studio from a point approximately midway between Abilene and Sweetwater to its present location;[3] and, build a new auxiliary studio in Abilene. ARTC now contends that a grant of the present application would result in a de facto reallocation of Channel 12 from Sweetwater to Abilene, and that in any case, Texas Key has already established its main studio in Abilene without the prior approval of the Commission in violation of the Communications Act and the Commission's rules. Texas Key states that it has been responsible for many significant improvements in both the Sweetwater and Abilene facilities of Station KTXS–TV, but admits that the majority of its equipment and personnel are located in Abilene; that it failed to originate programing from Sweetwater during 1969; and that even now, less than 50 percent of its local programing is originated from Sweetwater. With the exception of two live weekday programs, the programing Station KTXS–TV originates from its Sweetwater studio is prepared in Abilene and driven to Sweetwater to be broadcast.

5. Texas Key claims that the Commission failed to provide its licensees with adequate guidelines in matters concerning main studio location until mid-1969, when it adopted two decisions, Ponce Television Corporation, 18 FCC 2d 543 (1969), and Nationwide Communications, Inc., 18 FCC 2d 171 (1969), interpreting § 73.613(b) of the rules. This argument deserves little credence. The location of a station's main studio is directly related to the manner in which it fulfills its obligations to serve its community of license, WSIX Broadcasting Station, 8 RR 216, 218 (1952). Although the definition of main studio is meant to be flexible to a degree, the Commission has stated that no more than an ordinary understanding of the word "main" is necessary for a licensee to accurately distinguish its main studio from an auxiliary studio, Ponce Television Corporation, supra, 546, and as long ago as 1956, the Commission set forth a number of criteria that are relevant in determining whether a given facility is a main studio, including: Percentage of locally originated programs, programing practices, number of employees, types of employees, type and quality of equipment, and the size and quality of the building. Gulf Television Company, 20 FCC 734 (1956).

6. ARTC also alleges that Texas Key violated section 73.652(a) of the Commission's rules concerning its station identification announcements. As stated above, Texas Key was granted a waiver of § 73.652(a) on February 16, 1966, which allowed it to identify itself as a dual "Sweetwater-Abilene" station. On February 25, 1966, ARTC filed a petition for reconsideration of this waiver which asked the Commission to require Station KTXS–TV to identify itself only as a "Sweetwater-Abilene" station and not as an "Abilene-Sweetwater" station. The Commission denied this petition, Texas Key Broadcasters, Inc., FCC 67–94, 9 RR 2d 140 (1967), and stated that it would be permissible for station KTXS–TV to identify itself as an "Abilene-Sweetwater" station whenever it originated programing from Abilene or broadcast programs relating to Abilene activities. This decision no longer represents Commission policy in this area, which now requires a station utilizing a dual-city identification to announce its city of license first, General Electric Broadcasting Co., Inc., 16 FCC 2d 673 (1969); Nationwide Communications, Inc., 19 FCC 2d 861 (1969), and in this instance it also appears as if Texas Key has abused its privilege, for Texas Key admits that Station KTXS–TV was identified as a "Sweetwater-Abilene" station only at the beginning and the end of its broadcast day for approximately 1 year during 1969–70, while all of its hourly anouncements referred to Station KTXS–TV as an "Abilene-Sweetwater" station. Inasmuch as a grant of dual-city identification privileges does not modify a station's license, the Commission may revoke this authority at any time without the necessity of a holding a hearing on the matter. In this instance, the Commission is of the opinion that Station KTXS–TV should no longer be allowed to identify itself as an "Abilene-Sweetwater" station, and that its authority to do so shall be rescinded effective 30 days from the date of this order. It may continue to identify itself as "Sweetwater-Abilene", however, if it wishes to do so.

7. Texas Key attempts to distinguish the Ponce and Nationwide cases on their facts, and cites the following Commission decisions as precedent for a grant of the instant application: Triad Television Corp., 25 FCC 848, 1013 (1958); Florida Gulfcoast Broadcasters, Inc., 32 FCC 197, 202 (1962); North Dakota Broadcasting Co., Inc., unreported, BMLCT–127, granted January 3, 1963; and Texoma Broadcasters, Inc., unreported, BMLCT–633, granted March 9, 1967. In each of these cases, the Commission authorized a main studio location elsewhere than in a station's city of license, but both Triad and Florida were cases where several competing applicants for a vacant channel were subjected to a full hearing before a construction permit was awarded, and practically all of the applicants (9 of 10) had requested a waiver of § 73.613(b). The North Dakota and Texoma cases are more on point, but, as each § 73.613(b) decision involves different facts concerning the economic condition of the applicant, the market involved, and the dangers of inadequate service to the city of license, they are not dispositive of the present matter. Under the circumstances present here, the Commission can not find that Texas Key has demonstrated good cause for relocating its main studio in Abilene or shown how such a move would serve the public interest, and further finds that the facts raise serious questions concerning Texas Key's compliance with the Commission's rules, which require that the application be set for hearing.[4]

8. *Accordingly, it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the above-captioned application is designated for hearing at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine whether good cause exists to relocate the main studio of Station KTXS–TV, Channel 12, Sweetwater, Tex., from Sweetwater to Abilene, Tex.;

(2) To determine whether Texas Key Broadcasters, Inc., has changed the location of Station KTXS–TV's main studio from Sweetwater, Tex., to Abilene, Tex., without the prior approval of the Commission as required by section 308 of the Communications Act of 1934, as amended, and section 73.613(b) of the Commission's rules and, if so, whether any such violation was willful or repeated.

(3) To determine whether a grant of the above-captioned application of Texas Key Broadcasters, Inc., would serve the public interest, convenience, and necessity.

9. *It is further ordered,* That, if on the basis of the evidence adduced under issue (2) above, Texas Key Broadcasters, Inc., is determined to have willfully or repeatedly violated section 308 of the Communications Act or § 73.613(b) of the Commission's rules, it shall also be determined whether an order of forfeiture pursuant to section 503(b) of the Communications Act, in the amount of $10,000 or some lesser amount, should be issued.

10. *It is further ordered,* That this document also constitutes a notice of apparent liability for violation of the Communications Act and the Commission's rules, but that the inclusion of this

[2] The Commission granted application number BTC–5036 on June 15, 1966, which authorized the transfer of control in Texas Key from A. R. Elam, Jr., et al., to Grayson Enterprises, Inc. Grayson is also licensee of Stations KLBK–TV–AM–FM, Lubbock, Tex.; Station KWAB–TV, Channel 4, Big Springs, Tex.; and, Station KMOM–TV, Channel 9, Monahans, Tex.

[3] The Commission granted application No. BPCT–3992 on July 21, 1967, authorizing these changes in Station KTXS–TV.

[4] Although Texas Key's application was accompanied by a "Request for authority to relocate main studio, or, in the alternative, for hyphenation of channel allocation", such a combination of documents is not contemplated by the Commission's rules and is contrary to the intent of § 1.44. Therefore, if Texas Key still intends to initiate a rulemaking proceeding, it should file a separate petition for rulemaking in accordance with sections 1.401 et seq. of the rules.

notice does not in any way indicate what the initial or final disposition of the case should be, and that the Examiner shall make his decision on the facts of the case alone.

11. *It is further ordered,* That the Commission's order of January 18, 1967, authorizing station KTXS–TV to identify itself as an "Abilene-Sweetwater" station is rescinded effective 30 days from the date of this order. Thereafter, Station KTXS–TV shall identify itself as a "Sweetwater-Abilene" or "Sweetwater" station only.

12. *It is further ordered,* That Abilene Radio and Television Co. is made a party to this proceeding.

13. *It is further ordered,* That with respect to issue (1) specified above, the burden of proceeding with the introduction of evidence and the burden of proof shall be on Texas Key Broadcasters, Inc., and, with respect to issue (2) specified above, the burden of proceeding with the introduction of evidence shall be on the Abilene Radio and Television Co. and the burden of proof shall be on Texas Key Broadcasters, Inc.

14. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicant and the petitioner herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

15. *It is further ordered,* That the applicant herein, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and section 1.594 of the Commission's rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as is also required by § 1.594(g).

16. *It is further ordered,* That the Secretary of the Commission send copies of this order by Certified Airmail—Return Receipt Requested to Texas Key Broadcasters, Inc.

Adopted: January 13, 1971.

Released: January 19, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71–1111 Filed 1–26–71;8:48 am]

FEDERAL HOME LOAN BANK BOARD

THE WESTERN AND SOUTHERN LIFE INSURANCE CO.

Notice of Receipt of Application for Approval of Acquisition of Control of State Savings Association

JANUARY 22, 1971.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from The Western and Southern Life Insurance Co., Cincinnati, Ohio, a unitary savings and loan holding company, for approval of acquisition of control of the State Savings Association, Greenhills, Ohio, an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and section 584.4 of the regulations for Savings and Loan Holding Companies, said acquisition to be effected by the purchase of stock of the State Savings Association for cash. Following said acquisition it is proposed that State Savings Association be merged into Eagle Savings Association, an insured subsidiary of the applicant. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this notice appears in the FEDERAL REGISTER.

[SEAL] JACK CARTER,
Secretary,
Federal Home Loan Bank Board.

[FR Doc.71–1123 Filed 1–26–71;8:49 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. D–26]

SECRETARY OF AGRICULTURE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Agriculture to assist in controlling violations of law at the U.S. Meat Animal Research Center, Clay Center, NE.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and the Act of June 1, 1948 (62 Stat. 281), as amended, authority is hereby delegated to the Secretary of Agriculture to appoint uniformed guards as special policemen, to make all needful rules and regulations, and to annex to such rules and regulations such reasonable penalties, not to exceed those prescribed in 40 U.S.C. 318c., as will insure their enforcement, for the protection of the U.S. Meat Animal Research Center, Clay Center, NE, over which the United States has exclusive legislative jurisdiction.

b. The Secretary of Agriculture may redelegate this authority to any officer or employee of the Department of Agriculture.

c. This authority shall be exercised in accordance with the limitations and requirements of the above cited Acts, and the policies, procedures, and controls prescribed by the General Services Administration.

Dated: January 20, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71–1076 Filed 1–26–71;8:46 am]

TARIFF COMMISSION

[TEA–W–56]

WORKER'S PETITION FOR DETERMINATION OF ELIGIBILITY TO APPLY FOR ADJUSTMENT ASSISTANCE

Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers employed at the Glascote Products Division, Haveg Industries, Inc., 20900 St. Clair Avenue, Cleveland, OH, the U.S. Tariff Commission, on January 21, 1971, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with glass-lined steel process equipment produced by said firm in its plant at said address are being imported into the United States in such increased quantities as to cause or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such manufacturing company.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued: January 22, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.71–1103 Filed 1–26–71;8:47 am]

FEDERAL POWER COMMISSION

[Docket No. RI71–621, etc.]

PAN AMERICAN PETROLEUM CORP. 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]

JANUARY 19, 1971.

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.

[5] Commissioner H. Rex Lee absent; Commissioner Houser not participating.

[1] Does not consolidate for hearing or dispose of the several matters herein.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR Ch. I], and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act: *Provided, however,* That the supplements to the rate schedules filed by respondents, as set forth herein, shall become effective subject to refund on the date and in the manner herein prescribed if within 20 days from the date of the issuance of this order respondents shall each execute and file under its above-designated docket number with the Secretary of the Commission its agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, accompanied by a certificate showing service of copies thereof upon all purchasers under the rate schedule involved. Unless respondents are advised to the contrary within 15 days after the filing of their respective agreements and undertakings, such agreements and undertakings shall be deemed to have been accepted.[2]

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure [18 CFR 1.8 and 1.37(f)] on or before March 12, 1971.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[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	Cents per Mcf* Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71-621	Pan American Petroleum Corp.	550	2	Southern Union Gathering Co. (Basin Dakota and Fulcher-Kutz Pictured Cliffs Fields) (San Juan County, N. Mex.) (San Juan Basin).	$495	12-29-70	[3] 12-29-70	12-30-70	13.0	[1] 15.0636	
					7					[2] 13.0551	
		551		do	1,238	12-28-70	[3] 12-28-70	12-29-70		[1] 15.0636	
		552		do	12	12-28-70	[3] 12-28-70	12-29-70		[2] 13.0551	
		553		do	12	12-28-70	[3] 12-28-70	12-29-70		[2] 13.0551	
		554		do	1	12-28-70	[3] 12-28-70	12-29-70		[2] 13.0551	
		195	[4] 27	El Paso Natural Gas Co. (Pictured Cliffs et al. Fields, San Juan and Rio Arriba Counties, N. Mex.) (San Juan Basin).	298	12-29-70	1-29-71	1-30-71		[4] 13.2486	
		549	[6] 8	Southern Union Gathering Co. (Basin Dakota Field, San Juan County, N. Mex.) (San Juan Basin).		12-31-70	12-31-70	[5] Accepted			
			9	do	49,525	12-31-70	[3] 12-31-70	1-1-71		[7] 15.0636	
					49,525	12-31-70	[3] 12-31-70	1-1-71		[8] 15.0619	
RI71-622	Earl E. Wall	1	2	Transcontinental Gas Pipe Line Corp. (Lucy Field, St. Charles Parish, Southern Louisiana).	4,791	12-23-70	2-5-71	[12] 2-5-71	[10] 20.625	[11 12] 22.375	
RI71-623	Kenmore Oil Co., Inc., et al.	1	1	Florida Gas Transmission Co. (West Addis Field, Iberville Parish) (Southern Louisiana).	27,000	12-22-70	2-4-71	[13] 2-4-71	[14] 20.0	[13] 25.0	

* The pressure base is 15.025 p.s.i.a.
[1] Dakota Formation.
[2] Pictured Cliffs Formation.
[3] Pursuant to Commission Order issued Dec. 11, 1970, Docket No. CI71-145 et al., Continental Oil Co. et al. and Docket No. CI71-299 et al., Mobil Oil Corp. et al.
[4] Includes partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax.
[5] For acreage added by Supplement No. 26 only.
[6] Supplement deletes favored nations provision for acreage added by Supplement No. 1 dated Sept. 27, 1962.
[7] Applies to acreage dedicated by original contract.
[8] Applies to acreage dedicated to the contract by Supplement No. 1 for which the favored nations provision was deleted.
[9] Accepted for filing to become effective as of the dates shown in the "Effective Date Column."
[10] Permanently certificated initial rate.
[11] Increase limited to Southern Louisiana proposed settlement rate pursuant to order issued Dec. 24, 1970 in R-394. Rate proposed is 27.5 per Mcf.
[12] Rate increase resulting from termination of moratorium in Southern Louisiana pursuant to Order No. 413.
[13] The date from Jan. 10, 1971, corresponding to the number of days filed after Nov. 27, 1970.
[14] Temporary certificated initial rate for the sale of gas well gas.

With the exception of the proposed increase under its FPC Gas Rate Schedule No. 195, the proposed increases of Pan American Petroleum Corp. (Pan American) are filed pursuant to Commission orders issued December 11, 1970,[1] which among other things granted Applicant certificates and advised that it could file up to the proposed rates and collect such rates, if contractually due, after a 1-day suspension from the dates of filing. Accordingly, the proposed increases are suspended for 1 day from the dates of filing. This order so provides.

Pan American's proposed tax reimbursement increase reflects partial reimbursement for the full 2.55 percent New Mexico Emergency School Tax and exceeds the ceiling by the amount of the tax. Accordingly, Pan American's proposed rate is suspended for 1 day from the date of expiration of the 30-day notice period. El Paso (purchaser) questions the right of the producer under the tax reimbursement clause to file a rate increase reflecting tax reimbursement computed on the basis of an increase in tax rate by the New Mexico Legislature in excess of 0.55 percent. While El Paso concedes that the New Mexico Legislature effected a higher rate of at least 0.55 percent, they claim there is controversy as to whether or not the new legislation effected an increased rate in excess of 0.55 percent. In view of the contractual problem presented, the hearing herein shall be concerned with the contractual basis for such rate filing, as well as the statutory lawfulness of the proposed increased rates.[2]

[1] Docket No. CI71-145 et al., Continental Oil Co. et al. and Docket No. CI71-299 et al., Mobil Oil Corp. et al.

[2] The Commission may not be required to decide this contract issue in view of pending court litigation. See order issued Mar. 24, 1969, in Pan American Petroleum Corporation, Docket No. RI69-244.

Under the provisions of the Commission's order issued October 27, 1970, in Docket No. AR69-1, producers in the southern Louisiana area were able to file for higher contractually authorized rates within 30 days from such order (by Nov. 27, 1970) and were permitted to collect such increased rates subject to refund after 75 days had passed (as of Jan. 10, 1971). The 75-day period applies to those filings made by producers within 30 days of the issuance of the October 27, 1970, order. Producer filings made after November 27, 1970, however, were to be subject to normal Commission suspension procedures. The order, however, left open the question of the appropriate suspension period for filings made after November 27, 1970.

The increases involved here were filed after the November 27, 1970, deadline. In view of the action taken in the procedural order in Docket No. AR69-1 accompanying Order No. 413, we believe it appropriate to suspend and permit an increase filed after November 27, 1970, to become effective subject to refund on the date from January 10, 1971, that corresponds to the number of days that the filing was made after November 27, 1970. This order so provides.

The proposed increased rates and charges exceed the applicable area price level for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR Chapter I Part 2 § 2.56).

[FR Doc.71-1019 Filed 1-26-71;8:45 am]

[Docket No. RP71-24, etc.]

MANUFACTURERS LIGHT AND HEAT CO. AND HOME GAS CO.

Order Accepting Joint Tariff and Revised Tariff Sheets for Filing Subject to Refund and Consolidated Proceedings

JANUARY 19, 1971.

The Manufacturers Light and Heat Co. (Manufacturers) and Home Gas Co. (Home), affiliates of The Columbia Gas System, Inc., on November 13 as supplemented on December 4, 1970, tendered for filing their joint FPC Gas Tariff, Original Volumes No. 1 and 2 pursuant to Commission order accompanying Opinion No. 587.[1] The new joint tariff, proposed to become effective as of October 14, 1970, is filed to supersede the currently effective individual tariffs of the two companies without change in services each performs thereunder and makes no change in the rates currently charged.[2]

In Opinion No. 587 the Commission authorized Manufacturers and Home to coordinate their operations as proposed in their joint application, subject to certain conditions. Paragraph (B) of the initial decision adopted by the Commission in Opinion No. 587, required that the applicants file a joint tariff containing the terms and provisions set forth in Exhibit P to the certificate application, as amended to eliminate the minimum commodity billing provisions and that the rate schedules in the joint tariff reflect zoned rates corresponding with the individual-company rates then in effect.

