FEDERAL REGISTER

VOLUME 36 • NUMBER 25

Friday, February 5, 1971 • Washington, D.C.

Pages 2469–2547

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Environmental Protection Agency
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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.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended (44 U.S.C. 1510). The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

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Title 3—The President

PROCLAMATION 4029

USO Day

By the President of the United States of America

A Proclamation

On February 4, 1971, the United Service Organizations, affectionately known as the USO, will celebrate its thirtieth anniversary.

Its exclusive mission, since its beginning prior to World War II, has been to serve the morale, spiritual, recreational, and entertainment needs of the Armed Forces.

In war and peace the USO, with its thousands of patriotic volunteers, has kept the faith with millions of Americans as they have been called into the service of their nation.

Neither asking for nor receiving any financial support from the Government, the USO has been described as an expression of the continuing concern of Main Street America for its sons and daughters in uniform, wherever they serve.

For the past three decades, the American people have voluntarily given their support, both financial and personal, to bolster the morale of our servicemen and women through the operation of the USO. It continues to give an answer to the two questions always on the minds of the young men and women in uniform, "Does anyone know I'm here?" and "Does anyone care?".

Over the years, the USO has continued to give a resounding "Yes" on behalf of all thoughtful Americans.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim February 4, 1971, as USO Day, and urge the people of the United States to give their enthusiastic support to the United Service Organizations.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of February, in the year of our Lord nineteen hundred seventy-one, and of the Independence of the United States of America the one hundred ninety-fifth.

Richard Nixon

[FR Doc.71-1696 Filed 2-4-71;9:24 am]

Rules and Regulations

Title 12—BANKS AND BANKING

Chapter II—Federal Reserve System

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PART 224—DISCOUNT RATES

Changes in Rates

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

1. Section 224.2 is amended to read as follows:

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

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

Federal Reserve bank of—	Rate	Effective
Boston	5	Jan. 19, 1971
New York	5	Jan. 22, 1971
Philadelphia	5	Jan. 19, 1971
Cleveland	5	Do.
Richmond	5	Jan. 29, 1971
Atlanta	5	Jan. 19, 1971
Chicago	5	Jan. 21, 1971
St. Louis	5	Jan. 29, 1971
Minneapolis	5	Jan. 19, 1971
Kansas City	5	Jan. 29, 1971
Dallas	5	Jan. 19, 1971
San Francisco	5	Jan. 22, 1971

2. Section 224.3 is amended to read as follows:

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

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

Federal Reserve bank of—	Rate	Effective
Boston	5½	Jan. 19, 1971
New York	5½	Jan. 22, 1971
Philadelphia	5½	Jan. 19, 1971
Cleveland	5½	Do.
Richmond	5½	Jan. 29, 1971
Atlanta	5½	Jan. 19, 1971
Chicago	5½	Jan. 21, 1971
St. Louis	5½	Jan. 29, 1971
Minneapolis	5½	Jan. 19, 1971
Kansas City	5½	Jan. 29, 1971
Dallas	5½	Jan. 19, 1971
San Francisco	5½	Jan. 22, 1971

3. Section 224.4 is amended to read as follows:

§ 224.4 Advances to persons other than member banks.

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

Federal Reserve bank of—	Rate	Effective
Boston	7	Jan. 19, 1971
New York	7	Jan. 22, 1971
Philadelphia	7	Jan. 19, 1971
Cleveland	7	Do.
Richmond	7	Jan. 29, 1971
Atlanta	7	Jan. 19, 1971
Chicago	7	Jan. 21, 1971
St. Louis	7	Jan. 29, 1971
Minneapolis	7	Jan. 19, 1971
Kansas City	7	Jan. 29, 1971
Dallas	7	Jan. 19, 1971
San Francisco	7	Jan. 22, 1971

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

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

By order of the Board of Governors, January 29, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-1586 Filed 2-4-71;8:45 am]

Chapter VII—National Credit Union Administration

PART 745—CLARIFICATION AND DEFINITION OF ACCOUNT INSURANCE COVERAGE

On December 16, 1970, a notice of proposed rule making regarding clarification and definition of account insurance coverage was published in the FEDERAL REGISTER (35 F.R. 19027). After considering all of such relevant matter as was presented by interested persons, the rules as so proposed are hereby adopted, subject to the following changes:

1. In paragraph (b) of § 745.1, the word "of" appearing in line 3 is changed to "by", and in line 8 after the word "business" add the word "for".