The rates included in rate schedules in the joint tariff, as original sheets, and the rates included in the revised tariff sheets to be effective as of November 1, 1970, are the same as and are proposed to supersede the pertinent rates in Dockets Nos. RP69-33 and RP69-32, respectively. The rates included in the other two sets of revised tariff sheets are the same as and are proposed to supersede the pertinent rates now under suspension until March 17 and April 16, 1971, in Dockets Nos. RP71-24 and RP71-25, respectively.

Upon review of the new joint tariff and the revised tariff sheets containing the rates currently in effect and those which have been or may become effective from and after October 14, 1970, subject to refund and rate reduction obligations in the above-captioned proceedings, we find that these proposed filings comply with the requirements of Opinion No. 587 and the initial decision therein adopted.

The Commission finds:

(1) The new joint tariff, Manufacturers' and Home's FPC Gas Tariff, Original Volumes Nos. 1 and 2, and the three sets of tariff sheets (Appendix A)[3] tendered for filing on November 13 as amended on December 4, 1970, are acceptable for filing as satisfactory compliance with the requirements of Opinion No. 587 and the initial decision therein adopted, subject to the conditions hereinafter prescribed.

(2) It is appropriate and necessary in carrying out the provisions of the Natural Gas Act that the proceedings in Dockets Nos. RP71-24 and RP71-38, involving the prospective rates and charges of Manufacturers be consolidated for hearing and decision with the similar proceedings of Home in Dockets Nos. RP71-25 and RP71-40.

The Commission orders:

(A) Manufacturers' and Home's FPC Gas Tariff, Original Volumes No. 1 and 2, and the revised tariff sheets (Appendix A)[3] tendered for filing on November 13 and December 4, 1970, are accepted for filing as satisfactory compliance with the requirements of Opinion No. 587 and the initial decision therein adopted, subject however, to the condition that, from and after October 14, 1970, they are substituted for the respective tariff volumes and tariff sheets of each of the applicants in each of the above-captioned proceedings as though initially filed in lieu thereof, and from and after October 14, 1970, such tariff and rate filings shall be subject to suspension, refund and rate reduction and all other obligations, rights and requirements of all prior and future orders issued in the respective docketed proceedings.

(B) The proceedings in Dockets Nos. RP71-24 and RP71-38 are consolidated for hearing and decision with the proceedings in Dockets Nos. RP71-25 and RP71-40.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary.*

[FR Doc.71-1095 Filed 1-26-71;8:47 am]

[1] Opinion No. 587 issued Oct. 14, 1970, in Docket No. CP68-364, ____ FPC ____ (1970).

[2] In addition to the joint tariff, the proposed rate filing contains three sets of tariff sheets, each set containing rates proposed to become effective as of Nov. 1, 1970, Mar. 17 and Apr. 16, 1971, respectively. (Appendix A which is filed as part of the original document).

[3] Appendix A filed as part of original document.

[Docket No. CP71-183]

NORTHERN NATURAL GAS CO.

Notice of Application

JANUARY 20, 1971.

Take notice that on January 14, 1971, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP71-183 an application pursuant to section 7(c) of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing applicant to construct and operate measuring station facilities in order to deliver up to 40,000 Mcf per day of natural gas to Minnegasco for large scale injection of Minnegasco's Waterville Underground Storage Field, as hereinafter described, all as more fully described in the application which is on file with the Commission and open to public inspection.

Applicant states that it was previously authorized to deliver up to 6,200 Mcf per day to Minnegasco for testing and development of an underground natural gas aquifer storage reservoir near Waterville, Minn. Subsequently, Northern was authorized to install certain minor facilities to transport certain volumes to permit Minnegasco to conduct withdrawal tests of the storage facility.

Minnegasco has now advised that it desires to commence large scale injection and has requested Northern to install metering facilities to connect with a 16-inch line to be built by Minnegasco in order to deliver up to 40,000 Mcf per day to Minnegasco. The gas which Minnegasco proposes to inject will be "valley gas" available within Minnegasco's contract demand.

Applicant states that the estimated cost of the proposed meter station facilities is $133,740, and that Minnegasco will reimburse Northern for the cost of such facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 12, 1971, 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.

[FR Doc.71-1097 Filed 1-26-71;8:47 am]

PRESIDENT'S COMMISSION ON SCHOOL FINANCE

COMMISSION'S PROGRAM

Notice Requesting Views

The President's Commission on School Finance is interested in receiving written statements from interested national organizations regarding their views of the Commission's programs.

Prepared statements should be sent to:

Mr. Norman Karsh, Executive Director, President's Commission on School Finance, 1016 16th Street NW., Washington, DC 20036.

The Commission's program has previously been released to the public on November 6, 1970, and is repeated, as follows:

1. What should be the role of each level of government to provide quality education?

2. Determine the degree to which the public purpose is served by the operation of nonpublic schools.

3. To what extent can public resources be used for nonpublic schools and what are the attendant obligations of nonpublic schools?

4. How can we improve the existing State and local tax and revenue structure to provide revenues which maximize yields and minimize public objections?

5. How can we improve the present distribution of State and local education funds to maximize equality and minimize disparity?

6. Can we define or establish a working definition of "Equal Educational Opportunity" for all individuals, in both a fiscal and educational sense? If yes, relate to roles of each level of government.

7. Is there any basis for justifying public support to a child, regardless of the school attended?

8. Can we determine what educational outputs should be and the techniques to measure them?

9. What changes in purposes, procedures or institutional arrangements are needed to improve the quality of American elementary and secondary education?

10. Can we illustrate the economic benefits of education?

11. What can the Federal Government do to direct its financial assistance in a manner most consistent with the "new federalism" as well as National (Federal-State-local) Goals?

12. What are the unique problems of financing the "inner-city" schools and what can be done now?

13. What are the unique problems of financing the education of special or high-cost target groups, such as Negro, Mexican-American or other minority groups, as well as handicapped children and those children living in sparsely populated areas?

14. What are the enrollment and financial projections for the 1970's and their implications for financial requirements?

15. Do we have adequate statistics and data to effectively portray the results of Federal-State-local programs to tell us what we are financing?

16. Are the new technologies which are being utilized throughout the Nation increasing or decreasing costs and are they worth it in terms of instructional effectiveness?

17. What is the potential for more efficient utilization of resources through improved techniques of business management, including technological innovations.

Dated: January 26, 1971.

NORMAN KARSH,
Executive Director, President's Commission on School Finance.

[FR Doc.71-1212 Filed 1-26-71;9:53 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4.3 for Disaster No. 783]

DISASTER COORDINATOR HURRICANE CELIA DISASTER

Delegation on Financial Assistance

I. Pursuant to the authority delegated by the Administrator to the Associate Administrator for Financial Assistance in Delegation of Authority No. 4, Revision 2 (35 F.R. 13234), as amended (35 F.R. 16759 and 36 F.R. 653), there is hereby redelegated to the Disaster Coordinator, Hurricane Celia Disaster (Disaster No. 783), the following authority:

A. *Financing program.* 1. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (a) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (b) $500,000 on disaster business loans (excluding displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters), except to the extent of refinancing of a previous SBA disaster loan; and to approve disaster guaranteed loans up to $1 million and to decline them in any amount.

2. To enter into disaster loan participation agreements with banks.

3. To execute loan authorizations for Central Office approved loans and for loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By: ----------
(Name)
Disaster Coordinator
---------- *Disaster.*

4. To cancel, reinstate, modify, and amend authorizations for disaster loans.

5. To extend the disbursement period on disaster loan authorizations or undisbursed portions of loans.

6. To approve service charges by participating banks not to exceed 2 percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing.

7. To establish disaster field offices upon receipt of advice of the designation of a disaster area; to advise on the making of disaster loans; to appoint as a processing representative any bank in the disaster area; and to close disaster field offices when no longer advisable to maintain such offices.

8. To approve or reject the request of an applicant to file for a disaster loan after the period for acceptance under the original disaster declaration, or extension thereof, has expired.

9. No authority is hereby delegated to declare the nonapplicability of eligibility limitations to a community emergency as set forth in § 120.2(e) of SBA Loan Policy Regulations.

B. *Loan administration program.* 1. To take all necessary actions in connection with the administration, servicing, and collection of all disaster loans (excluding displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters); other than those accounts classified as "in liquidation"; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers, including without limiting the generality of the foregoing.

a. The assignment, endorsement, transfer, and delivery (but in all cases without representation, recourse, or warranty) of notes, claims, bonds, debentures, mortgages, deeds of trust, contracts, patents, and applications therefor, licenses, certificates of stock and of deposit, and any other liens, powers, rights, charges on and interest in or to property of any kind, legal and equitable, now or hereafter held by the Small Business Administration or its Administrator.

b. The execution and delivery of contracts of sale or of lease or sublease, quitclaim, bargain and sale of special warranty deeds, bills of sale, leases, subleases, assignments, subordinations, releases (in whole or part) of liens, satisfaction pieces, affidavits, and such other instruments in writing as may be appropriate and necessary to effectuate the foregoing.

c. The approval of bank applications for use of liquidity privilege under the loan guaranty plan.

d. Except: (1) To compromise or sell any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon; (2) to deny liability of the Small Business Administration under the terms of a participation or guaranty agreement, or the assertion of a claim for recovery from a participating bank under any alleged violation of a participation or guaranty agreement; (3) to authorize the liquidation of a loan; or (4) to cancel authority to liquidate.

C. *Eligibility determinations.* To determine eligibility of applicants for assistance under the disaster loan program of the Agency (excluding displaced business and coal mine health and safety loan programs and the economic injury disaster loan program in connection with declarations made by the Secretary of Agriculture for natural disasters), in accordance with Small Business Administration standards and policies.

D. *Size determinations.* To make initial size determinations in all disaster loan cases (excluding displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters), within the meaning of the Small Business Size Standards Regulations, as amended, and further, to make product classificaton decisions for financial assistance purposes only. Product classification decisions for procurement purposes are made by contracting officers.

II. The specific authority in the subsections may be redelegated.

III. All authority delegated herein may be exercised by any Small Business Administration employee designated as acting disaster coordinator for the specified disaster.

Effective date: January 11, 1971.

JACK EACHON, Jr.,
Associate Administrator
for Financial Assistance.

[FR Doc.71-1125 Filed 1-26-71;8:49 am]

[Delegation of Authority 4.4 for Designated Disasters]

REGIONAL DIRECTORS

Delegation of Financial Assistance

Pursuant to the authority delegated by the Administrator to the Associate Administrator for Financial Assistance in Delegation of Authority No. 4, Revision 2 (35 F.R. 13234), as amended (35 F.R. 16759 and 36 F.R. 653), the following authority is hereby redelegated:

A. To approve or decline disaster direct and immediate participation loans up to the total SBA share of (1) $50,000 per household for repairs or replacement of the home and/or not to exceed an additional $10,000 allowable for household goods and personal items, but in no event may the money loaned for physical loss or damage exceed $55,000 for a single disaster on home loans, except for funds to refinance prior liens or mortgages, which may be approved in addition to the foregoing limits for amounts up to $50,000; and (2) $500,000 on disaster business loans (excluding displaced business loans, coal mine health and safety loans, and economic injury disaster loans in connection with declarations made by the Secretary of Agriculture for natural disasters) except to the extent of refinancing of a previous SBA disaster loan; and to approve disaster guaranteed loans up to $1 million, and to decline them in any amount:

a. Regional Director, Region II, for the following disasters:

(1) New York, Broome, Delaware, Tompkins, and Schuyler, Disaster No. 779.

(2) Puerto Rico, San Juan, Disaster No. 776.

(3) Puerto Rico, Island of Puerto Rico, Disaster No. 791.

b. Regional Director, Region III, for the following disasters:

(1) Pennsylvania, Cumberland, Disaster No. 780.

(2) Virginia, Alexandria and adjacent areas, Disaster No. 778.

c. Regional Director, Region IV, for the following disasters:

(1) Alabama, all areas affected, Disaster No. 734.

(2) Florida, all areas affected, Disaster No. 734.

(3) Florida, Santa Rosa, Escambia, Disaster No. 773.

(4) Florida, Bay, Disaster No. 793.

(5) Georgia, Chatham, Disaster No. 784.

(6) Mississippi, all areas affected, Disaster No. 734.

d. Regional Director, Region V, for the following disasters:

(1) Illinois, Crescent City, Disaster No. 777.

(2) Minnesota, St. Louis, Disaster No. 774.

(3) Minnesota, Douglas, Disaster No. 782.

e. Regional Director, Region VI, for the following disasters:

(1) Arkansas, Washington, Disaster No. 775.

(2) Louisiana, Beauregard, Calcasieu, Jefferson Davis, Allen, Disaster No. 795.

(3) New Mexico, Bernalillo, Disaster No. 781.

(4) Oklahoma, Oklahoma, Disaster No. 770.

(5) Oklahoma, Lincoln Pottawatomie, Disaster No. 790.

(6) Oklahoma, Murray, Disaster No. 792.

(7) Texas, Lubbock, Disaster No. 767.

f. Regional Director, Region VII, for the following disasters:

(1) Iowa, all areas affected, Disaster No. 787.

g. Regional Director, Region VII, for the following disasters:

(1) Colorado, La Plata, Disaster No. 794.

(2) North Dakota, Ransom, Disaster No. 771.

(3) Utah, Davis, Disaster No. 772.

(4) Utah, Sevier, Disaster No. 785.

h. Regional Director, Region IX, for the following disasters:

(1) Arizona, Maricopa and adjacent areas; also Navajo, Disaster No. 786.

(2) California, Alameda, Disaster No. 788.

(3) California, all areas, Disaster No. 789.

B. To establish disaster field offices upon receipt of advice of the designation of a disaster area; to advise on the making of disaster loans; to appoint as a processing representative any bank in the disaster area; and to close disaster field offices when no longer advisable to maintain such offices.

a. Regional Director, Region II, for the following disasters:

(1) New York, Broome, Delaware, Tompkins, and Schuyler, Disaster No. 779.

(2) Puerto Rico, San Juan, Disaster No. 776.

(3) Puerto Rico, Island of Puerto Rico, Disaster No. 791.

b. Regional Director, Region III, for the following disasters:

(1) Pennsylvania, Cumberland, disaster No. 780.

(2) Virginia, Alexandria and adjacent areas, Disaster No. 778.

c. Regional Director, Region IV, for the following disasters:

(1) Alabama, all areas affected, Disaster No. 734.

(2) Florida, all areas affected, Disaster, No. 734.

(3) Florida, Santa Rosa, Escambia, Disaster No. 773.

(4) Florida, Bay, Disaster. No. 793.

(5) Georgia, Chatham, Disaster No. 784.

(6) Mississippi, all areas affected, Disaster No. 734.

d. Regional Director, Region V, for the following disasters:

(1) Illinois, Crescent City, Disaster No. 777.

(2) Minnesota, St. Louis, Disaster No. 774.

(3) Minnesota, Douglas, Disaster No. 782.

e. Regional Director, Region VI, for the following disasters:

(1) Arkansas, Washington, Disaster No. 775.

(2) Louisiana, Beauregard, Calcasieu, Jefferson Davis, Allen, Disaster No. 795.

(3) New Mexico, Bernalillo, Disaster No. 781.
(4) Oklahoma, Oklahoma, Disaster No. 770.
(5) Oklahoma, Lincoln Pottawatomie, Disaster No. 790.
(6) Oklahoma, Murray, Disaster No. 792.
(7) Texas, Lubbock, Disaster No. 767.
f. Regional Director, Region VII, for the following disasters:
(1) Iowa, all areas affected, Disaster No. 787.
g. Regional Director, Region VIII, for the following disasters:
(1) Colorado, La Plata, Disaster No. 794.
(2) North Dakota, Ransom, Disaster No. 771.
(3) Utah, Davis, Disaster No. 772.
(4) Utah, Sevier, Disaster No. 785.
h. Regional Director, Region IX, for the following disasters:
(1) Arizona, Maricopa and adjacent areas; also Navajo, Disaster No. 786.
(2) California, Alameda, Disaster No. 788.
(3) California, all areas, Disaster No. 789.

C. To approve or reject the request of an applicant to file for a disaster loan after the period for acceptance under the original disaster declaration, or extension thereof, has expired:
a. Regional Director, Region II, for the following disasters:
(1) New York, Broome, Delaware, Tompkins, and Schuyler, Disaster No. 779.
(2) Puerto Rico, San Juan, Disaster No. 776.
(3) Puerto Rico, Island of Puerto Rico, Disaster No. 791.
b. Regional Director, Region III, for the following disasters:
(1) Pennsylvania, Cumberland, Disaster No. 780.
(2) Virginia, Alexandria and adjacent areas, Disaster No. 778.
c. Regional Director, Region IV, for the following disasters:
(1) Alabama, all areas affected, Disaster No. 734.
(2) Florida, all areas affected, Disaster No. 734.
(3) Florida, Santa Rosa, Escambia, Disaster No. 773.
(4) Florida, Bay, Disaster No. 793.
(5) Georgia, Chatham, Disaster No. 784.
(6) Mississippi, all areas affected, Disaster No. 734.
d. Regional Director, Region V, for the following disasters:
(1) Illinois, Crescent City, Disaster No. 777.
(2) Minnesota, St. Louis, Disaster No. 774.
(3) Minnesota, Douglas, Disaster No. 782.
e. Regional Director, Region VI, for the following disasters:
(1) Arkansas, Washington, Disaster No. 775.
(2) Louisiana, Beauregard, Calcasieu, Jefferson Davis, Allen, Disaster No. 795.
(3) New Mexico, Bernalillo, Disaster No. 781.
(4) Oklahoma, Oklahoma, Disaster No. 770.
(5) Oklahoma, Lincoln Pottawatomie, Disaster No. 790.
(6) Oklahoma, Murray, Disaster No. 792.
(7) Texas, Lubbock, Disaster No. 767.
f. Regional Director, Region VII, for the following disasters:
(1) Iowa, all areas affected, Disaster No. 787.
g. Regional Director, Region VIII, for the following disasters:
(1) Colorado, La Plata, Disaster No. 794.
(2) North Dakota, Ransom, Disaster No. 771.
(3) Utah, Davis, Disaster No. 772.
(4) Utah, Sevier, Disaster No. 785.
h. Regional Director, Region IX, for the following disasters:
(1) Arizona, Maricopa and adjacent areas; also Navajo, Disaster No. 786.
(2) California, Alameda, Disaster No. 788.
(3) California, all areas, Disaster No. 789.