2. In subparagraph (3) of § 745.2(c), delete the phrase "or his legal representative if he is an infant".

3. Section 745.12 is changed as follows:

(a) In line 5 change "90" to "180".

(b) In line 7 following the word "regulations" add "or 90 days after being insured, whichever is later."

(c) In line 8 change "2,000" to "$5,000".

(d) In line 10 change "March 1" to "June 30".

(e) Insert the following new sentence immediately following the first sentence: "Credit unions insured after the effective date of this regulation may select the end of any month of the preceding 6 months before being chartered to determine balances in excess of $5,000."

Effective date. These regulations shall be effective as of February 10, 1971.

H. NICKERSON, Jr.,
Administrator.

JANUARY 27, 1971.

Sec.

745.1 Definitions.
745.2 General principles applicable in determining insurance of deposits.
745.3 Single ownership accounts.
745.4 Testamentary accounts.
745.5 Accounts held by executors or administrators.
745.6 Accounts held by a corporation or partnership.
745.7 Accounts held by an unincorporated association.
745.8 Joint accounts.
745.9 Trust accounts.
745.10 Deposits evidenced by negotiable instruments.
745.11 Deposit obligation for payment of items forwarded for collection by credit union acting as agent.
745.12 Notification of depositors/shareholders.

AUTHORITY: The provisions of this Part 745 issued under sec. 207, 84 Stat. 1010-1011; Public Law 91-468.

§ 745.1 Definitions.

(a) Depositors means those persons who are members or nonmembers of credit unions which are allowed by law or regulation to deposit money in such credit unions.

(b) Deposits include the purchase of shares, share certificates or share deposit accounts by a member or nonmember of a credit union of a type approved by the Administrator which evidences money or its equivalent received or held by a credit union in the usual course of business for which it has given or is obligated to give credit to the account of the member or nonmember.

§ 745.2 General principles applicable in determining insurance of deposits.

(a) General: This Part 745 provides for determination by the Administrator of the insured depositors of an insured credit union and the amount of their insured accounts. The rules for determining the insurance coverage of accounts maintained by depositors in the same or different rights and capacities in the same insured credit union are set forth in the following provisions of this part. Insofar as rules or local law enter into such determinations, the law of the jurisdiction in which the insured credit union's principal office is located shall govern.

(b) The regulations in this part in no way are to be interpreted to authorize any type of account that is not authorized by the Federal Law or Regulation or State Law or Regulation or by the bylaws of a particular credit union. The

purpose is to be as inclusive as possible of all possible situations.

(c) Records: (1) The account records of the insured credit union shall be conclusive as to the existence of any relationship pursuant to which the funds in the account are deposited and on which a claim for insurance coverage is founded. Examples would be trustee, agent, custodian, or executor. No claim for insurance based on such a relationship will be recognized in the absence of such disclosure.

(2) If the account records of an insured credit union disclose the existence of a relationship which may provide a basis for additional insurance, the details of the relationship and the interests of other parties in the account must be ascertainable either from the records of the credit union or the records of the depositor maintained in good faith and in the regular course of business.

(3) The deposit records of an insured credit union in connection with a trust account shall disclose the name of both the settlor (grantor) and the trustee of the trust and shall contain an account signature card executed by the trustee.

(4) The interests of the coowners of a joint deposit shall be deemed equal, unless otherwise stated on the insured credit union's records in the case of a tenancy in common.

(d) Valuation of trust interests: (1) Trust interests in the same trust deposited in the same account will be separately insured if the value of the trust interest is capable of determination, without evaluation of contingencies, except for those covered by the present worth tables and rules of calculation for their use set forth in § 20.2031–7 of the Federal Estate Tax Regulations (26 CFR 20.2031–7).

(2) In connection with any trust in which certain trust interests are not capable of evaluation in accordance with the foregoing rule, payment by the Administrator to the trustee with respect to all such trust interests shall not exceed the basic insured amount of $20,000.

(3) Each trust interest in any trust established by two or more settlors shall be deemed to be derived from each settlor pro rata to his contribution to the trust.

(4) The term "trust interest" means the interest of a beneficiary in an irrevocable express trust, whether created by trust instrument or statute, but does not include any interest retained by the settlor.

§ 745.3 Single ownership accounts.

Funds owned by an individual and deposited in the manner set forth below shall be added together and insured up to $20,000 in the aggregate.

(a) *Individual accounts.* Funds owned by an individual (or by the community between husband and wife of which the individual is a member) and deposited in one or more deposit accounts in his own name shall be insured up to $20,000 in the aggregate.

(b) *Accounts held by agents or nominees.* Funds owned by a principal and deposited in one or more deposits in the name or names of agents or nominees shall be added to any individual deposit of the principal and insured up to $20,000 in the aggregate.

(c) *Accounts held by guardians, custodians, or conservators.* Funds held by a guardian, custodian, or conservator for the benefit of his ward or for the benefit of a minor under a Uniform Gifts to Minors Act and deposited in one or more deposits in the name of the guardian, custodian, or conservator shall be added to any individual deposit accounts of the ward or minor and insured up to $20,000 in the aggregate.

§ 745.4 Testamentary accounts.

(a) Funds owned by an individual and deposited in a revocable trust account, tentative or "Totten" trust account, "payable-on-death" account or similar account evidencing an intention that on his death the funds shall belong to his spouse, child, or grandchild shall be insured up to $20,000 in the aggregate as to each such named beneficiary, separately from any other accounts of the owner.

(b) If the named beneficiary of such an account is other than the owner's spouse, child, or grandchild, the funds in such account shall be added to any individual accounts of such owner and insured up to $20,000 in the aggregate.

§ 745.5 Accounts held by executors or administrators.

Funds of a decedent held in the name of the decedent or in the name of the executor or administrator of his estate and deposited in one or more accounts shall be insured up to $20,000 in the aggregate, separately from the individual deposits of the beneficiaries of the estate or of the executor or administrator.

§ 745.6 Accounts held by a corporation or partnership.

Deposits of a corporation or partnership engaged in any independent activity shall be insured up to $20,000 in the aggregate. A deposit of a corporation or partnership not engaged in an independent activity shall be deemed to be owned by the person or persons owning such corporation or comprising such partnership and, for deposit insurance purposes, the interest of each person in such a deposit shall be added to any other deposit individually owned by such person and insured up to $20,000 in the aggregate.

§ 745.7 Accounts held by an unincorporated association.

Deposits of an unincorporated association engaged in any independent activity shall be insured up to $20,000 in the aggregate. A deposit of an unincorporated association not engaged in an independent activity shall be deemed to be owned by the persons comprising such association and, for deposit insurance purposes, the interest of each owner in such a deposit account shall be added to any other deposit accounts individually owned by such person and insured up to $20,000 in the aggregate.

§ 745.8 Joint accounts.

(a) *Separate insurance coverage.* Accounts owned jointly, whether as joint tenants with right of survivorship, as tenants by the entireties, as tenants in common, or by husband and wife as community property, shall be insured separately from deposit accounts individually owned by the coowners.

(b) *Qualifying joint accounts.* A joint account shall be deemed to exist, for purposes of insurance of accounts, only if each coowner has personally executed a joint account signature card and possesses withdrawal rights. The restrictions of this paragraph shall not apply to coowners of a time certificate of deposit or to any deposit obligation evidenced by a negotiable instrument, but such a deposit must in fact be jointly owned.

(c) *Failure to qualify.* An account owned jointly which does not qualify as a joint account for purposes of insurance of accounts shall be treated as owned by the named persons as individuals and the actual ownership interest of each such person in such account shall be added to any other accounts individually owned by such person and insured up to $20,000 in the aggregate.

(d) *Same combination of individuals.* All joint accounts owned by the same combination of individuals shall first be added together and insured up to $20,000 in the aggregate.

(e) *Interest of each coowner.* The interests of each coowner in all joint accounts owned by different combinations of individuals shall then be added together and insured up to $20,000 in the aggregate.