Effective date: January 11, 1971.

JACK EACHON, Jr.,
Associate Administrator for Financial Assistance.

[FR Doc.71-1124 Filed 1-26-71;8:49 am]

[Delegation of Authority No. 30-F (Region I) (Amdt. 2)]

REGIONAL DIVISION CHIEFS, REGION I ET AL.

Delegation of Authority To Conduct Program Activities in Region I

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30-F (35 F.R. 6886), as amended (35 F.R. 15033 and 35 F.R. 17156), Delegation of Authority No. 30-F (Region I) (35 F.R. 8845) dated June 6, 1970, as amended (35 F.R. 18351) is hereby further amended by revising Item I.A.2.b., Item I.B.1, Item II.A.2.b, and Item III.A.2.b, to read as follows:

I. *Regional Division Chiefs, Regional Counsel, and Staffs*—A. *Chief and Assistant Chief, Financing Division.* * * *
2. * * *
b. To approve displaced business loans and coal mine health and safety loans up to $350,000 (SBA share) and to decline them in any amount.

* * * * *

B. *Supervisory Loan Officers (Financing Division).* 1. To approve or decline business, disaster, displaced business, and coal mine health and safety loans not exceeding $50,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

* * * * *

II. *District Directors*—A. *Financing Program.* * * *
2. * * *
b. To approve or decline displaced business loans and coal mine health and safety loans up to $350,000 (SBA share).

* * * * *

III. *District Division Chiefs, District Counsel, and Staffs*—A. *Chief, Financing Division.* * * *
2. * * *
b. To approve or decline displaced business loans and coal mine health and safety loans up to $350,000 (SBA share).

* * * * *

Effective date: December 8, 1970.

DAVID P. HEILNER,
Regional Director, Region I.

[FR Doc.71-1126 Filed 1-26-71;8:50 am]

[Delegation of Authority No. 30-H (Region II), Amdt. 3]

REGIONAL DIVISION CHIEFS, ET AL., REGION III

Delegation of Authority To Conduct Program Activities in Region II

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30-H, 35 F.R. 11603, as amended (35 F.R. 15033 and 35 F.R. 17156), Delegation of Authority No. 30-H (Region II) 35 F.R. 12805, as amended (35 F.R. 18351 and 36 F.R. 131), is hereby further amended by revising Item II.A.2.b, Item I.B, Item II.A.2.b, Item III.A.2.b, and Item IV.1, to read as follows:

I. *Regional Division Chiefs, Regional Counsel, and Staffs*—A. *Chief and Assistant Chief, Financing Division.* * * *
2. * * *
b. To approve displaced business loans and coal mine health and safety loans up to $350,000 (SBA share) and to decline them in any amount.

* * * * *

B. *Supervisory Loan Officers (Financing Division).* 1. To approve or decline business, disaster, displaced business, and coal mine health and safety loans not exceeding $50,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

* * * * *

II. *District Directors*—A. *Financing Program.* * * *
2. * * *
b. To approve or decline displaced business loans and coal mine health and safety loans up to $350,000 (SBA share).

* * * * *

III. *District Division Chiefs, District Counsel, and Staffs*—A. *Chief, Financing Division.* * * *
2. * * *
b. To approve or decline displaced business loans and coal mine health and safety loans up to $350,000 (SBA share).

IV. *Branch Manager—Buffalo, N.Y.* 1. To approve or decline business, disaster, displaced business, and coal mine health and safety loans not in excess of $50,000 (SBA share).

* * * * *

Effective date: October 29, 1970.

CARLOS A. VILLAMIL,
Regional Director, Region II.

[FR Doc.71-1127 Filed 1-26-71;8:50 am]

[Delegation of Authority No. 30-D (Region VIII) Amdt. 1]

REGIONAL DIVISION CHIEFS, ET AL., REGION III

Delegation of Authority To Conduct Program Activities in Region VIII

Pursuant to the authority delegated to the Regional Director by Delegation of Authority No. 30-D, 35 F.R. 5144, as amended (35 F.R. 15033 and 35 F.R. 17156), Delegation of Authority No. 30-D (Region VIII), dated April 11, 1970, 35 F.R. 6028, is hereby amended by revising Item I.A.2.b, Item I.B.1, Item I.J, Item II.A.2.b, and Item III.A.2.b, to read as follows:

I. *Regional Division Chiefs, Regional Counsel, and Staffs—A. Chief and Assistant Chief, Financing Division.* * * *

2. * * *

b. To approve displaced business loans and coal mine health and safety loans up to $350,000 (SBA share) and to decline them in any amount.

* * * * *

B. *Supervisory Loan Officers (Financing Division).* 1. To approve or decline business, disaster, displaced business, and coal mine health and safety loans not exceeding $50,000 (SBA share) and economic opportunity loans not exceeding $25,000 (SBA share).

* * * * *

J. *Chief, Procurement and Management Assistance Division.* 1. To take all necessary actions in connection with the administration and management of grants, agreements, and contracts executed by the Associate Administrator for Procurement and Management Assistance under the authority granted in section 406 of the Economic Opportunity Amendments of 1967, except changes, amendments, modifications, or termination of the original grant, agreement, or contract.

* * * * *

II. *District Directors—A. Financing Program.* * * *

2. * * *

b. To approve or decline displaced business loans and coal mine health and safety loans up to $350,000 (SBA share).

* * * * *

III. *District Division Chiefs, District Counsel, and Staffs—A. Chief, Financing Division.* * * *

2. * * *

b. To approve or decline displaced business loans and coal mine health and safety loans up to $350,000 (SBA share).

* * * * *

Effective date: December 30, 1970.

EDWIN JENISON,
Regional Director, Region VIII.

[FR Doc.71-1128 Filed 1-26-71;8:50 am]

INTERSTATE COMMERCE COMMISSION

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

JANUARY 22, 1971.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 35337, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. C-102 Case No. 3, filed November 9, 1970. Applicant: HOOKER MOTOR FREIGHT, INC., 1545 Buchanan Avenue SW., Grand Rapids, MI 49502. Applicant's representative: John W. Ester, 1 Woodward Avenue, Suite 1700, Detroit, MI 48226. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, between Potterville, Mich., and Battle Creek, Mich., via U.S. Highway 27 to intersection with I-94, as an alternate route for operating convenience only and serving only those points otherwise authorized. Both intrastate and interstate authority sought.

HEARING: February 25, 1971, 9:30 a.m., Seven Story Office Building, 525 West Ottawa Street, Lansing, MI. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Department of Commerce, Michigan Public Service Commission, Seven Story State Office Building, Lansing, MI 48913, and should not be directed to the Interstate Commerce Commission.

State Docket No. CC-915 (Rev. App. No. 19) (Republication), filed December 3, 1970, published in the FEDERAL REGISTER issue of December 23, 1970, and republished this issue. Applicant: FORE WAY EXPRESS, INC., 204 Bellis Street, Wausau, WI 54401. Applicant's representative: Nancy J. Johnson, 111 South Fairchild Street, Madison, WI 53703. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, over U.S. Highway 141 between Milwaukee and Green Bay for operating convenience only in intrastate and interstate commerce.

HEARING: February 15, 1971, 10 a.m., Suite 301, City Hall, Milwaukee, WI. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Service Commission of Wisconsin, Hill Farms State Office Building, 4802 Sheboygan Avenue, Madison, WI 53702, and should not be directed to the Interstate Commerce Commission. NOTE: The purpose of this republication is to state that the sought route is for operating convenience only.

State Docket No. C-2327 (Case No. 2), filed November 12, 1970. Applicant: MILLER TRANSPORTATION CORP., 4035 Jimbo Drive, Post Office Box 7047, Flint, MI 48507. Applicant's representative: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, serving the plantsite of GMC Truck & Coach Division of General Motors Corp. on Ecorse Road, one-half mile west of Denton Road, in Van Buren Township, Wayne County, Mich. (near Willow Run), as an off-route point in connection with otherwise authorized operations. Both intrastate and interstate authority sought.

HEARING: February 25, 1971, 9:30 a.m., Seven Story Office Building, 525 West Ottawa Street, Lansing, MI. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Michigan Public Service Commission, Seven Story State Office Building, Lansing, MI 48913, and should not be directed to the Interstate Commerce Commission.

State Docket Number Amending Common Carrier Certificate No. 2709. Applicant: BLUEBONNET EXPRESS, INC., 5009 Rusk Avenue, Post Office Box 18205, Houston, TX 77023. Applicant's representative: Joe G. Fender, 802 Houston First Savings Building, Houston, TX 77002. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of (A) *Magazines, pamphlets, periodicals, and paperback books* between Houston and Lufkin, Tex., over U.S. Highway 59 and (B) *Motion picture films and theatrical supplies, and newspapers and newspaper supplies, and general commodities* over the following routes: Between Austin and Bastrop, Tex., via Elgin, Tex., over U.S. Highway 290 from Austin to Elgin; over State Highway 95 from Elgin to Bastrop and return over the same route serving all intermediate points, coordinating with the service presently rendered over existing routes and interchanging freight at appropriate points. Between Austin, Tex., and Bastrop, Tex., over State Highway 71 and return over the same route, removing present restrictions over this route, serving all intermediate points, coordinating with the service presently rendered over existing routes and interchanging freight at appropriate points. The transportation of

general commodities over the roads hereinabove described shall be subject to the following restrictions: No service shall be rendered in the transportation of any package or articles weighing more than 50 pounds. No service shall be provided in the service of packages or articles weighing in the aggregate more than one hundred (100) pounds from one consignor at one location to one consignee at one location on any one day.

Further restrictions: (1) The Texas Commission retains jurisdiction over this certificate, under the provisions of section 12(b), Article 911(b), V.C.S., so that if the Texas Commission, in the future, determines that the holder hereof is not performing the service authorized by the Texas Commission, it may amend, revoke, or suspend the authority herein granted, if conditions so justify. (2) The holder of this certificate is required to keep such records and accounts to enable the law enforcement division of the Texas Commission to ascertain if the holder hereof is complying with the restriction as to the type of commodities, and weight thereof, authorized herein. (3) The holder hereof shall file with the Texas Commission each January 1, April 1, July 1, and October 1, a current, accurate list of its local representatives and agents and their addresses. (4) On July 1 of each year, the holder of this certificate shall file a "performance report" with the Texas Commission with respect to the operations conducted under the certificate here issued, which report shall show the tonnage handled, the towns served, and any other information which the Texas Commission may request. Both intrastate and interstate authority sought.

HEARING: Application will be assigned for hearing approximately 30 days after notice in the FEDERAL REGISTER. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Railroad Commission of Texas, Capitol Station, Post Office Drawer EE, Austin, TX 78711, and should not be directed to the Interstate Commerce Commission.

State Docket No. C–3742 (Case No. 13), filed November 12, 1970. Applicant: EARL C. SMITH, INC., Post Office Box 349, Port Huron, MI. Applicant's representative: Walter N. Bieneman, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities* over irregular routes, serving the plantsite of GMC Truck & Coach Division of General Motors Corp. on Ecorse Road, one-half mile west of Denton Road, in Van Buren Township, Wayne County, Mich. (near Willow Run), as an off-route point in connection with otherwise authorized operations. Both intrastate and interstate authority sought.

HEARING: February 25, 1971, 9:30 a.m., Seven Story Office Building, 525 West Ottawa Street, Lansing, MI. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Department of Commerce, Michigan Public Service Commission, Seven Story State Office Building, Lansing, MI 48913, and should not be directed to the Interstate Commerce Commission.

State Docket No. MT 8891, filed December 15, 1970. Applicant: SPECIALIZED TRUCKING CORP., 90–14 217th Street, Queens Village, NY 11428. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *Wines and Spirits and Alcoholic Beverages of all descriptions:* From Nassau and Suffolk Counties and the port limits of New York City to all points in New York State. Both intrastate and interstate authority sought.

HEARING: Date and time and place application has been assigned for hearing to be hereafter fixed. Requests for procedural information including the time for filing protests concerning this application should be addressed to the New York State Public Service Commission, 44 Holland Avenue, Albany, NY 12208, and should not be directed to the Interstate Commerce Commission.

By the Commission.

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

[FR Doc.71–1115 Filed 1–26–71;8:49 am]

[Notice 3]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JANUARY 22, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Deviation No. 575) (Cancels Deviation No. 530), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed January 12, 1971. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Erie, Pa., over Interstate Highway 79 to junction Pennsylvania Highway 288, thence over Pennsylvania Highway 288 to junction U.S. Highway 19 near the Pennsylvania Turnpike; (2) from Edinboro, Pa., over U.S. Highway 6N to junction Interstate Highway 79; (3) from Meadville, Pa., over U.S. Highway 6 to junction Interstate Highway 79; (4) from junction Pennsylvania Highway 358 and U.S. Highway 19 over Pennsylvania Highway 358 to junction Interstate Highway 79; (5) from Mercer, Pa., over U.S. Highway 62 to junction Interstate Highway 79; (6) from the interchange of U.S. Highway 19 and Interstate Highway 80 over Interstate Highway 80 to junction Interstate Highway 79; (7) from Leesburg, Pa., over Pennsylvania Highway 208 to junction Interstate Highway 79; (8) from Harlansburg, Pa., over Pennsylvania Highway 108 to junction Interstate Highway 79; (9) from junction U.S. Highways 422 and 19 over U.S. Highway 422 to junction Interstate Highway 79; (10) from Pottersville, Pa., over U.S. Highway 488 to junction Interstate Highway 79; and (11) from Zelienople, Pa., over Pennsylvania Highway 68 to junction Interstate Highway 79, and return over the same routes, for operating convenience only.

The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From junction U.S. Highways 422 and 19 at a point approximately 11 miles east of New Castle, Pa., over U.S. Highway 19 via Portersville and Zelienople, Pa., to Pittsburgh, Pa.; (2) from Erie, Pa., over U.S. Highway 19 to Kearsarge, Pa., thence over Pennsylvania Highway 99 to Cambridge Springs, Pa., thence over U.S. Highway 6 to Conneaut Lake, Pa.; (3) from Pittsburgh, Pa., over U.S. Highway 19 to junction Pennsylvania Turnpike, at the Perry Highway Interchange near Warrendale, Pa.; and (4) from junction U.S. Highways 19 and 422 approximately 11 miles east of New Castle, Pa., over U.S. Highway 19 to junction U.S. Highway 6, thence over combined U.S. Highways 19 and 6 to junction U.S. Highway 322 approximately 4 miles west of Meadville, Pa., and return over the same routes.

By the Commission.

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

[FR Doc.71–1117 Filed 1–26–71;8:49 am]

[Notice No. 3]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

JANUARY 22, 1971.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC–30504 (Deviation No. 10), TUCKER FREIGHT LINES, INC., 1415 South Olive Street, South Bend, IN 46621, filed January 13, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From junction Michigan Highway 78 and U.S. Highway 23 (west of Flint, Mich.), over U.S. Highway 23 to junction U.S. Highway 24 (south of Toledo, Ohio), thence over U.S. Highway 24 to junction U.S. Highway 31 (west of Peru, Ind.), and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From South Bend, Ind., over U.S. Highway 31 to Niles, Mich., thence over Michigan Highway 40 to junction U.S. Highway 12, thence over U.S. Highway 12 to Battle Creek, Mich., thence over Michigan Highway 78 to Flint, Mich.; and (2) from Grand Rapids, Mich., over U.S. Highway 131 to the Michigan-Indiana State line, thence over Indiana Highway 15 to Bristol, Ind., thence over Indiana Highway 120 to Elkhart, Ind., thence over U.S. Highway 33 to South Bend, Ind., thence over U.S. Highway 31 to Indianapolis, Ind., and return over the same routes.

No. MC–48958 (Deviation No. 24), ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, CO 80216, filed January 12, 1971. Carrier's representative: Morris G. Cobb, Post Office Box 9050, Amarillo, TX 79105. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From San Diego, Calif., over U.S. Highway 80 (Interstate Highway 8) to junction Arizona Highway 84, thence over Arizona Highway 84 (Interstate Highway 8) to junction Arizona Highway 93, thence over Arizona Highway 93 to junction Interstate Highway 10, thence over Interstate Highway 10 to Phoenix, Ariz., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From San Diego, Calif., over U.S. Highway 395 to Colton, Calif.; (2) from Colton, Calif., over U.S. Highway 99 to Indio, Calif., thence over U.S. Highway 60 to Wickenburg, Ariz., thence over U.S. Highway 89 to Ashfork, Ariz.; and (3) from Wickenburg, Ariz., over U.S. Highway 89 to Phoenix, Ariz., and return over the same routes.

No. MC–48958 (Deviation No. 25), ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, Denver, CO 80216, filed January 12, 1971. Carrier's representative: Morris G. Cobb, Post Office Box 9050, Amarillo, TX 79105. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Fort Sumner, N. Mex., over U.S. Highway 84 to junction U.S. Highway 66 (Interstate Highway 40), thence over U.S. Highway 66 (Interstate Highway 40) to Clines Corners, N. Mex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as folows: (1) From Albuquerque, N. Mex., over U.S. Highway 66 to Moriarty, N. Mex., thence over New Mexico Highway 41 to junction U.S. Highway 60, thence over U.S. Highway 60 to Vaughn, N. Mex., thence over U.S. Highway 285 to Carlsbad, N. Mex., thence over U.S. Highway 62 to El Paso, Tex.; (2) from Albuquerque, N. Mex., over the route described in (1) above to Vaughn, N. Mex., thence over U.S. Highway 60 via Clovis, N. Mex., to Amarillo, Tex.; and (3) from junction U.S. Highway 66 and New Mexico Highway 41, near Moriarty, N. Mex., over U.S. Highway 66 to Clines Corners, N. Mex., thence over U.S. Highway 285 to junction U.S. Highway 60, near Encino, N. Mex., and return over the same routes.