§ 745.9 Trust accounts.

All trust interests, for the same beneficiary, deposited and established pursuant to valid trust agreements created by the same settlor (grantor) shall be added together and insured up to $20,000 in the aggregate, separately from other deposit or share accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangements.

§ 745.10 Deposits evidenced by negotiable instruments.

If any insured deposit obligation of a credit union be evidenced by a negotiable certificate of deposit, negotiable draft, negotiable cashier's or officer's check, negotiable certified check, or negotiable traveler's check or letter of credit, the owner of such deposit obligation will be recognized for all purposes of claim for insured deposits to the same extent as if his name and interest were disclosed on the records of the credit union provided the instrument was in fact negotiated to such owner prior to the date of the closing of the credit union. Affirmative proof of such negotiation must be offered in all cases to substantiate the claim.

§ 745.11 Deposit obligations for payment of items forwarded for collection by credit union acting as agent.

Where a closed credit union has become obligated for the payment of items

forwarded for collection by a credit union acting solely as agent, the owner of such items will be recognized for all purposes of claim for insured accounts to the same extent as if his name and interest were disclosed on the records of the credit union when such claim for insured accounts, if otherwise payable, has been established by the execution and delivery of prescribed forms. Such credit union forwarding such items for the owners thereof will be recognized as agent for such owners for the purpose of making an assignment of the rights of such owners against the closed insured credit union to the Administrator and for the purpose of receiving payment on behalf of such owners.

§ 745.12 Notification of depositors/shareholders.

Each insured credit union is required to provide notice of these rules and regulations for Clarification and Definition of Insurance Coverage of Member Accounts, Part 745, not later than 180 days after the effective date of these regulations or 90 days after being insured, whichever is later, to the owners of each account which had a balance in excess of $5,000 on any date selected by the credit union between October 1, 1970, and June 30, 1971. Credit unions insured after the effective date of this regulation may select the end of any month of the preceding 6 months before being chartered to determine balances in excess of $5,000. Such notice shall consist of mailing to such owners at their last known address as shown on the records of the insured credit union, a question and answer brochure on insurance of deposits. A small initial supply of such brochures will be prepared and furnished without cost by the Administrator. Additional copies may be purchased from the usual source of supply. Such information shall also be made available to the public at each teller's station or window where deposits or shares are normally received and at new account or share stations of an insured credit union. Additional explanatory materials may also be sent to depositors at the option of the insured credit union.

[FR Doc.71-1588 Filed 2-4-71;8:46 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 9, Amdt. 14]

PART 121—SMALL BUSINESS SIZE STANDARDS

Interpretation of Small Nonmanufacturer for Purpose of Government Procurement

Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby amended by adding new § 121.3-14(l) to read as follows:

§ 121.3-14 Interpretations.

* * * * *

(l) *Section 121.3-8(c) "Definition of nonmanufacturer."* The Government often purchases items in the form of kits such as, but not limited to, tool kits and survival kits, which are not manufactured items but merely assemblages of separate manufactured items. Accordingly, a concern which purchases some or all of such items and packages them into kit form is considered to be a nonmanufacturer for size determination purposes. Such a concern can qualify as a small business only if it meets all other qualifications of a small nonmanufacturer set forth in this part and if more than 50 percent of the total value of the kit and its contents is accounted for by items manufactured by small business.

Effective date. This amendment shall become effective on publication in the FEDERAL REGISTER (2-5-71).

Dated: January 27, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-1578 Filed 2-4-71;8:46 am]

[Rev. 9, Amdt. 15]

PART 121—SMALL BUSINESS SIZE STANDARDS

Ammunition Industry

On December 17, 1970, there was published in the FEDERAL REGISTER (35 F.R. 19124), a notice that the Small Business Administration proposed to amend Part 121 of Chapter I of Title 13 of the Code of Federal Regulations by establishing new definitions of a small business in Standard Industrial Classification Industry No. 1929, Ammunition, Except for Small Arms, Not Elsewhere Classified, for the purpose of Government procurement and SBA loans.

Interested parties were given 15 days in which to submit written statements of facts, opinions and arguments concerning the proposed changes.

After consideration of all relevant matter in connection with the proposal and there being no adverse comment thereon, it has been determined to adopt the changes as proposed.

Accordingly the amendment set forth below is hereby adopted:

Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby amended as follows:

1. Schedule B of Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby further amended by revising the size standard for Industry No. 1929, Ammunition, Except for Small Arms, Not Elsewhere Classified, to read as follows:

Census classification code	Industry	Employment size standard (number of employees)
1929	Ammunition, except for small arms, n.e.c.	1,500

2. Schedule A of Part 121 of Chapter I of Title 13 of the Code of Federal Regulations is hereby further amended by revising the size standard for Industry No. 1929, Ammunition, Except for Small Arms, Not Elsewhere Classified, to read as follows:

Census classification code	Industry or class of products	Employment size standard (number of employees)
1929	Ammunition, except for small arms, n.e.c.	1,000

Effective date. This amendment shall become effective twenty (20) days after publication in the FEDERAL REGISTER: *Provided, however,* That, for the purpose of Government procurement, it shall apply only to procurements for which invitations for bids or request for proposals are issued on or after such effective date.

Dated: January 29, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-1579 Filed 2-4-71;8:46 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airworthiness Docket No. 71-WE-3-AD; Amdt. 39-1152]

PART 39—AIRWORTHINESS DIRECTIVES

Certain North American Rockwell Airplanes

There have been cracks of the wing outboard flap track attachment lug that resulted in degradation of the strength of the wing flap-to-wing mounting below an acceptable level. A misalignment of the flap track to the attachment lug causes preload of the lug and has resulted in stress corrosion which is a function of calendar time. To correct this condition an airworthiness directive is being issued to require inspection and shimming, if necessary, of the outboard flap track fittings to the wing and to repair any attachment lugs found cracked.

Since this condition is likely to exist or develop in other airplanes of the same type design, an airworthiness directive is being issued to require inspection of the outboard flap track attachment lug on P/N's 265-130004-1, -21, -31 (LH) and 265-130004-2, -22, -32 (RH) for evidence of cracking in the areas adjacent to the lug to rear spar radii on NA-265, NA-265-20, NA-265-30, NA-265-40, and NA-265-60 airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause

exists for making this amendment effective on the date of publication in the FEDERAL REGISTER.

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 is amended by adding the following new airworthiness directive:

NORTH AMERICAN ROCKWELL. Applies to Models NA-265, NA-265-20, NA-265-30, NA-265-40 (Serial Nos. 282-1 through 282-97), and NA-265-60 (Serial Nos. 306-1 through 306-63).

Compliance required within the next 30 days after the effective date of this AD unless already accomplished.

To prevent failure of the outboard flap track attachment lug, accomplish the following:

(a) Inspect the outboard flap track attachment lug of the wing rear spar, P/N's 265-130004-1, -2, -21, -22, -31, and -32 for evidence of cracking in accordance with steps 1, 2, and 3 contained in North American Rockwell Sabreliner Field Service Bulletin No. 70-11, revised January 26, 1971, or later FAA-approved revision.

(b) If the spar lug is not cracked, prior to reassembly, rework the lug radii in accordance with steps 4 and 5 of Service Bulletin 70-11 referenced in (a) above.

(c) If the spar lug area is cracked, before further flight rework the spar lug area in accordance with steps 6 through 13 of Service Bulletin No. 70-11 referenced in (a) above.

This amendment becomes effective February 6, 1971.

(Secs. 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))

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to North American Rockwell Corp., Los Angeles International Airport, Los Angeles, CA 90009. These documents may also be examined at FAA Western Region, 5651 West Manchester Avenue, Los Angeles, CA 90045, and FAA Headquarters, 800 Independence Avenue SW., Washington, DC 20590. A historical file of this material, in full, is maintained by the FAA at its headquarters in Washington, D.C., and at FAA Western Region.

Issued in Los Angeles, Calif., on January 27, 1971.

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

NOTE: The incorporation by reference provisions in this document were approved by the Director of the Federal Register on February 4, 1971.