No. MC–110683 (Deviation No. 4), SMITH'S TRANSFER CORPORATION, Post Office Box 1000, Staunton, VA 24401, filed January 13, 1971. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Chattanooga, Tenn., over U.S. Highway 27 to junction U.S. Highway 70, thence over U.S. Highway 70 to junction Interstate Highway 40, thence over Interstate Highway 40 to Knoxville, Tenn., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) From Chattanooga, Tenn., over U.S. Highway 11 (formerly Tennessee Highway 2) via Ooltewah, Mineral Park, and McDonald, Tenn., to Cleveland, Tenn., thence over U.S. Highway 64 (portion formerly Tennessee Highway 40) to junction U.S. Highway 411 (formerly Tennessee Highway 33), at or near Ocoee, Tenn., thence over U.S. Highway 411 via Venton, Wetmore, Etowah, Englewood, Madisonville, and Vonore, Tenn., to Maryville, Tenn., thence over Tennessee Highway 73 via Alcoa, Tenn., to Knoxville, Tenn.; and (2) from Knoxville, Tenn., over U.S. Highway 11 to Cleveland, Tenn., thence over Tennessee Highway 60 to the Tennessee-Georgia State line, thence over Georgia Highway 71 to Dalton, Ga., thence over U.S. Highway 41 to Cartersville, Ga., thence over Georgia Highway 293 via Acworth, Ga., to Marietta, Ga., thence over Georgia Highway 3 via Smyrna, Ga., to Atlanta, Ga., and return over the same routes.

By the Commission.

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

[FR Doc.71–1118 Filed 1–26–71;8:49 am]

[Notice 234]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 22, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC–67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 36509 (Sub-No. 16 TA), filed January 18, 1971. Applicant: LOOMIS ARMORED CAR SERVICE, INC., 55 Battery Street, Seattle, WA 98121. Applicant's representative: George H. Hart, IBM Building, Seattle, WA 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin, currency and securities, and negotiable instruments*, between Seattle, Wash., on the one hand, and, on the other, points in Boundary, Bonner, Kootenai, Benewah, Shoshone, Clearwater, Latah, Nez Perce, Lewis, and Idaho Counties, Idaho, for 180 days. Supporting shipper: Federal Reserve Bank of San Francisco, San Francisco, CA 94120. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, WA 98101.

No. MC 107151 (Sub-No. 25 TA), filed January 20, 1971. Applicant: H. F. JOHNSON, INC., Post Office Box 1435, 1524 Lockwood Road, Billings, MT 59103. Applicant's representative: Hugh Sweeney, 2718 Third Avenue North, Billings, MT 59101. Authority sought to

operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, from Bozeman, Mont., and Missoula, Mont., to points in Malheur County, Oreg., with *rejected or contaminated shipments* on return, for 180 days. Supporting shipper: Farmers Union Central Exchange, Post Office Box 126, Laurel, MT 59044. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, MT 59101.

No. MC 107496 (Sub-No. 797 TA), filed January 18, 1971. Applicant: RUAN TRANSPORT CORPORATION, Post Office Box 855, 50304, Third and Keosauqua Way, Des Moines, IA 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid foundry facing*, in bulk, in stainless steel tank vehicles, from Highland, Ind., to Ashland and Newport, Ky., for 150 days. Supporting shipper: Therminum, Inc., 2550 Industrial Drive, Highland, IN 46322. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, IA 50309.

No. MC 107496 (Sub-No. 798 TA), filed January 18, 1971. Applicant: RUAN TRANSPORT CORPORATION, Post Office Box 855, 50304, Third and Keosauqua Way, Des Moines, IA 50309. Applicant's representative: H. L. Fabritz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand with additives*, in bulk, in dump vehicles, from Aurora, Ill., to points in Indiana, Iowa, Wisconsin, and the Lower Peninsula of Michigan, for 180 days. Supporting shipper: Faskure Coated Sand Division, Aurora Matal Corp., 1019 Jericho Road, Aurora, IL 60538. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, IA 50309.

No. MC 107515 (Sub-No. 729 TA), filed January 20, 1971. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, 3901 Jonesboro Road SE., Forest Park, GA 30050. Applicant's representative: B. L. Gundlach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Terre Haute, Ind., to points in Georgia and Florida, for 150 days. Supporting shipper: The Pillsbury Co., 608 Second Avenue South, Minneapolis, MN 65402. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 111170 (Sub-No. 157 TA), filed January 20, 1971. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, 2311 North West Avenue, El Dorado, AR 71730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Novacite/novaculite*, (silica), dry, in bulk, from Hot Springs, Ark., to Chesterfield, Mo., for 180 days. Supporting shipper: Malvern Minerals Co., Post Office Box 1246, 220 Runyon Street, Hot Springs, AR 71901. Send protests to: District Supervisor William H. Land, Jr., 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 113624 (Sub-No. 57 TA), filed January 20, 1971. Applicant: WARD TRANSPORT, INC., Post Office Box 735, Pueblo, CO 81002. Applicant's representative: Donald S. Smith (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, from Moab, Utah, to points in Colorado, for 180 days. Supporting shipper: Suburban Gas of Denver, Inc., 3801 East 56th Avenue, Commerce City, CO 80022. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, CO 80202.

No. MC 115331 (Sub-No. 295 TA), filed January 18, 1971. Applicant: TRUCK TRANSPORT INCORPORATED, 1931 North Geyer Road, St. Louis, MO 63131. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from Pekin, Ill., to points in Iowa; for 180 days. Supporting shipper: International Salt Co., Clarks Summit, PA, Robert J. Casey, Midwest Traffic Manager, International Salt Co., 6300 North River Road, Rosemont, IL 60018. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 116133 (Sub-No. 6 TA), filed January 18, 1971. Applicant: POLLARD DELIVERY SERVICE, INC., Washington National Airport, Washington, DC 20001. Applicant's representative: Peter A. Green, Commonwealth Building, 1625 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Geneal commodities* (except those of unusual value, classes A or B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require special equipment) between points in Warren, Page, and Shenandoah Counties, Va., on the one hand, and, on the other, Dulles International Airport, Chantilly, Va., Washington National Airport, Gravelley Point, Va., and Friendship International Airport, Anne Arundel County, Md. *Restriction:* The authority granted herein is restricted to traffic having a prior, or subsequent movement by air for 180 days. Supporting shippers: There are approximately 17 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, DC 20423.

No. MC 117119 (Sub-No. 428 TA), filed January 18, 1971. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, AR 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Engraver's plates, zinc, copper, magnesium, petroleum distillate, chemicals, and photographers' materials*, from Greeneville, Tenn., to Tulsa and Oklahoma City, Okla.; Joplin and Springfield, Mo.; Little Rock, Hot Springs, and Texarkana, Ark.; Dallas, Fort Worth, Houston, San Antonio, Abilene, San Angelo, Beaumont, Waco, and Corpus Christi, Tex.; Wichita and Parsons, Kans.; Shreveport and New Orleans, La.; Denver and Colorado Springs, Colo.; San Francisco, San Diego, and Los Angeles, Calif.; and Memphis, Tenn.; for 180 days. Supporting shipper: Lew Wenzel & Co., 520 South Peoria, Tulsa, OK 74120. Send protests to: District Supervisor William H. Land, Jr., 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 125194 (Sub-No. 13 TA), filed January 20, 1971. Applicant: STATE LINE DAIRY, INC., 1015 State Line Road, Niles, MI 49120. Applicant's representative: David Parent, Jr. (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Milk and dairy products and filled or imitation milk and dairy products, fruit drinks and salads*, from Livonia, Mich., to points in Will County, Ill., for 180 days. Supporting shipper: The Kroger Co. Dairy, 29600 Industrial Road, Livonia, MI 48150 (by Harland E. Austin, Plant Manager). Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Federal Building, Room 225, Lansing, MI 48933.

No. MC 128273 (Sub-No. 84 TA), filed January 18, 1971. Applicant: MIDWESTERN EXPRESS, INC., Box 189, 121 Hamboldt Street, Fort Scott, KS 66701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manufactured tobacco products*, from Louisville, Ky., to Akron, Cinncinnati, Cleveland, Columbus, Dayton, and Toledo, Ohio; Albany, Tonawanda, Buffalo, Syracuse, and Rochester, N.Y.; Atlanta, Ga.; Birmingham and Montgomery, Ala.; Boston, Westwood, and Springfield, Mass.; Butte, Mont.; Chicago and East Peoria, Ill.; Dallas, Farmers Branch, El Paso, Houston, San Antonio, and Lubbock, Tex.; Denver, Colo.; Des Moines, Iowa; Detroit, Melvindale, and Grand Rapids, Mich.; East Hartford, Conn.; Fargo, N. Dak.; Green Bay and Milwaukee, Wis.; Harrisburg, Pittsburgh, and Scranton, Pa.; Jacksonville, Miami, and Tampa, Fla.; Jersey City, N.J.; Kansas City and St. Louis, Mo.; Little Rock, Ark.; Los Angeles, Wilmington, National City,

Oakland, San Diego, Scranton, and San Francisco, Calif.; Memphis and Nashville, Tenn.; Milwaukie, Oreg.; Minneapolis, Minn.; New Orleans and Shreveport, La.; Oklahoma City and Tulsa, Okla.; Omaha, Nebr.; Richmond, Va.; Phoenix, Ariz.; Portland, Maine; Providence, R.I.; Salt Lake City, Utah; Seattle and Spokane, Wash.; Sioux Falls, S. Dak.; Wichita, Kans.; and Greensboro, N.C.; for 180 days. Supporting shipper: Lorillard, 2525 East Market Street, Greensboro, NC. Send protests to: M. E. Taylor, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 501 Petroleum Building, Wichita, KS 67202.

No. MC 128701 (Sub-No. 7 TA), filed January 18, 1971. Applicant: R. MARTEL EXPRESS LTD., 47 Visitation Street, Farnham, PQ Canada. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: *Snowmobiles*, from ports of entry on the international boundary line between the United States and Canada in Maine, New Hampshire, Vermont, New York, and Michigan to; (A) Lewiston, Maine; West Leyden, N.Y.; Burlington, Vt.; Saginaw, Mich.; Rolling Meadows, Ill.; Newark, N.J.; Kenosha, Wis.; Alexandria, Minn.; Inglewood, Colo.; Provo, Utah; Los Angeles, Calif. For the account of Northways Snowmobiles Ltd., (B) Denver, Colo.; Salt Lake City, Utah; Harrisburg, Pa.; La Crosse, Wis.; Neenah, Wis.; Bozeman, Mont.; Lansing, Mich.; Milford, N.H.; West Fargo, S. Dak.; Minneapolis, Minn. For the account of the Eskimo Division, McKee Brothers Ltd., (C) Carlisle and Monroeville, Pa.; South Boston, Mass.; Johnstown, N.Y. For the account of the Featherweight Corp., (D) Hibbing, Minn.; Albany, N.Y.; Janesville, Wis.; Lansing, Mich.; Port Huron, S. Dak. For the account of Autotechnique, Inc., for 150 days. Supporting shippers: (1) Northways Snowmobiles Ltd., Pointe Claire, PQ Canada; (2) Eskimo Division of McKee Brothers Ltd., Pointe Claire, PQ Canada; (3) Featherweight Corp., Montreal, PQ Canada. Send protests to: District Supervisor Martin P. Monaghan, Jr., Bureau of Operations, Interstate Commerce Commission, 52 State Street, Room 5, Montpelier, VT 05602.

No. MC 128988 (Sub-No. 12 TA), filed January 20, 1971. Applicant: JO/KEL, INC., Post Office Box 22265, Los Angeles, CA 90022. Applicant's representative: Louis C. Curry (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Upholstery or carpet tacking rims or strips, nails, adhesive cement, mechanic hand tools, and advertising materials, racks and stands* therefor, from City of Industry, Calif., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities described above, from points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas to City of Industry, Calif. Restriction: The transportation service authorized is restricted against the transportation of commodities in bulk and is limited to a transportation service to be performed under continuing contract, or contracts, with Taylor Industries, Inc., for 150 days. Supporting shipper: Taylor Industries, a subsidiary of Consolidated Foods Corp., 13300 East Nelson Avenue, City of Industry, CA 91746. Send protests to: John E. Nance, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 133409 (Sub-No. 1 TA), filed January 18, 1971. Applicant: LOUIS H. FOLTZ, doing business as AIR FREIGHT DELIVERY SERVICE, 1031 Orchard Avenue, Winchester, VA 22601. Applicant's representative: Daniel B. Johnson, Perpetual Building, Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, commodities in bulk, and commodities requiring special equipment, between points in Shenandoah, Page, and Warren Counties, Va., on the one hand, and, on the other, Friendship International Airport at Baltimore, Md., Dulles International Airport at Chantilly, Va., and Washington National Airport at Alexandria, Va. Restriction: The operations authorized herein are restricted to the transportation of shipments having an immediately prior or immediately subsequent movement by air, for 180 days. Supporting shippers: Redifixt Consolidated Business Systems, Post Office Box 483, Luray, VA; Wallace Business Forms, Inc., Post Office Box 512, Luray, VA; Aileen, Inc., Woodstock, VA; Aileen, Inc. Edinburg, VA; Shenandoah County Memorial Hospital, Inc., Woodstock, VA; Warren Memorial Hospital, 1000 Shenandoah Avenue, Front Royal, VA; James McGraw, Inc., Post Office Box 1087, Front Royal, VA. Send protests to: Robert D. Caldwell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC 20423.

No. MC 134323 (Sub-No. 11 TA), filed January 18, 1971. Applicant: JAY LINES, INC., 6210 River Road, Post Office Box 1644, Amarillo, TX 79109. Applicant's representative: Richard A. Peterson, 521 South 14th Street, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, from the plantsite and storage facilities of Missouri Beef Packers, Inc., at or near Plainview, Tex., to points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Normal L. Cummins, Director of Physical Distribution, Missouri Beef Packers, Inc., 630 Amarillo Building, Amarillo, TX 79101. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1012 Herring Plaza, 314 East Third Street, Amarillo, TX 79101.

No. MC 134776 (Sub-No. 6 TA), filed January 18, 1971. Applicant: MILTON TRUCKING, INC., Rural Delivery 1, Milton, PA 17847. 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: *Spheres, highway marking strip glass, ballotini, and glass, crushed, ground and powdered*, from Apex, N.C., to points in Maryland, Pennsylvania, New Jersey, and New York; (2) *materials and supplies* used in the manufacture and sale of glass spheres (except in bulk, in tank vehicles), from the destination territory above to Apex, N.C., under contract with Potters Industries, Inc., for 150 days. Supporting shipper: Potters Industries, Inc., Post Office Box 14, Carlstadt, NJ 07072. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 134776 (Sub-No. 7 TA), filed January 18, 1971. Applicant: MILTON TRUCKING, INC., Rural Delivery 1, Milton, PA 17847. 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 (1) *Spheres, highway marking strip glass, ballotini, and glass, crushed, ground and powdered*, from Carlstadt, N.J., to points in Maryland, Pennsylvania, Connecticut, Delaware, Massachusetts, New Hampshire, Rhode Island, Vermont, North Carolina, and New York; (2) *materials, and supplies* used in the manufacture and sale of glass spheres (except in bulk, in tank vehicles), from the destination territory above to Carlstadt, N.J., under contract with Potters Industries, Inc., for 150 days. Supporting shipper: Potters Industries, Inc., Post Office Box 14, Carlstadt, NJ 07072. Send protests to: Robert W. Ritemour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 134776 (Sub-No. 8 TA), filed January 18, 1971. Applicant: MILTON TRUCKING, INC., Rural Delivery 1, Milton, PA 17847. 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: (1) *Spheres, highway marking strip glass, ballotini, and glass, crushed, ground and powdered,* from Cleveland, Ohio; to points in Maryland, Pennsylvania, New York, Illinois, Indiana, and Michigan; (2) *materials and supplies* used in the manufacture and sale of glass spheres (except in bulk, in tank vehicles), from the destination territory above to Cleveland, Ohio. Under contract with Potters Industries, Inc., for 150 days. Supporting shipper: Potters Industries, Inc., Post Office Box 14, Carlstadt, NJ 07072. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 135031 (Sub-No. 1 TA), filed January 20, 1971. Applicant: MARK NOONAN, Cornlea, Nebr. 68630. Applicant's representative: Charles J. Kimball, 300 N.S.E.A. Building, 14th and J Streets, Lincoln, NE 68501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Irrigation systems and related parts, equipment, materials, and supplies,* between the plantsite and storage facilities utilized by Lindsay Manufacturing Co., Inc., at or near Lindsay, Nebr., on the one hand, and, on the other, points in Arizona, California, Colorado, Delaware, Florida, Georgia, Idaho, Iowa, Kansas, Maryland, Michigan, Minnesota, Missouri, Montana, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming, for 120 days. Supporting shipper: Arthur Zimmerer, Lindsay Manufacturing Co., Inc., Box 156, Lindsay, NE 68644. Send protests to: District Supervisor Max H. Johnson, Interstate Commerce Commission, Bureau of Operations, 315 Federal Building and Courthouse, Lincoln, NE 68508.

No. MC 135183 (Sub-No. 1, TA), filed January 20, 1971. Applicant: KERR CONTRACT CARRIAGE, INC., Salem, Mo. 65560. Applicant's representative: George J. Pruneau, 100 North Main Street, Piedmont, MO 63957. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Charcoal, charcoal bricquettes, and associated barbecue items, cornstarch and paper bags,* from plantsite of Floyd Charcoal Co., Salem, Mo., to points in Ohio, Illinois, Missouri, Kansas, Wisconsin, Michigan, Indiana, Kentucky, Oklahoma, Alabama, Mississippi, Georgia, Florida, and Arkansas, for 180 days. Supporting shipper: Floyd Charcoal Co., Salem, Mo. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 135238 TA, filed January 18, 1971. Applicant: THOMPSON COMPANY, INC., doing business as THOMPSON MOVING & STORAGE, 331 Love Street, Troy, AL 36801. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, DC 20006. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Used household goods,* between points in Pike, Dale, Henry, Houston, Geneva, Coffee, Covington, Butler, Crenshaw, Lowndes, Dallas, Autauga, Montgomery, Elmore, Macon, Bullock, and Barbour Counties, Ala., restricted to shipments having a prior or subsequent movement beyond said points in containers, and further restricted to pickup and delivery services incidental to and in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such shipments, for 180 days. Supporting shippers: Perfect Pak Co., 1001 Westlake Avenue North, Seattle, WA 98109; International Export Packers, Inc., 5360 Wheeler Avenue, Alexandria, VA 22304; Jet Forwarding, Inc., 2945 Columbia Street, Torrance, CA 90503. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, AL 35203.

No. MC 135242 TA, filed January 20, 1971. Applicant: HIGGINS CONTRACT CARRIER, INC., Post Office Box 206, Shelby, NE 68662. Applicant's representative: David R. Parker, Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients:* (1) From Schuyler, Nebr., to points in Iowa, Kansas, and Colorado under a continuing contract with F. J. Higgins Milling Co. and (2) from Schuyler, Columbus, David City, Central City, and Fremont, Nebr., to points in Iowa, Kansas, and Colorado under a continuing contract with Three Dehy Co., Inc., for 150 days. Supporting shipper: John Higgins, Vice-President, F. J. Higgins Milling Co., and Secretary-Treasurer of Three Dehy Co., Inc., Schuyler, Nebr. 68661. Send protests to: District Supervisor Max H. Johnston, Bureau of Operations, Interstate Commerce Commission, 315 Federal Building and Courthouse, Lincoln, NE 68508.

By the Commission.

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

[FR Doc.71-1119 Filed 1-26-71;8:49 am]

[Notice 638]

MOTOR CARRIER TRANSFER PROCEEDINGS

JANUARY 22, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72505. By order of January 18, 1971, the Motor Carrier Board approved the transfer to Ronald Woltmann and Edna M. Woltmann, a partnership, doing business as Woltmann Trucking, Avoca, Iowa, of the operating rights in certificate No. MC-34257 issued July 26, 1963, to Hermann Woltmann, Avoca, Iowa, authorizing the transportation of livestock between Oakland, Iowa, and points in Iowa within 30 miles of Oakland, on the one hand, and, on the other, Omaha and Fremont, Nebr., and feeds, agricultural implements, furniture, hay, seeds, salt, grain, inedible tallow, hides, empty barrels, and iron pipe between Oakland, Iowa, and points within 15 miles of Oakland, on the one hand, and, on the other, Omaha, Nebr. Milton L. Hanson, Avoca, Iowa 51521, attorney for applicants.

No. MC-FC-72455. By order of January 18, 1971, the Motor Carrier Board approved the transfer to Port Motor Lines, Inc., Englewood Cliffs, N.J., of certificates Nos., MC-126873 and MC-126873 (Sub-No. 1) issued to Central Port Warehouses, Inc., Carlstadt, N.J., authorizing the transportation of: General commodities, with the usual exceptions, between specified points and areas in New York, New Jersey, and Connecticut. William D. Traub, Practitioner, 10 East 40th Street, New York, N.Y. 10016, Albert S. Gross, attorney, 1 Essex Street, Hackensack, NJ 07601.

No. MC-FC-72557. By order of January 13, 1971, the Motor Carrier Board approved the transfer to Menantico Transport Co., Inc., Vineland, N.J., of the operating rights in certificate No. MC-88071 issued January 31, 1967 to John Reginak, Millville, N.J., authorizing the transportation of construction and road-building materials, supplies, and equipment between points in Pennsylvania within 50 miles of Trenton, N.J., on the one hand, and, on the other, points in New Jersey. Matthew Aaron, 204 Feinstein Building, Bridgeton, N.J. 08302, attorney for applicants.

No. MC-FC-72577. By order of January 18, 1971, the Motor Carrier Board approved the transfer to Baker Trucking, Inc., Baker, Mont., of certificate No. MC-98971 (Sub-No. 1) issued to Alvin Graham and Rodney Askin, doing business as Baker Trucking Service, Baker, Mont., authorizing the transportation of: General commodities, with the usual exceptions, between specified points in Montana and North Dakota. Gene Huntley, Box 897, Baker, MT 59313, attorney at law.

No. MC-FC-72578. By order of January 20, 1971, the Motor Carrier Board approved the transfer to H H & S Co., Inc., Pittsburgh, Pa., of the operating rights in certificate No. MC-13245 issued July 10, 1969, to City Express, Inc., Irwin, Pa., authorizing the transportation of building and construction materials, supplies, machinery, and equipment, between Pittsburgh, Pa., and points in Pennsylvania within 50 miles of Pittsburgh, on the one hand, and, on the other, points in that part of West Virginia on and north of U.S. Highway 50,

and those in Ohio on and east of U.S. Highway 25. Arthur J. Diskin, 806 Frick Building, Pittsburgh, PA 15219, attorney for applicants.

No. MC–FC–72582. By order of January 18, 1971, the Motor Carrier Board approved the transfer to Charles W. Karper, Inc., Chambersburg, Pa., of certificates Nos. MC–27903, MC–27903 (Sub-No. 9), MC–27903 (Sub-No. 12), and MC–27903 (Sub-No. 19) issued to Charles W. Karper, Chambersburg, Pa., authorizing the transportation of various commodities of a general commodity nature, between specified points and areas in Pennsylvania, Maryland, Virginia, West Virginia, New York, New Jersey, Ohio, Connecticut, Massachusetts, Rhode Island, Delaware, and Washington, D.C. Christian V. Graf, attorney, 407 North Front Street, Harrisburg, PA 17101.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–1120 Filed 1–26–71;8:49 am]

[Ex Parte Nos. 270, 271]

INVESTIGATION OF RAILROAD FREIGHT RATE STRUCTURE

Net Investment; Railroad Rate Base

JANUARY 19, 1971.

General notice of the institution of these proceedings has been given by publication in the FEDERAL REGISTER and actual notice has been given to all rail carriers subject to the Commission's jurisdiction. The Commission desires as wide a public participation as possible and in order to insure that consumer groups which may have an immediate interest in these proceedings receive personal notice, the orders instituting these proceedings are being served concurrently herewith upon the consumer interests set forth in Appendix A. The time for filing statements of positions in Ex Parte No. 271, Net Investment—Railroad Rate Base, is hereby extended from January 18, 1971, to February 8, 1971, so that these parties, as well as others, may participate. Similar service is being made in Ex Parte No. 270, Investigation of Railroad Freight Rate Structure, but since the present due date for filing of statements of interest and discussion of the matters specified in the order of December 11, 1970, issued in that proceeding is February 16, 1971, an extension of the filing date does not appear to be necesary.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–1121 Filed 1–26–71;8:49 am]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 22, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

AGGREGATE-OF-INTERMEDIATES

FSA No. 42116—*Vegetables, melons and related articles from points in Arizona, California, and New Mexico.* Filed by Trans-Continental Freight Bureau, agent (No. 464), for interested rail carriers. Rates on vegetables, fresh or green, melons, etc., in carloads, as described in the application, from points in Arizona, California, and New Mexico, to points in official territory.

Grounds for relief—Maintenance of depressed rates without use of such rates as factors in constructing combination rates.

Tariff—Supplement 163 to Trans-Continental Freight Bureau, agent, tariff ICC 1744.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.71–1122 Filed 1–26–71;8:49 am]

[Notice 5]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

JANUARY 22, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 58902 (Sub-No. 15) (Republication), filed February 6, 1970, published in the FEDERAL REGISTER issue of May 7, 1970, and republished this issue. Applicant: MANLEY TRANSFER COMPANY, INC., 312 North Santa Fe, Chanute, KS. Applicant's representative: Tom B. Kretsinger, 450 Professional Building, Kansas City, MO 64106. The modified procedure has been followed in this proceeding, and a report and order of the Commission Review Board No. 1, decided January 7, 1971, and served January 15, 1971, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over regular routes, of, *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); (a) between Chanute, Kans., and junction U.S. Highways 169 and 160, from Chanute over Kansas Highway 39 to junction U.S. Highway 75, thence over U.S. Highway 75 to Independence, Kans., thence over U.S. Highway 160 to junction U.S. Highway 169, and return over the same route, serving all intermediate points and serving junction U.S. Highway 160 and U.S. Highway 169 for purposes of joinder only; (b) between junction U.S. Highway 75 and Kansas Highway 39 and Neodesha, Kans.; from junction U.S. Highway 75 and Kansas Highway 39 over Kansas Highway 39 to junction Kansas Highway 96, thence over Kansas Highway 96 to Neodesha, and return over the same route, serving all intermediate points and serving junction U.S. Highway 75 and Kansas Highway 39 for purposes of joinder only;

(c) Between Chanute, Kans., and junction U.S. Highways 160 and 69, from Chanute over Kansas Highway 39 to junction U.S. Highway 59, thence over U.S. Highway 59 to Parsons, Kans., thence east over U.S. Highway 160 to junction U.S. Highway 69 and return over the same route, serving all intermediate points and serving junction U.S. Highways 160 and 69 for purposes of joinder only; (d) between Parsons and Crestline, Kans., from Parsons over U.S. Highway 59 to Oswego, Kans., thence over Kansas Highway 96 to Crestline, and return over the same route, serving all intermediate points; (e) between Oswego and Chetopa, Kans.; over U.S. Highway 59; and (f) between Neodesha and Parsons, Kans.; from Neodesha over U.S. Highway 75 to junction Kansas Highway 37, thence over Kansas Highway 37 to junction U.S. Highway 160, thence over U.S. Highway 160 to Parsons, and return over the same route, serving all intermediate points. All of the authority in (a) through (f) above, is restricted to the transportation of traffic moving between Pittsburg, Kans., on the one hand, and, on the other, points in Kansas within 80 miles of Pittsburg; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder; that a certificate authorizing such operation should be issued subject (1) to the prior receipt from applicant of a written request for the insertion in its outstanding certificate No. MC–58902 (Sub-No. 16) of a restriction providing that the carrier shall not, pursuant to the irregular-route authority contained in that certificate, serve any points authorized herein to be served by it in regular-route operations, and (2) to the further condition that the authority granted herein shall not be severable by sale or otherwise from the irregular-routes embraced in certificate No. MC–58902 (Sub-No. 16); because it is possible that other persons who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order a notice of authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise

manner in which it has been so prejudiced.

No. MC 83835 (Sub-No. 63) (Republication), filed February 5, 1970, published in the FEDERAL REGISTER issue of February 27, 1970, and republished this issue. Applicant: WALES TRANSPORTATION, INC., Post Office Box 6186, Dallas, TX 75222. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. A decision and order of the Commission, Review Board No. 3, dated January 14, 1971, and served January 20, 1971; upon consideration of the record in this proceeding, finds; that the present and future public convenience and necessity require operation by applicant, as a common carrier by motor vehicle, in interstate or foreign commerce, over irregular route, of metal tubing and pipe, (1) from Tulsa, Okla., to points in Alabama (except Decatur), Arkansas, Georgia (except Atlanta), Iowa, Kansas, Kentucky, Louisiana, Michigan, Missouri, Montana, New Mexico, New York, Ohio, Pennsylvania, Texas, Wisconsin, and Wyoming, and (2) from points in Indiana, Kansas, Michigan, New York, Ohio, Pennsylvania, Texas, and West Virginia to Tulsa, Okla., subject to the condition that to the extent the authority granted duplicates any authority heretofore granted to applicant it shall be construed as conferring only a single operating right. Because it is possible that other persons, who relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 113459 (Sub-No. 58) (Republication), filed March 30, 1970, published in the FEDERAL REGISTER issue of April 23, 1970, and republished this issue. Applicant: H. J. JEFFRIES TRUCK LINE, INC., Post Office Box 94850, Oklahoma City, OK 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. A decision and order of the Commission, Review Board No. 3, dated January 14, 1971, and served January 20, 1971; upon consideration of the record in this proceeding, finds; that the present and future public convenience and necessity require operation by applicant, as a common carrier by motor vehicle, in interstate or foreign commerce, over irreglar routes, of metal tubing and pipe, (1) from Tulsa, Okla., to points in Alabama (except Decatur), Arkansas, Georgia (except Atlanta), Kansas, Kentucky, Louisiana, Michigan, Mississippi, Montana, New Mexico, Ohio, Texas, Utah, Wisconsin, and Wyoming, and (2) from East Troy, Wis., and points in Indiana, Ohio, New York, and Texas to Tulsa, Okla., subject to the condition that to the extent the authority granted duplicates any authority heretofore granted to applicant it shall be construed as conferring only a single operating right. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition for leave to reopen the proceeding or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 12744 (Sub-No. 1) (Notice of Filing of Petition for Waiver of Rule 101 (e), for Reopening and Reconsideration, and for Modification of Passenger Broker's License), filed December 30, 1970. Petitioner: RIDGEWAY TOURS, INC., Lancaster, Pa. Petitioner's representatives: Robert H. Griswold and S. Berne Smith, Post Office Box 1166, Harrisburg, PA 17108. Petitioner holds a license to operate as a broker at Lancaster, Pa., in arranging for the transportation of passengers and their baggage, both as individuals and groups, between points in the United States, including Alaska and Hawaii. By the instant petition, petitioner seeks that Rule 101(e) of the General Rules of Practice be waived and the proceeding at MC 12744 (Sub-No. 1) be reopened and reconsidered; and that upon reconsideration petitioner's broker's license in No. MC 12744 (Sub-No. 1) be modified to eliminate the phrase, "both as individuals and groups," so that it will read as follows: "Passengers and their baggage, between points in the United States, including Alaska and Hawaii." Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereof (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11060. (Correction) (PENN YAN EXPRESS, INC.—Purchase—FRANK'S-VAN NAMEE'S EXPRESS CORP.-STANLEY R. RUDIN-TRUSTEE IN BANKRUPTCY), published in the January 13, 1971 issue of the FEDERAL REGISTER on page 483. Prior notice read: No. MC-46300 (Sub-No. 2 TA) filed purchase by PENN YAN EXPRESS, INC., 100 West Lake Road, Penn Yan, NY 14527, of the operating rights of FRANK'S-VAN NAMEE'S EXPRESS CORP., STANLEY R. RUDIN-TRUSTEE IN BANKRUPTCY; and should read: No. MC-F-11060. Authority sought for purchase by PENN YAN EXPRESS, INC., 100 West Lake Road, Penn Yan, NY 14527, of the operating rights of FRANK'S-VAN NAMEE'S EXPRESS CORP., STANLEY R. RUDIN, TRUSTEE IN BANKRUPTCY.

No. MC-F-11065. Authority sought for purchase by ARBET TRUCK LINES, INC., 222 East 135th Place, Chicago, IL 60627, of the operating rights of KEECH TRANSFER CO., INC., 803 West Jackson, Morris, IL (LEONARD M. SPIRA—TRUSTEE FOR BENEFIT OF CREDITORS), and for acquisition by EMIL ARBET, also of 222 East 135th Place, Chicago, IL 60627, of control of such rights through the purchase. Applicants' attorneys: Arnold L. Burke, 69 West Washington Street, Chicago, IL 60602 and Carl Steiner, 39 South La Salle Street, Chicago, IL 60603. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-98603 Sub-1, covering the transportation of property, as a common carrier in interstate commerce, within the State of Illinois. Vendee is authorized to operate as a *common carrier* in Illinois, Ohio, Indiana, Missouri, Iowa, Michigan, and Kentucky. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11067. Authority sought for purchase by HAGEN, INC., 4120 Floyd Boulevard, Sioux City, IA 51108, of a portion of the operating rights of COMMERCIAL FREIGHT LINES, INC., 4200 Gardner, Kansas City, MO 64120, and for acquisition by FRED HAGEN, also of Sioux City, Iowa, of control of such rights through the purchase. Applicants' attorney: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Operating rights sought to be transferred: *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 commodities in bulk, in tank vehicles, as a *common carrier* over irregular routes, from the site of the plant of Armour & Co. located at or near Emporia, Kans., to points in Illinois, Iowa, Missouri, and Nebraska. Vendee is authorized to operate as a *common carrier* in Kansas, Illinois, Iowa, Minnesota, Montana, Nebraska, North Dakota, Wisconsin, Wyoming, South Dakota, Oregon, Missouri, Arizona, California, Washington, Nevada, Idaho, and New Mexico. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11068. Authority sought for purchase by BILL G. CARR AND PHYLLIS R. CARR, doing business as ARROWHEAD TRANSPORTATION, 103 Moore Lane, Billings, MT 59102, of a portion of the operating rights of

NORTHERN PACIFIC TRANSPORT COMPANY, 176 East Fifth Street, St. Paul, MN 55101. Applicants' attorney: Arthur F. Lamey, Jr., Post Office Box 2529, Billings, MT 59103. Operating rights sought to be transferred: *General commodities*, as a common carrier, over regular routes, between Laurel, Mont., and Red Lodge, Mont., serving to and from all intermediate points; and *general commodities*, between Red Lodge, Mont., and Bridger, Mont., serving all intermediate points. Vendee is authorized to operate as a *common carrier* in Montana. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11069. Authority sought for purchase by C. I. WHITTEN TRANSFER COMPANY, Post Office Box 1833, Huntington, WV 25719, of a portion of the operating rights of McLEAN TRUCKING COMPANY, 617 Waughton Street, Winston-Salem, NC 27102, and for acquisition by U.S. INDUSTRIES, INC., 250 Park Avenue, New York, NY 10017, of control of such rights through the purchase. Applicants' attorneys: J. G. Dail, Jr., 1111 E Street NW., Washington, DC 20004 and Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036. Operating rights sought to be transferred: *General commodities*, and *Government-owned compressed gas trailers*, empty or loaded with compressed gases other than liquefied petroleum gas, as a *common carrier*, over regular routes, between Forest Hill, La., and a point on Louisiana Highway 112, 4 miles from Forest Hill, serving all intermediate points; *general commodities*, between Alexandria, La., and Leesville, La., for operating convenience only, serving no intermediate points; *general commodities*, except currency, stamps, gold and silver bullion, loose bulk commodities, and commodities contaminating to other lading; and *Government-owned compressed gas trailers*, empty or loaded with compressed gases other than liquefied petroleum gas, between Shreveport, La., and Bossier City, La., serving no intermediate points; *classes A and B explosives, general commodities*, except household goods as defined by the Commission, and commodities in bulk; and *Government-owned compressed gas trailers*, empty or loaded with compressed gases other than liquefied petroleum gas, between Ville Platte, La., and Eunice, La., between Gibson, La., and Thibodaux, La., serving no intermediate points;