[FR Doc.71-1613 Filed 2-4-71;8:49 am]

[Airspace Docket No. 70-SO-89]

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

Designation of Control Zone and Alteration of Control Zones and Transition Area

On December 18, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 19184), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Jacksonville, NAS Cecil Field), and Mayport, control zone, alter the Jacksonville, Fla. (International Airport, NAS Jacksonville, NAS Cecil Field), and Mayport, Fla. (NS Mayport), control zones, and alter the Jacksonville, Fla., transition area.

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

Subsequent to publication of the notice, it was determined that the Craig Field control zone, as proposed, would be inadequate unless a common boundary were established with NS Mayport control zone at the point of intersections of the 5-mile radii. It is necessary to alter the Craig Field and NS Mayport control zones to reflect these boundary changes. Additionally, criteria for establishing controlled airspace protection for military penetration approach procedures, compatible with Terminal Instrument Procedures (TERPs) criteria, were developed by the Departments of the Air Force and Navy. The U.S. Navy submitted a proposed HI-VOR-RWY 9L/9R and HI-NDB ADF(UHF) RWY 9R/9L penetration approach procedure and proposed to cancel HI-VOR-1 and NDB (ADF)(UHF)-1 penetration approach procedures because of their limited utilization due to the activities in R-2903B. Because of lack of criteria, neither of these approaches was considered in the proposal, resulting in inadequate controlled airspace protection. It is necessary to alter the NAS Cecil Field control zone to provide the required controlled airspace protection. In compliance with TERPs criteria, extensions predicated on Navy Cecil VOR 260° radial and the 260° bearing from Navy Cecil RBN 7 miles wide and 11.5 miles long are required. Since these amendments are either minor in nature or made in accordance with TERPs criteria, which was coordinated with government agencies and affected industry groups, notice and public procedure hereon are unnecessary and action is taken herein to amend the descriptions accordingly.

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.

In § 71.171 (36 F.R. 2055), the following control zone is added:

JACKSONVILLE, FLA. (CRAIG MUNICIPAL AIRPORT)

Within a 5-mile radius of Craig Municipal Airport (lat. 30°20'15" N., long. 81°31'00" W.); excluding the portion northeast of a line connecting the two points of intersection with a 5-mile-radius circle centered on NS Mayport (lat. 30°23'25" N., long. 81°25'15" W.) control zone.

In § 71.171 (36 F.R. 2055), the following control zones are amended to read:

JACKSONVILLE, FLA. (INTERNATIONAL AIRPORT)

Within a 5-mile radius of Jacksonville International Airport (lat. 30°29'26" N., long. 81°41'19" W.); within 2 miles each side of the ILS localizer west course, extending from the 5-mile-radius zone to 1.5 miles east of the LOM.

JACKSONVILLE, FLA. (NAS JACKSONVILLE)

Within a 5-mile radius of NAS Jacksonville (lat. 30°14'00" N., long. 81°40'30" W.); within 3 miles each side of Navy Cecil VOR 084° radial, extending from the 5-mile radius zone to the NAS Cecil Field (lat. 30°13'00" N., long. 81°52'45" W.) control zone.

JACKSONVILLE, FLA. (NAS CECIL FIELD)

Within a 5-mile radius of NAS Cecil Field (lat. 30°13'00" N., long. 81°52'45" W.); within 3.5 miles each side of Navy Cecil VOR 260° radial and the 260° bearing from Navy Cecil RBN, extending from the 5-mile-radius zone to 11.5 miles west of the VOR and RBN; within 2 miles each side of Navy Cecil TACAN 184° radial, extending from the 5-mile-radius zone to 14 miles south of the TACAN; within 1.5 miles each side of Navy Cecil TACAN 355° radial, extending from the 5-mile-radius zone to 5.5 miles north of the TACAN.

MAYPORT, FLA. (NS MAYPORT)

Within a 5-mile radius of NS Mayport (lat. 30°23'25" N., long. 81°25'15" W.); within 2 miles each side of Navy Mayport TACAN 041° radial, extending from the 5-mile-radius zone to 6 miles northeast of the TACAN; within 2 miles each side of the 057° bearing from Navy Mayport RBN, extending from the 5-mile-radius zone to 8 miles northeast of the RBN; excluding the portion southwest of a line connecting the two points of intersection with a 5-mile-radius circle centered on Craig Municipal Airport (lat. 30°20'15" N., long. 81°31'00" W.).