General commodities, except those of unusual value, household goods as defined by the Commission, and commodities in bulk; and *Government-owned compressed gas trailers*, empty or loaded with compressed gases other than liquefied petroleum gas, between Houston, Tex., and New Orleans, La., serving all intermediate points and certain off-route points in Louisiana, between Beaumont, Tex., and Port Arthur, Tex., between Houston, Tex., and Shreveport, La., between Tenaha, Tex., and Mansfield, La., between Toomey, La., and New Orleans, La., between Port Allen, La., and Leeville, La., between Sulphur, La., and Hackberry, La., between junction U.S. Highway 190 and Louisiana Highway 97, near Basile, La., and Opelousas, La., between Eunice, La., and Kaplan, La., between Rayne, La., and Opelousas, La., between Abbeville, La., and Breaux Bridge, La., between Lafayette, La., and Opelousas, La., between Logansport, La., and Gloster, La., between Opelousas, La., and Ville Platte, La., serving all intermediate points, between Lake Charles, La., and Shreveport, La., serving all intermediate points except those between Lake Charles and Mansfield, La., between junction unnumbered highway, known as Old Port Arthur Road, and U.S. Highway 69, about 3 miles south of Beaumont, Tex., and Port Arthur, Tex., serving all intermediate points; *general commodities*, except those of unusual value, household goods as defined by the Commission, and commodities in bulk, between Sunset, La., and Scott, La., serving all intermediate points, and the off-route points within 2 miles of the specified route, between Sunset, La., and Rayne, La., serving all intermediate points, and the off-route points within 2 miles of the specified route, between Bristol, La., and Duson, La., serving all intermediate points, and the off-route points within 2 miles of the specified route, between Corsicana, Tex., and De Ridder, La., serving the intermediate points of Merryville, La., and Lufkin, Tex., with restriction; between La Place, La., and New Orleans, La., serving all intermediate points, between De Ridder, La., and junction Louisiana Highway 26 and U.S. Highway 190 near Elton, La., serving no intermediate points;

Classes A and B explosives, general commodities, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment; and *Government-owned compressed gas trailers*, empty or loaded with compressed gases other than liquefied petroleum gas, between Boutte, La., and the Huey P. Long Bridge, new New Orleans, La., between Orleans, La., and Chalmette, La., between junction U.S. Highway 190 and west approach of the Mississippi River Bridge, La., and Baton Rouge, La., between Houma, La., and Dulac, La., between Houma, La., and Montegut, La., between Houma, La., and Chauvin, La., serving all intermediate points; *classes A and B explosives, general commodities*, except those of unusual value, baled cotton, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading; and *Government-owned compressed gas trailers*, empty or loaded with compressed gases other than liquefied petroleum gas, between Galveston, Tex., and Fort Worth, Tex., serving the intermediate points of Dallas, Waco, and Houston, Tex.; *general commodities*, except household goods as defined by the Commission, between Alexandria, La., and Lake Charles, La., between Kinder, La., and Eunice, La., serving all intermediate points; *general commodities*, except livestock, household goods as defined by the Commission, and commodities in bulk; and

Government-owned compressed gas trailers, empty or loaded with compressed gases other than liquefied petroleum gas, between Memphis, Tenn., and Little Rock, Ark., serving the intermediate point of Lonoke, Ark., between Little Rock, Ark., and Shreveport, La., serving all intermediate points; off-route points within 6 miles of Little Rock, Ark., and Shreveport, La., respectively, and those within 10 miles of Smackover and El Dorado, Ark., respectively, between El Dorado, Ark., and Hamburg, Ark., serving all intermediate points; off-route points within 10 miles of El Dorado, Ark., those within 10 miles of Smackover, Ark., those on Arkansas Highway 129 between Strong, Ark., and the Arkansas-Louisiana State line, and those on Arkansas Highway 81 between Hamburg, Ark., and the Arkansas-Louisiana State line, between Crossett, Ark., and Monroe, La., between Memphis, Tenn., and Monroe, La., between Monroe, La., and Hancock, La., for operating convenience only, serving no intermediate points, between Monroe, La., and Dubach, La., serving the intermediate point of West Monroe, La., between Dubach, La., and Minden, La., serving no intermediate; *general commodities*, except loose bulk commodities, livestock, currency, bullion, articles of virtu, household goods as defined by the Commission, and commodities exceeding ordinary equipment and loading facilities; and *Government-owned compressed gas trailers*, empty or loaded with compressed gases other than liquefied petroleum gas, between Junction City, Ark., and Homer, La., serving all intermediate points;

Classes A and B explosives, and general commodities, except those of unusual value, baled cotton, household goods as defined by the Commission, commodities, in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, and *Government-owned compressed gas trailers*, empty or loaded with compressed gases other than liquefied petroleum gas, over irregular routes, between points within 3 miles of Houston, Tex., including Houston; *general commodities*, between New Iberia, La., and points within 7 miles of New Iberia; *dangerous explosives*, between the site of the U.S. Naval Ammunition Depot near Savanna, Okla., on the one hand, and, on the other, the site of the U.S. naval loading and unloading facilities, at or near Bell Chasse, La. Vendee is authorized to operate as a *common carrier* in West Virginia, Pennsylvania, Ohio, Kentucky, Virginia, North Carolina, Illinois, New Jersey, Alabama, Connecticut, Delaware, Maryland, Massachusetts, Vermont, Maine, Tennessee, Iowa, New Hampshire, Rhode Island, Indiana, Wisconsin, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11070. Authority sought for control by WALTER ENICK, doing business as GATEWAY TRUCKING, 169 Station Street, Aliquippa, PA 15001, of J. MILLER EXPRESS, INC., 152 Pittsburgh, PA 15220. Applicants' Attorney Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Operating rights sought to be controlled: *Machinery, materials, and supplies,* used by steel mills (except materials used by steel mills from points in Jackson and Washington Counties, Ohio, and except ferro alloys, in containers, from the plantsite of the Union Carbide Corp., at or near Ashtabula, Ohio), *iron and steel and iron and steel articles,* as defined by the Commission, and *nonferrous metals,* as a common *carrier* over irregular routes, between points in Ohio, those in that part of New York west of a line beginning at Lake Ontario and extending along U.S. Highway 15 to Lakeville, N.Y., thence along Alternate U.S. Highway 20 to Geneseo, N.Y., thence along New York Highway 63 to junction New York Highway 408, thence along New York Highway 408 to junction New York Highway 16, thence along New York Highway 16 to Olean, N.Y., thence along New York Highway 16 (formerly New York Highway 16A), to the New York-Pennsylvania State line, including points on the indicated portions of the highways specified, those in that part of Pennsylvania on and west of U.S. Highway 219, and those in West Virginia on and north of U.S. Highway 50 from the Maryland-West Virginia State line to the West Virginia-Ohio State line, between Ashland, Ky., on the one hand, and, on the other points in Ohio, and those in the above-described New York, Pennsylvania, and West Virginia areas;

Ferro alloys, pig iron, and scrap metal, in dump vehicles, from the site of the storage facilities of S. H. Bell Co. at East Liverpool, Ohio, to points in Connecticut, Massachusetts, New Jersey, and points in that part of Pennsylvania on and east of U.S. Highway 15 (except Philadelphia, Pa., and points in the Philadelphia, Pa., commercial zone, as defined by the Commission), from Pittsburgh, Pa. (except Braddock, Pa.), to points in Connecticut and Massachusetts, between Braddock, Pa., and East Liverpool, Ohio, on the one hand, and, on the other, points in Vermont and New Hampshire, between Niagara Falls, N.Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, Rhode Island, Vermont, and New Hampshire; *ferrous and nonferrous alloys, fluorspar, clay, pig iron, scrap metals, chrome ore, and manganese ore,* in dump vehicles, between the site of the storage facilities of the S. H. Bell Co. at Braddock, Pa., on the one hand, and, on the other, points in Connecticut, Kentucky (except points in Marshall County), Massachusetts, New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties), New York, North Carolina, points in that part of Ohio on and west of U.S. Highway 23, points in that part of Pennsylvania on and east of U.S. Highway 15 (except Philadelphia, Pa., and points in its commercial zone, as defined by the Commission), Rhode Island, Tennessee, and Virginia, excluding clay from points in Graves County, Ky., and points in Henry County, Tenn., and excluding ferro chrome from Newport News, Va., between the site of the storage facilities of S. H. Bell Co. at East Liverpool, Ohio, on the one hand, and, on the other, points in Connecticut, Kentucky (except points in Marshall County), New Jersey, New York, North Carolina, Massachusetts, points in that part of Ohio on and west of U.S. Highway 23, points in that part of Pennsylvania on and east of U.S. Highway 15 (except Philadelphia, Pa., and points in its commercial zone, as defined by the Commission), Rhode Island, Tennessee, and Virginia, excluding clay from points in Graves County, Ky., and points in Henry County, Tenn., and excluding ferro chrome from Newport News, Va.;

Ferro alloys and silicon metal, in dump vehicles, from Vancoram, Ohio, to points in Connecticut, Delaware, Maryland (except points in Garrett, Allegany, Washington, and Frederick Counties), Massachusetts, New Jersey, and Virginia; *ferro alloys, fluorspar, and pig iron,* in dump vehicles, between the site of the storage facilities of S. H. Bell Co., at East Liverpool, Ohio, on the one hand, and, on the other, points in Illinois, Kentucky (except points in Marshall County), New Jersey, New York, points in that part of Ohio on and west of U.S. Highway 23, and points in that part of Pennsylvania on and east of U.S. Highway 15 (except Philadelphia, Pa., and points in its commercial zone, as defined by the Commission), between Pittsburgh, Pa. (except Braddock, Pa.), on the one hand, and, on the other, points in Illinois, Kentucky (except points in Marshall County), New York, and points in that part of Ohio on and west of U.S. Highway 23, with restriction; *pig iron,* in dump vehicles, from Buffalo, N.Y., to points in New Jersey, that part of Pennsylvania east of U.S. Highway 219, and that part of West Virginia south of U.S. Highway 50; *scrap metal,* in dump vehicles, between Niagara Falls, N.Y., on the one hand, and, on the other, points in Pennsylvania, West Virginia, Ohio, Kentucky, Indiana, Illinois, Michigan, New Jersey (except points in Cumberland, Salem, Gloucester, Cape May, Atlantic, Camden, and Burlington Counties, N.J.), Maryland, Delaware, and Virginia, with restriction;

Scrap carbon, furnace lining, and carbon butts, in bulk, in dump vehicles, from Niagara Falls, N.Y., to points in Pennsylvania, Ohio, and West Virginia; *alloys and ores,* in dump vehicles, from Philadelphia, Pa., to points in Ohio (except points in Astabula, Cuyahoga, Geauga, Franklin, Lake, Licking, Lorain, Muskingum, Portage, Summit, and Wayne Counties, Ohio), West Virginia, Indiana, Illinois, Michigan, and Kentucky; *metals, metal alloys, sand, ores, and limestone,* in dump vehicles, from points in Connecticut, Delaware, Massachusetts, New Hampshire, New Jersey (except points in Gloucester and Cumberland Counties and the city of Mount Hope, N.J., and points in its comercial zone as defined by the Commission), New York, Pennsylvania (except points in Adams County, Pa., and points in Pennsylvania west of U.S. Highway 15), Vermont, Virginia, and West Virginia (except points in Jefferson and Berkeley Counties and the cities of Martinsburg, Millville, and Bakerton, W. Va., and points in their commercial zones as defined by the Commission); *metals and scrap steel shapes,* in dump vehicles, between Braddock, Pa., East Liverpool, Ohio, and Niagara Falls, N.Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, Rhode Island, Vermont, and New Hampshire;

Ferro alloys, silicon metals, and manganese metal, in dump vehicles, from Graham, W. Va., and Vancoram and Vanadis, Ohio, to points in Kentucky (except Marshall County), Illinois, Indiana, Missouri, Ohio (except Cuyahoga, Geauga, Lorain, Portage, and Washington Counties), and Iowa; *coke,* from Harriet (Tonawanda Township), Erie County, N.Y., to points in Pennsylvania; *metal pipe and tubing and fittings* for metal pipe and tubing, from the plantsites of Jones & Laughlin Steel Corp., located at New Kensington, Pa., and Niles, Ohio, and the plantsite of H. K. Porter Co., Inc., at Ambridge, Pa., to points in Delaware, Illinois, Indiana, Kentucky, Michigan, New Jersey, New York, Ohio, Pennsylvania, and West Virginia, with restriction. WALTER ENICK, doing business as GATEWAY TRUCKING, is authorized to operate as a *common carrier* under section 210a, *general commodities,* except commodities in bulk, in tank vehicles, over irregular routes, between Butler, Pa., and points in Allegheny, Beaver, Butler, and Mercer Counties, Pa. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11071. Authority sought for purchase by TRUCKWAY SERVICE, INC., 1099 Oakwood Boulevard, Detroit, MI 48217, of the operating rights of WILMER FRANK, Post Office Box 788, Toledo, OH 43601, and for acquisition by V. W. McLaughlin, also of Detroit, Mich., of control of such rights through the purchase. Applicants' attorneys: James R. Stiverson and Edwin H. van Deusen, 50 West Broad Street, Columbus, OH 43215. Operating rights sought to be transferred: *General commodities,* except agricultural commodities, livestock, motion picture films, and household goods as defined by the Commission, as a *common carrier,* over irregular routes, between points within 5 miles of Toledo, Ohio, including Toledo, between Toledo, Ohio, and points within 10 miles of Toledo; *household goods,* as defined by the Commission, between Toledo, Ohio, and points in that part of Lucas County, Ohio, on and north of U.S. Highway 20, and all other points within 5 miles of Toledo, on the one hand, and, on the other, points in Michigan, between points in that part of Lucas County, Ohio, on and north of U.S. Highway 20, on the one hand, and, on the other, points in

that part of Indiana on and north of U.S. Highway 50, between Toledo, Ohio, on the one hand, and, on the other, points in Indiana, Maryland, Michigan, Pennsylvania, New York, New Jersey, Virginia, West Virginia, Illinois, and the District of Columbia;

New refrigerators, electric and gas ranges, heating appliances, and laundry equipment, in retail store deliveries, from points in that part of Lucas County, Ohio, on and north of U.S. Highway 20, to certain specified points in Michigan; and from Fort Wayne, Ind., to Toledo, Ohio; *office furniture, and store fixtures*, between points in that part of Lucas County, Ohio, on and north of U.S. Highway 20, on the one hand, and, on the other, points in the southern peninsula of Michigan and those in that part of Indiana on and north of U.S. Highway 50; *refrigerators*, between Toledo, Ohio, and points within 5 miles of Toledo, on the one hand, and, on the other, points in Michigan; *materials, supplies, and equipment* incidental to, or used in, the construction, operation, maintenance, and removal of telephone, telegraph, and electric powerlines, between certain specified points in Ohio; and *machinery*, between certain specified points in Ohio. Vendee is authorized to operate as a *contract carrier* in Michigan, Indiana, Illinois, Ohio, Delaware, Kentucky, Maryland, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-1116 Filed 1-26-71;8:49 am]

CUMULATIVE LIST OF PARTS AFFECTED—JANUARY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during January.

3 CFR

PROCLAMATIONS:

3548 (see Proc. 4026) 5
3558 (see Proc. 4026) 5
3562 (see Proc. 4026) 5
3597 (see Proc. 4026) 5
3709 (see Proc. 4026) 5
3790 (see Proc. 4026) 5
3822 (see Proc. 4026) 5
3856 (see Proc. 4026) 5
3870 (see Proc. 4026) 5
3884 (see Proc. 4026) 5
4026 5
4027 1187

EXECUTIVE ORDERS:

10427 (revoked by EO 11575) 37
10737 (revoked by EO 11575) 37
10973 (superseded in part by EO 11579) 969
11248 (amended by EO 11581) 1027
11495 (revoked by EO 11575) 37
11575 37
11576 347
11577 349
11578 683
11579 969
11580 971
11581 1027

5 CFR

213 11, 39, 261, 315, 353, 600, 1029, 1087
531 1029
2401 1189
2410 315

7 CFR

0 413
20 40
53 1029
201 1314
202 1314
210 1245, 1246
215 1030
220 1246
225 1030
270 261
301 139, 261
354 823, 1190
401 262
722 11, 40
725 11
728 1030
730 139, 140, 900
812 140
814 141
815 11
905 40, 41
906 143
907 144, 213, 543, 973
909 1087
910 41, 315, 685, 901, 1190, 1247
915 1191
930 1088
953 1192
966 41
971 421
1421 41, 42
1804 1095
1831 1099
1871 1110
1890k 1131
1890l 1131

7 CFR—Continued

PROPOSED RULES:

32 1204
68 545
81 984
Ch. IX 1266
907 22
908 22
987 112
1001 921
1002 921
1004 921
1006 921
1007 921
1011 921
1012 921
1013 921
1015 921
1030 921
1032 921, 1273
1033 921
1036 921
1040 921
1043 921
1044 921
1046 921
1049 921
1050 921
1060 921
1061 370, 921
1062 921
1063 921
1064 921
1065 921
1068 921
1069 921
1070 921
1071 921
1073 921
1075 921
1076 921
1078 921
1079 921
1090 921
1094 921
1096 921
1097 921
1098 921
1099 921
1101 921, 984
1102 921
1103 921
1104 921
1106 921
1108 921
1120 921
1121 921
1124 921
1125 921
1126 921
1127 921
1128 921
1129 921
1130 921
1131 921
1132 921
1133 921
1134 921
1136 921
1137 921
1138 921

8 CFR

3 316
100 316
103 316
211 1247
212 317
234 317
238 1247
242 317
243 317
341 1247

9 CFR

2 1132
76 74, 144, 265, 318, 353, 493, 599, 776, 899, 1038
78 493
97 1038, 1192
201 1039, 1132

10 CFR

2 828
30 145
40 145
50 828
70 146
170 146

12 CFR

213 1040
224 973
226 1040
303 1248
304 1248
326 1248
334 1248
336 1249
545 901
563 902
740 902

PROPOSED RULES:

545 942
564 1211

13 CFR

121 43, 213, 315, 421, 1043

PROPOSED RULES:

121 294

14 CFR

1 43
37 15
39 15, 214, 421, 422, 773, 904, 974, 1135, 1249
71 44, 147, 214–216, 319, 494, 773, 774, 904, 905, 974, 1249, 1250
73 44
75 44, 494
91 43
95 823
97 147, 353, 600, 775, 1044
121 45
135 45
208 1135
224 1135
1204 600

36 CFR

37 CFR

38 CFR

39 CFR

41 CFR

41 CFR—Continued

42 CFR

43 CFR

45 CFR

46 CFR

47 CFR

49 CFR

50 CFR

FEDERAL REGISTER

VOLUME 36 • NUMBER 18

Wednesday, January 27, 1971 • Washington, D.C.

PART II

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

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FEDERAL SEED ACT REGULATIONS

Rules of Practice

Title 7—AGRICULTURE

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

SUBCHAPTER K—FEDERAL SEED ACT

PART 201—FEDERAL SEED ACT REGULATIONS

PART 202—FEDERAL SEED ACT RULES OF PRACTICE

Miscellaneous Amendments

Statement of considerations. The Federal Seed Act (7 U.S.C. 1551 et seq.) and the rules and regulations thereunder contain, in part, provisions for cease and desist proceedings. The rules of practice (7 CFR 201.151–201.154) for such proceedings have not been amended since 1940. As a result they have become outdated and do not conform with the rules of practice under other statutes administered by the U.S. Department of Agriculture.

On March 18, 1970, there was published in the FEDERAL REGISTER (35 F.R. 4734) a notice of rule making and hearing with respect to proposed amendments to the rules of practice (7 CFR 201.151 et seq.) under the Act. The proposals for amendments were primarily for the purpose of updating the rules of practice for cease and desist proceedings. However, proposed rules of practice for other proceedings under the Act also were included in the notice.

Approximately 500 copies of the notice of proposed rule making were sent to State seed officials and members of the seed trade. A public hearing was held on April 20, 1970, in Washington, D.C. Written comments were permitted until May 20, 1970.

No written comments were received. Only two persons submitted comments at the public hearing, one representing the seed trade and one representing the Department. The applicable comments made by the seed trade representative pertained principally to the time allowed for answers during the proceedings. The comments made by a representative of the Department were concerned principally with substitution of terminology for the use of "Secretary" in the rules.

The rules set forth below are the same as those proposed in the rule-making and hearing except for changes made pursuant to comments received and except for inclusion in § 202.42 of a reference to the policy for publication of notices concerning settlement of court cases which was proposed by the Consumer and Marketing Service at the public hearing on this matter.

It does not appear that further public participation in the rule-making procedure would make additional information available to the Department on the changes.

Therefore under the provisions of 5 U.S.C. 553 it is found that further notice and other public rule-making procedure with respect to this document are unnecessary.

After consideration of all relevant matters, including those presented at the hearing and in writing pursuant to said notice and under authority of section 402 of the Federal Seed Act, Part 201 of Title 7, Code of Federal Regulations, is amended by deleting §§ 201.151 through 201.159 and § 201.231 and a new Part 202 is issued to read as follows:

Subpart A—General

Subpart B—Rules Applicable to Cease and Desist Proceedings

Subpart C—Rules Applicable to Other Proceedings

AUTHORITY: The provisions of this art 202 issued under secs. 302, 305, 402, 408, 409, 413, 414, 53 Stat. 1275, as amended; 7 U.S.C. 1582, 1585, 1592, 1598, 1599, 1603, 1604.

Subpart A—General

§ 202.1 Meaning of words.

As used in this part, words in the singular form shall be deemed to import the plural, and vice versa, as the case may require.

§ 202.2 Definitions.

For the purposes of this part, the following terms shall be construed, respectively, to mean:

(a) The term "Act" means the Federal Seed Act, approved August 9, 1939 (53 Stat. 1275, 7 U.S.C. 1551 et seq.) and any legislation amendatory thereof.

(b) "Complaint" means any formal complaint and notice of hearing or other document by virtue of which a proceeding under the Act is instituted.

(c) "Complainant" means the party upon whose complaint the proceeding is instituted.

(d) "Decision and Order" includes the Secretary's findings, conclusions, order, and rulings on motions, exceptions, statements of objections, and proposed findings, conclusions and orders submitted by the parties not theretofore ruled upon.

(e) "Director" means the Director of the Grain Division, Consumer and Marketing Service, U.S. Department of Agriculture, or any officer or employee of the Department to whom authority is delegated to act in his stead.

(f) "Examiner" means an Examiner in the Office of Hearing Examiners, U.S. Department of Agriculture.

(g) "Examiner's Recommended Decision" means the Examiner's report to the Secretary consisting of the proposed: (1) Findings of facts and conclusions with respect to all material issues of fact, law or discretion, as well as the reasons or basis for such conclusions and (2) order.

(h) The term "hearing" means that part of a proceeding which involves the submission of evidence and means either an oral or written hearing.

(i) "Hearing Clerk" means the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

(j) The term "person" includes any individual, partnership, corporation, company, society, association, receiver, or trustee.

(k) The term "regulations" means the regulations promulgated pursuant to the Act (7 CFR Part 201).

(l) "Respondent" means the party proceeded against.

(m) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead, including the Judicial Officer.

§ 202.3 Institution of proceedings.

Any person having information of any violation of the Act or of any of the regulations promulgated thereunder may file with the Director an application requesting the institution of such proceedings as may be authorized under the Act. Such application shall be in writing, signed by or on behalf of the applicant, and shall contain a short and simple statement of the facts constituting the alleged violation and the name and address of the applicant and the party complained of. If, after investigation of the matters complained of in the application or after investigation made on his own motion, the Director has reason to believe that any person has violated or is violating any of the provisions of the Act or the regulations made and promulgated thereunder, he may institute such proceedings as may be authorized by the Act.

§ 202.4 Status of applicant.

The person filing an application shall not be a party to any proceeding which may be instituted under the Act, unless he be permitted by the Secretary or by the Examiner to intervene therein. The Director shall not be required to divulge the name of the applicant and such person will have no legal status in the proceeding which may be instituted, except where allowed to intervene or as such person may be called as a witness. At any time after the institution of the proceeding, and before it has been submitted to the Secretary for final consideration, the Secretary or the Examiner may, upon petition in writing and upon good cause shown, permit any person to intervene.

Subpart B—Rules Applicable to Cease and Desist Proceedings

§ 202.10 Institution of proceedings; docket number.

(a) A cease and desist proceeding under section 409 of the Act (7 U.S.C. 1599) is instituted upon the issuance by the Director of a complaint and the filing of such document with the Hearing Clerk.

(b) Each such proceeding, immediately following its institution, shall be assigned a docket number by the Hearing Clerk and thereafter the proceeding shall be referred to by such number.

§ 202.11 Complaint.

§ 202.11–1 Filing and service.

If the Director has reason to believe that any person has violated or is violating any of the provisions of the Act or the regulations issued or promulgated thereunder, a complaint may be filed with the Hearing Clerk, a copy of which shall be served upon each respondent as provided in § 202.27.

§ 202.11–2 Contents.

The complaint shall set forth briefly the nature of the violation or violations, including allegations of fact which constitute a basis for the proceeding, and designate a time and place for a hearing in the matter which shall be at least 30 days after the date of the service of the complaint upon the respondent.

§ 202.11–3 Amendments.

At any time prior to the close of the hearing, the complaint may be amended; but, in case of an amendment adding new provisions, the hearing shall, on the request of the respondent, be adjourned for a period not exceeding 15 days.

§ 202.12 Answer.

§ 202.12–1 Filing and service.

The respondent shall file, within 20 days after service of the complaint upon the respondent, an answer to the allegations of the complaint, with the Hearing Clerk, signed by the respondent or his attorney.

§ 202.12–2 Contents.

The answer shall:

(a) Contain a concise statement of the facts which constitute the grounds of defense, and shall specifically admit, deny, or explain each of the allegations of the complaint, unless the respondent is without knowledge, in which case the answer shall so state;

(b) State that the respondent admits all of the facts alleged in the complaint; or

(c) State that the respondent admits the jurisdictional allegations of the complaint and neither admits nor denies the remaining allegations and consents to the issuance of a specified order without further procedure. The answer may, in addition, request an oral hearing or may contain an express waiver of hearing.

§ 202.12–3 Failure to file.

Failure to file an answer to, or plead specifically to, any allegation of the complaint, except as provided in § 201.-12–2(c), shall constitute an admission of such allegation.

§ 202.13 Consent orders.

At any time after the institution of a proceeding, the respondent may file an answer or amended answer consenting to an order as set forth in § 202.12–2(c). Within 15 days after service of such an answer, the complainant shall file its recommendation. If the complainant recommends that the order consented to by respondent be issued, the Secretary may, in his discretion, enter such order which shall have the same force and effect as other orders issued hereunder and shall be served upon the parties in the manner provided in § 202.27.

§ 202.14 Examiners.

§ 202.14–1 Assignment.

No examiner shall serve in any proceeding if he: (a) Has any pecuniary interest in any matter or business involved in the proceeding; (b) is related within the third degree by blood or marriage to any party to the proceeding; or (c) has participated in the investigation preceding the institution of the proceeding or in the determination that it should be instituted or in the preparation of the complaint or in the development of the evidence to be introduced therein.

§ 202.14–2 Disqualification of Examiner.

(a) Any party may, by motion made to the Examiner, request that the Examiner disqualify himself and withdraw from the proceeding. The Examiner may then either rule upon or certify the motion to the Secretary, but not both.

(b) An Examiner shall withdraw from any proceeding in which he deems himself disqualified for any reason.

§ 202.14–3 Conduct.

The Examiner shall conduct the proceeding in a fair and impartial manner, and save to the extent required for the disposition of ex parte matters as authorized by law, he shall not consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate.

§ 202.14–4 Powers.

Subject to review by the Secretary as provided elsewhere in this part, the Examiner, in any proceeding assigned to him, shall have power to:

(a) Rule upon motions and requests;

(b) Set the time and place of hearing, adjourn the hearing from time to time, and change the time and place of hearing;

(c) Administer oaths and affirmations and take affidavits;

(d) Issue subpenas requiring the attendance and testimony of witnesses and the production of books, contracts, papers, and other documentary evidence;

(e) Summon and examine witnesses and receive evidence;

(f) Take or order the taking of depositions;

(g) Admit or exclude evidence;

(h) Hear oral argument on facts or law; and

(i) Do all acts and take all measures necessary for the maintenance of order at the hearing and for the efficient, fair and impartial conduct of the proceeding.

§ 202.14–5 Who may act in the absence of the Examiner.

In case of the absence of the Examiner or his inability to act: (a) the powers and duties to be performed by him under this part in connection with a proceeding

assigned to him may, without abatement of the proceeding unless otherwise directed by the Secretary, be assigned to any other Examiner; and (b) the Chief Hearing Examiner or the Acting Chief Hearing Examiner may act on ancillary matters, such as requests for extensions of time and requests for continuances without the case being assigned to another Examiner.

§ 202.15 Prehearing conferences.

In any proceeding in which it appears that such procedure will expedite the proceeding, the Examiner may request the parties or their counsel to appear at a conference before him to consider: (a) the simplification of issues; (b) the necessity or desirability of amendments to pleadings; (c) the possibility of obtaining stipulations of fact and of documents which will avoid unnecessary proof; (d) the limitation of the number of experts or other witnesses; and (e) such other matters as may expedite and aid in the disposition of the proceeding. No transcript of such conference shall be made, but the Examiner shall prepare and file for the record a written summary of the action taken at the conference, which shall incorporate any written stipulations or agreements made by the parties at the conference or as a result of the conference. If the circumstances are such that a conference is impracticable, the Examiner may request the parties to correspond with him for the purpose of accomplishing any of the objects set forth in this section. The Examiner shall forward copies of letters and documents to the parties as the circumstances require. Correspondence in such negotiations shall not be a part of the record, but the Examiner shall submit a written summary for the record if any action is taken.

§ 202.16 Motions and requests.

§ 202.16–1 General.

All motions and requests shall be filed with the Hearing Clerk, unless made during the course of an oral hearing, in which case they may be stated orally and made a part of the transcript. The Examiner is authorized to rule upon all motions and requests filed or made prior to the filing of his report with the Hearing Clerk as hereinafter provided. The Secretary will rule upon all motions and requests filed after that time.

§ 202.16–2 Motions entertained.

Any motion will be entertained except a motion to dismiss a complaint on the pleadings. All motions and requests concerning the sufficiency of the complaint must be made within the time allowed for filing an answer.

§ 202.16–3 Contents.

All written motions and requests shall state the particular order, ruling, or action desired and the grounds therefor.

§ 202.16–4 Answers to motions and requests.

Within 15 days after service of any written motion or request, or within any longer period fixed by the Secretary or Examiner, the opposing party shall file an answer to the motion or request or shall be deemed to have no objection to the granting of the relief asked for in the motion or request. Unless permitted by the Secretary or Examiner, the complainant shall have no right to reply to the answer.

§ 202.16–5 Certification to Secretary.

The submission or certification of any motion, request, objection or other question to the Secretary prior to the time when the Examiner's Recommended Decision is filed with the Hearing Clerk shall be in the discretion of the Examiner, except as provided in this section. The Examiner may either rule upon or certify the motion, request, objection, or other question, but not both.

§ 202.17 Procedure upon failure to request oral hearing or waiver of oral hearing.

§ 202.17–1 General.

Failure to request an oral hearing within the time allowed for the filing of the answer shall constitute a waiver of such hearing. Except as provided in § 202.18, upon such failure to request an oral hearing, or upon express waiver of such hearing, by the parties, the parties shall have a period of 20 days from the final date for filing the answer in which to file sworn statements or affidavits in support of their respective positions. Within a reasonable time thereafter, the Examiner shall issue his Recommended Decision, which shall be served upon the parties in the manner provided in § 202.27: *Provided, however,* That if such sworn statements or affidavits raise any material issue of fact, the Examiner may afford the parties an opportunity to submit sworn statements or affidavits in reply or supplemental thereto or he may set the matter down for an oral hearing with respect to such material issues of fact. In the event the matter is set down for oral hearing, the rules in § 202.19 shall be applicable.

§ 202.17–2 Exceptions to Examiner's Recommended Decision.

Within 20 days after service of the Examiner's Recommended Decision, the parties may take exception to any matter set out in such report, and in such case shall file exceptions in writing with the Hearing Clerk suggesting corrected findings of fact, conclusions, or order. A party may file a brief in support of any exceptions or objections which he may file. A party, if he files exceptions, shall state in writing whether he desires to make an oral argument thereon before the Secretary in the manner provided in § 202.23; otherwise he shall be deemed to have waived such oral argument.

§ 202.17–3 Final order.

As soon as practicable after the expiration of the period for filing exceptions and briefs, or, in case oral argument is had, as soon as practicable thereafter, the Secretary shall issue his final decision and order, including his ruling on any exceptions filed by the parties. The order shall be served upon the parties in the manner provided in § 202.27.

§ 202.18 Procedure upon admission of facts.

§ 202.18–1 General.

Failure to file an answer shall constitute an admission of all the material allegations of fact contained in the complaint. The admission, in the answer or by failure to file an answer, of all the material allegations of fact contained in the complaint, shall constitute a waiver of oral hearing. Upon such admission of facts, the Examiner, without further procedure or hearing, shall issue his Recommended Decision, in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint. The Examiner's Recommended Decision shall be served upon the parties in the manner provided in § 202.27.

§ 202.18–2 Exceptions to Examiner's report.

Within 10 days after service of the Examiner's Recommended Decision, parties may take exception to any matter set out in such Recommended Decision, and in such case shall file exceptions in writing with the Hearing Clerk suggesting corrected findings of fact, conclusions, or order. A party may file a brief in support of any exceptions or objections which he may file. A party, if he files exceptions, shall state in writing whether he desires to make an oral argument thereon before the Secretary in the manner provided in § 202.23; otherwise he shall be deemed to have waived such oral argument.

§ 202.18–3 Final order.

As soon as practicable after the expiration of the period for filing exceptions and briefs, or, in case oral argument is had, as soon as practicable thereafter, the Secretary shall issue his final decision and order, including his ruling on any exceptions filed by the parties. The decision and order shall be served upon the parties in the manner provided in § 202.27.

§ 202.19 Procedure upon request for an oral hearing.

§ 202.19–1 Time and place of hearing.

If and when the proceeding has reached the stage where an oral hearing is to be held, the Examiner, giving careful consideration to the convenience of the parties, shall set a time and place of hearing and shall file with the Hearing Clerk a notice stating the time and place of hearing. If any change in the time or place of the hearing is made, the Examiner shall file with the Hearing Clerk a notice of such change, which notice shall be served upon the parties, unless it is made during the course of an oral hearing and made a part of the transcript.

§ 202.19–2 Appearances.

(a) *Representation.* The parties may appear in person or by counsel or other representative. Parties who appear in person and persons who appear as counsel or in a representative capacity must conform to the standards of ethical

conduct required of practitioners before the courts of the United States. Whenever the Secretary finds, after notice and opportunity for hearing, that a person, who is acting or has acted as counsel or representative for another person in any proceeding before the Secretary, is unfit to act as such representative or counsel, he will order that such person be precluded from acting as counsel or representative in any proceeding under the Act. The procedure in such case will be governed by the applicable provisions of this part.

(b) *Failure to appear.* If any party to the proceeding, after being duly notified, fails to appear at the hearing, he shall be deemed to have waived the right to an oral hearing in the proceeding. In the event that a party appears at the hearing and no party appears for the opposing side, the party who is present shall have an election whether to present his evidence, in whole or in part, in the form of affidavits or by oral testimony before the Examiner. Failure to appear at a hearing shall not be deemed to be a waiver of the right to be served with a copy of the Examiner's Recommended Decision and to file exceptions and make oral argument before the Secretary with respect thereto, in the manner provided in §§ 202.19–8 and 202.23.

§ 202.19–3 Order of proceeding.

Except as may be determined otherwise by the Examiner, the complainant shall proceed first at the hearing.

§ 202.19–4 Evidence.

(a) *General.* The testimony of witnesses at the hearing shall be upon oath or affirmation and subject to cross-examination. Any witness may, in the discretion of the Examiner, be examined separately and apart from all other witnesses except those who may be parties to the proceeding. The Examiner shall admit all relevant and material evidence, except evidence which is unduly repetitious.

(b) *Objections.* If a party objects to the admission or rejection of any evidence or the limitation of the scope of any examination or cross-examination, he shall state briefly the grounds for such objection, whereupon an automatic exception will follow if the objection is overruled by the Examiner. Only objections made before the Examiner may be subsequently relied upon in the proceeding.

(c) *Depositions.* The deposition of any witness shall be admitted in the manner provided in and subject to the provisions of § 202.20.

(d) *Records of the Department.* A true copy of every written entry in the records of the Department made by an officer or employee thereof in the course of his official duty and relevant and material to the issues involved in the hearing, shall be admissible as prima facie evidence of the facts stated therein, without the production of such officer or employee.

(e) *Exhibits.* Except where the Examiner finds that the furnishing of copies is impracticable, copies of each exhibit, in addition to the original, shall be filed with the Examiner for the use of the other parties to the proceeding. A true copy of an exhibit may, in the discretion of the Examiner, be substituted for the original.

(f) *Official notice.* Official notice may be taken of the official publications of the Department and other Federal agencies, of such matters as are judicially noticed in the courts of the United States, and of any other matter of technical or scientific fact of established character: *Provided however,* That the parties shall be given adequate notice, at the hearing or by reference in the Examiner's Recommended Decision or otherwise, of matters so noticed, and shall be given adequate opportunity to show that such facts are erroneously noticed.

(g) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof for excluded oral testimony shall consist of a brief statement describing the nature of the evidence excluded. If the evidence consists of an exhibit, it shall be inserted in the record in toto. In the event the Secretary decides that the Examiner's ruling in excluding the evidence was erroneous and prejudicial, the hearing shall be reopened to permit the taking of such evidence.

§ 202.19–5 Transcripts.

(a) *Filing and certification.* Oral hearings shall be stenographically reported and transcribed. As soon as practicable after the close of the hearing, the Examiner shall cause to be transmitted to the Hearing Clerk an original and two copies of the transcript of testimony and the original and copies of exhibits introduced or offered in evidence at the hearing. He shall attach to the original transcript of the evidence a certification stating that the transcript is a true transcript of the testimony offered or received at the hearing, except in such particulars as he shall specify, and that the exhibits transmitted are all the exhibits offered or introduced at the hearing, with such exceptions as he shall specify. A copy of such certificate shall be attached to each of the copies of the transcript of evidence.

(b) *Ordering copies.* Parties to the proceeding or other persons who desire a copy of the transcript of the hearing may place orders at the close of the hearing with the reporter who will furnish and deliver such copies directly to the purchaser upon payment therefor at the rate per page provided by the contract between the reporter and the purchaser.

§ 202.19–6 Proposed findings of fact, conclusions, and order.

Within such time as the Examiner may prescribe, each party may file with the Hearing Clerk proposed findings of fact, conclusions, and order, based solely on the record, and a brief in support thereof. A copy of each such document filed by a party shall be served upon the other party or parties in the manner provided in § 202.27.

§ 202.19–7 Examiner's Recommended Decision.

The Examiner, within a reasonable time after the termination of the period allowed to the parties for the filing of proposed findings of fact, conclusions, and orders, and briefs in support thereof, shall prepare on the basis of the record and shall file with the Hearing Clerk, his Recommended Decision, a copy of which shall be served upon each of the parties in the manner provided in § 202.27.

§ 202.19–8 Exceptions; objections; requests for oral argument.

(a) Within 20 days after service of the Examiner's Recommended Decision, the parties may take exception to any matter set out in such report, and in such case shall file exceptions in writing with the Hearing Clerk, referring to the relevant pages of the transcript, and suggesting corrected findings of fact, conclusions, or order. Within the same period of time, either party may file with the Hearing Clerk a brief statement in writing concerning each of the objections taken to the action of the Examiner at the hearing, as set out in § 202.19–4(b), upon which the party wishes to rely, referring where relevant, to the pages of the transcript. A party may file a brief in support of any exceptions or objections which he may file.

(b) A party, if he files exceptions or a statement of objections, shall state in writing, whether he desires to make an oral argument thereon before the Secretary; otherwise, he shall be deemed to have waived such oral argument.

§ 202.19–9 Final order.

As soon as practicable after the expiration of the period for filing exceptions, objections, and briefs, or, in case oral argument is had, as soon as practicable thereafter, the Secretary shall issue his final decision and order, including his ruling on any exceptions or objections filed by the parties. The decision and order shall be served upon the parties in the manner provided in § 202.27.

§ 202.20 Depositions.

(a) *Application for taking deposition.* Upon the application of a party to the proceeding, the Examiner may, at any time after the filing of the complaint, order the taking of testimony by deposition. The application shall be in writing and shall be filed with the Hearing Clerk and shall set forth: (1) The name and address of the proposed deponent; (2) the name and address of the person (referred to in this section as the "officer") qualified under the rules in this part to take depositions, before whom the proposed examination is to be made; (3) the proposed time and place of the examination, which should be at least 15 days after the date of the mailing of the application; and (4) the reasons why such deposition should be taken.

(b) *Examiner's order for taking deposition.* If the Examiner is satisfied that

good cause for taking the deposition is present, he may order its taking. The order shall be filed with the Hearing Clerk and shall be served upon the parties and shall state: (1) The time and place of examination (which shall not be less than 15 days after the filing of the order); (2) the name of the officer before whom the examination is to be made; and (3) the name of the deponent. The officer and the time and place need not be the same as those suggested in the application.

(c) *Qualifications of officer.* The deposition shall be made before the Examiner, or before an officer authorized by the law of the United States or by the law of the place of the examination to administer oaths, or before an officer authorized by the Secretary to administer oaths. No deposition shall be made before an officer who is a relative (within the third degree by blood or marriage), employee, attorney, or counsel of any party or who is a relative (within the third degree by blood or marriage) or employee of any attorney or counsel for any party or who is financially interested in the result of the proceeding: *Provided, however,* That an officer who is an employee of the Department and is not a relative of any such party, attorney, or counsel may take depositions in any proceeding under the act.

(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 by some person under his direction and in his presence. In lieu of oral cross-examination, parties may transmit written cross-interrogatories to the officer prior to the examination and the officer shall propound such cross-interrogatories to the deponent.

The applicant must arrange for the examination of the witness either by oral examination or by written interrogatories. If it is found by the Examiner, upon the protest of a party to the proceeding, that such party has his residence and his place of business more than 100 miles from the place of the examination and that it would constitute an undue hardship upon such party to be represented at the examination, the applicant will be required to conduct the examination by means of interrogatories. When the examination is conducted by means of interrogatories, copies of the interrogatories shall be served upon the other parties to the proceeding at least 5 days prior to the date set for the examination, and the other parties shall be afforded an opportunity to file with the officer cross-interrogatories at any time prior to the time of the examination.

(e) *Signature by witness.* The transcript of the deposition shall be read to or by the deponent, unless such reading is waived by the parties and the deponent. Any changes which the deponent wishes to make shall be entered upon the deposition by the officer, with a statement of the reasons given by the deponent for such changes. The deposition shall be signed by the deponent, unless the parties by stipulation waive such signing, or unless the deponent is ill or cannot be found or refuses to sign. If the deponent does not sign, the officer shall sign and shall state on the record the reason why the deponent did not sign. In such case the deposition shall be as valid as though signed by the deponent, unless the Examiner finds that the reason given by the deponent for his 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 mail the same by registered or certified mail to the Hearing Clerk.

(g) *Use of depositions.* A deposition ordered and taken in accord with the provisions of this section, or in accord with the provisions of the Rules of Civil Procedure of the Courts of the United States, may be used in a proceeding under the act if the Examiner finds that the evidence is otherwise admissible and (1) that the witness is dead; or (2) that the witness is at a greater distance than 100 miles from the place of hearing, unless it appears that the absence of the witness was procured by the party offering the deposition; or (3) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (4) that the party offering the deposition has endeavored but has been unable to procure the attendance of the witness by subpena; or (5) in any event, upon application and notice that such exceptional circumstances exist as to make it desirable, in the interests of justice and with due regard to the importance of presenting the testimony orally before the Examiner, to allow the deposition to be used. If any part of a deposition is put in evidence by a party, any other party may require the production of the remainder, or any other portion, of the deposition.

§ 202.21 Subpenas.

(a) *Issuance of subpenas.* The attendance of witnesses and the production of documentary evidence from any place in the United States on behalf of any party to the proceeding may, by subpena, be required at any designated place of hearing. Subpenas may be issued by the Secretary or by the Examiner, upon a reasonable showing by the applicant of the grounds, necessity, and reasonable scope thereof.

(b) *Application for subpena duces tecum.* Subpenas for the production of documentary evidence, unless issued by the Examiner upon his own motion, shall be issued only upon a verified written application. Such application shall specify, as exactly as possible, the documents desired and shall show their competency, relevancy, and materiality and the necessity for their production.

(c) *Service of subpenas.* Subpenas may be served (1) by a U.S. marshal or his deputy, (2) by any other person who is not less than 18 years of age, or (3) by registering or certifying and mailing a copy of the subpena addressed to the person to be served at his or its last known residence or principal place of business. Proof of service may be made by the return of service on the subpena by the U.S. marshal or his deputy; or, if served by an individual other than a U.S. marshal or his deputy, by an affidavit of such person stating that he personally served a copy of the subpena upon the person named therein; or if the service was by registered or certified mail, by an affidavit made by the person mailing the subpena that it was mailed as provided herein and by the signed return post office receipt: *Provided, however,* That where the subpena is issued on behalf of the Secretary, the return receipt without an affidavit of mailing shall be sufficient proof of service. In making personal service, the person making service shall leave a copy of the subpena with the person subpenaed; the original, bearing or accompanied by the required proof of service, shall be returned to the official who issued the same.

§ 202.22 Fees of witnesses.

Witnesses summoned before the Examiner or the Secretary shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken, and the persons taking the same, shall be entitled to the same fees as are paid for like services in the courts of the United States. Fees shall be paid by the party at whose instance the witness appears or the deposition is taken.

§ 202.23 Argument before Secretary.

§ 202.23–1 Request for oral argument; waiver.

Unless a party has included in his exceptions or objections a request for oral argument or has filed a separate request for argument prior to the expiration of the last date for filing such exceptions or objections, he shall be deemed to have waived his right to such oral argument.

§ 202.23–2 Briefs.

The parties may, with the consent of the Secretary, file written briefs either in addition to oral argument or in lieu thereof.

§ 202.23–3 Scope of argument.

Except where the Secretary determines that argument on additional issues would be helpful, argument, whether oral or on brief, shall be limited to the issues raised by the exceptions and statement of objections. If the Secretary determines that additional issues should be argued, counsel for the parties shall be given reasonable notice of such determination, so as to permit preparation of adequate argument on all the issues to be argued.

§ 202.24 Ex parte discussion.

At no stage of the proceeding between its institution and the issuance of the order shall the Secretary discuss ex parte the merits of the proceeding with any person who is connected with the proceeding in an advocative or in an investigative capacity, or with any representative of such person: *Provided, however,* That the Secretary may discuss the

merits of the case with such a person if all parties to the proceeding, or their representatives, have been given an opportunity to be present. Any memorandum or other communication addressed to the Secretary, during the pendency of the proceeding, and relating to the merits thereof, by or on behalf of, any party shall be regarded as argument made in the proceeding and shall be filed with the Hearing Clerk. A copy thereof shall be served upon the other party or parties in the manner provided in § 202.27, and opportunity will be given the other party or parties to file a reply thereto.

§ 202.25 Petitions for reopening hearing; for rehearing or reargument of proceeding; or for reconsideration of order.

§ 202.25–1 Petition requisite.

(a) *Filing; service.* An application for reopening the hearing to take further evidence, or for rehearing or reargument of the proceeding, or for reconsideration of the order, must be made by petition to the Secretary filed with the Hearing Clerk. A copy thereof shall be served upon the other party or parties in the manner provided in § 202.27. Every such petition must state specifically the grounds relied upon.

(b) *Petition to reopen hearing.* A petition to reopen a hearing to take further evidence may be filed at any time prior to the issuance of the final order. Every such petition shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not merely cumulative, and shall set forth a good reason why such evidence was not adduced at the hearing.

(c) *Petition to rehear or reargue proceeding, or to reconsider order.* A petition to rehear or reargue the proceeding or to reconsider the order shall be filed within 15 days after the date of the service of the order. Every such petition must state specifically the matters claimed to have been erroneously decided and alleged errors must be briefly stated.

§ 202.25–2 Procedure for disposition of petitions.

Within 20 days following the service of any petition provided for in this § 202.25, the other party or parties to the proceeding shall file with the Hearing Clerk an answer thereto. As soon as practicable thereafter, the Secretary shall announce his decision whether to grant or to deny the petition. Unless the Secretary shall determine otherwise, operation of the order shall not be stayed pending the decision to grant or to deny the petition. In the event that any such petition is granted by the Secretary, the applicable rules of practice, as set out elsewhere herein, shall be followed. A person filing a petition under this section shall be regarded as the moving party or complainant, although he shall be referred to as the complainant or respondent, depending upon his designation in the original proceeding.

§ 202.26 Filing documents.

All documents or papers required or authorized to be filed, except as provided otherwise in the rules in this Part, shall be filed with the Hearing Clerk in triplicate: *Provided however*, That, where there are more than two parties to the proceeding, a sufficient number of copies shall be filed so as to provide copies for service upon all parties to the proceeding.

§ 202.27 Service.

Copies of all documents or papers, required or authorized by the rules in this Part to be served on any party to a proceeding, shall be served by the Hearing Examiner, Hearing Clerk, or some other employee of the United States. Except as is provided otherwise by the rules in this Part, service shall be made either: (1) by delivering a copy of the document or paper to the individual to be served, or to a member of the partnership to be served, or to the president, secretary, or other executive officer or any director of the corporation, organization, or association to be served, or to the attorney or agent of record of such individual, partnership, corporation, organization, or association; (2) by leaving a copy of the document or paper at the principal office or place of business of such individual, partnership, corporation, organization, or association, or of his or its attorney or agent of record; or (3) by registering or certifying and mailing a copy of the document or paper, addressed to such individual, partnership, corporation, organization, or association, or to his or its attorney or agent of record, at his or its last known principal office or place of business. Proof of service hereunder shall be made by the affidavit of the person who actually made the service: *Provided, however*, That if the service is made by registered or certified mail, proof of service shall be made by the return post office receipt. The affidavit or post office receipt contemplated hereby shall be filed with the Hearing Clerk and the fact of filing thereof shall be noted in the record of the proceeding.

§ 202.28 Computation of time.

Saturdays, Sundays, and holidays shall be included in computing the time allowed for the filing of any document or paper: *Provided, however*, That when such time expires on a Saturday, Sunday, or a legal holiday (Federal or State), such period shall be extended to include the next following business day.

§ 202.29 Extension of time.

The time for the filing of any document or paper required or authorized under the rules in this part to be filed may be extended by the Examiner (before the Examiner's (Recommended Decision is filed), or by the Secretary (after the Examiner's (Recommended Decision is filed), if request for such extension of time is made prior to or on the final date allowed for such filing, and if in the judgment of the Examiner or the Secretary, as the case may be, after notice to and consideration of the views of the other party, when practicable, there is good reason for the extension.

Subpart C—Rules Applicable to Other Proceedings

§ 202.40 Proceedings prior to reporting for criminal prosecution.

The Director shall, before any violation of this act is reported to any U.S. attorney for institution of a criminal proceeding, notify the person against whom such proceeding is contemplated that action is contemplated, inform him regarding the facts involved, and afford him an opportunity to present his views, either orally or in writing, with regard to such contemplated proceeding. Notice shall be served upon such person in the manner provided in section 202.27 of this part. If the person desires to explain the transaction or otherwise to present his views, he shall file with the Director, within 20 days after the service of the notice, an answer, in duplicate, signed by him or by his attorney, or shall request, within the 20 days, an opportunity to express his views orally. The request shall be embodied in a writing signed by the person or by his attorney or agent. Such opportunity to present his views orally shall be afforded at a time and place to be designated by the Director and it shall be given within a time not to exceed 10 days after the date of the filing of the request therefor.

§ 202.41 Notice and hearing prior to promulgation of rules and regulations.

Prior to the promulgation of any rule or regulation contemplated by section 402 of the Act (7 U.S.C. 1592), notice shall be given by publication in the FEDERAL REGISTER of intention to promulgate such rule or regulation and of the time and place of a public hearing to be held with reference thereto. Such hearings shall be conducted by the Director or by such employee or employees of the Department of Agriculture as may be designated to preside thereat, except that hearings with respect to rules or regulations contemplated by section 402(b) of the Act relating to title III of the Act (Foreign Commerce), shall be conducted by the Secretary of the Treasury and the Secretary of Agriculture, acting jointly or separately, or by such employee or employees of the Department of Agriculture or the Department of the Treasury as may be designated to preside thereat. The presiding officer shall conduct the hearing in an orderly and informal manner, according to such procedure as he may announce at the commencement of the hearing. Any rule or regulation promulgated under section 402 of the Act shall become effective on the data fixed in the promulgation, which date shall be not less than 30 days after publication in the FEDERAL REGISTER. Any rule or regulation may be amended or revoked in the same manner as is provided for its promulgation.

§ 202.42 Publication of judgments, settlements, and orders.

After judgment or settlement, or the issuance of a cease and desist order, in any case or proceeding arising under this Act, notice thereof containing any information pertinent to the judgment or settlement or the issuance of the cease and desist order, shall be given by issuing a press release or by such other media as the Administrator of the Consumer and Marketing Service may designate from time to time.

§ 202.43 Proceedings under section 302(a) to show cause why seed or screenings should be admitted into the United States.

When seed or screenings have been refused admission into the United States under the Act or the joint regulations promulgated thereunder, the owner or consignee of such seed or screenings may submit a request to the Director for a hearing in which he may show cause, if any he have, why such seed or screenings should be admitted. Request for such hearing shall be embodied in a writing signed by the owner or consignee or by his attorney or agent. The Director shall thereupon fix, and notify the owner or consignee of, the time when and place at which the hearing will be held. The hearing shall be conducted in an orderly and informal manner by the Director or by a presiding officer duly designated by him, and it shall be governed by such rules of procedure as the presiding officer shall announce at the opening of the hearing. The determination as to whether the seed or screenings may be admitted into the United States shall be made by the Administrator of the Consumer and Marketing Service, within a reasonable time after the close of the hearing, and the owner or consignee of the seed or screenings who requested the hearing and the Secretary of the Treasury shall be duly notified as to such determination.

§ 202.44 Proceedings under section 305(b) to determine whether foreign alfalfa or red clover seed is not adapted for general agricultural use in the United States.

The public hearings which shall be held from time to time for the purpose of determining whether seed of alfalfa or red clover from any foreign country or region is not adapted for general agricultural use in the United States shall be conducted by the Director, or by a presiding officer duly designated by him. Such hearings shall be conducted in an orderly and informal manner in accordance with such procedure as the presiding officer shall announce at the opening of each hearing. The Administrator of the Consumer and Marketing Service shall, within a reasonable time after the close of the public hearing, make and publish his determination as to whether the said seed is adapted for general agricultural use in the United States. Publication of the determination shall be made in the FEDERAL REGISTER, and through such other media as the said Administrator may deem appropriate.

Done at Washington, D.C., this 21st day of January 1971, effective 30 days after publication hereof in the FEDERAL REGISTER.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-1066 Filed 1-26-71;8:45 am]