In § 71.181 (36 F.R. 2140), the Jacksonville, Fla., transition area is amended to read:

JACKSONVILLE, FLA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Jacksonville International Airport (lat. 30°29'26" N., long. 81°41'19" W.), NAS Jacksonville (lat. 30°14'00" N., long. 81°40'30" W.), NAS Cecil Field (lat. 30°13'00" N., long. 81°52'45" W.), Craig Municipal Airport (lat. 30°20'15" N., long. 81°31'00" W.); within an 8-mile radius of NS Mayport (lat. 30°23'25" N., long. 81°25'15" W.); within 2 miles each side of Navy Mayport TACAN 041° radial, extending from the 8-mile-radius area to 12 miles northeast of the TACAN.

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

Issued in East Point, Ga., on January 26, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-1614 Filed 2-4-71;8:49 am]

[Airspace Docket No. 70-SO-98]

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

Designation of Control Zone and Alteration of Transition Area

On December 18, 1970, a notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 19185), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Fort Lauderdale, Fla., (Executive Airport), control zone and alter the Miami, Fla., transition area.

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

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

In § 71.171 (36 F.R. 2055), the following control zone is added:

FORT LAUDERDALE, FLA. (EXECUTIVE AIRPORT)

Within a 5-mile radius of Fort Lauderdale Executive Airport (lat. 26°11'41" N., long. 80°10'15" W.); excluding the portion within Fort Lauderdale-Hollywood International Airport (lat. 26°04'15" N., long. 80°09'10" W.) control zone and within a 1.5-mile radius of Pompano Beach Airpark (lat. 26°15'00" N., long. 80°06'30" W.). 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 (36 F.R. 2140), the Miami, Fla., transition area is amended as follows: "* * * 9 miles northeast of Homestead AFB," is deleted and "* * * 9 miles northeast of Homestead AFB; within a 6.5-mile radius of Fort Lauderdale Executive Airport (lat. 26°11'41" N., long. 80°10'15" W.)." is substituted therefor.

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

Issued in East Point, Ga., on January 26, 1971.

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

[FR Doc.71-1615 Filed 2-4-71;8:49 am]

[Docket No. 10805; Amdt. 91-86]

PART 91—GENERAL OPERATING AND FLIGHT RULES

IFR Operations; Two-Way Radio Communications Failure

The purpose of these amendments to the Federal Aviation Regulations is to clarify the altitude, climb, and descent requirements when two-way radio communications failure is experienced under IFR operations.

The altitude, climb, and descent portions of § 91.127 pertaining to IFR operations in the event of two-way radio communications failure have been in existence essentially unchanged since May 1962. The FAA has received letters and telephone calls indicating a misunderstanding of the altitude, climb, and descent portion of that rule in the event that a pilot operating an aircraft that is enroute to its destination under an IFR flight clearance sustains radio failure. Persons commenting on the rule believe that after climb to an MEA higher than the altitude that is assigned to the flight by ATC, the higher altitude must be maintained for the balance of the flight until reaching the fix from which the approach is to begin. The commentators stress the point that although climb instructions to achieve the appropriate altitude are spelled out in the rule, the rule is silent as to whether the pilot should descend to achieve or maintain an MEA or assigned altitude during the course of his flight when these levels become the appropriate altitude.

The intent of the rule is that the pilot who has experienced two-way radio failure should, during any segment of his route, fly at the appropriate altitude specified in the rule for that particular segment. The appropriate altitude is whichever of the following three is highest in each given phase of flight: (1) The altitude or flight level last assigned; (2) the MEA; or (3) the altitude or flight level the pilot has been advised to expect in a further clearance. The appropriate altitude for the route segment being flown is to be maintained regardless of whether the pilot finds it necessary to climb or descend to achieve that altitude. The rule does not contemplate that a pilot, once he has climbed to satisfy the rule for one segment of his route, may not descend so as to satisfy the rule in some later phase of his flight.

To illustrate the rule, if a pilot sustaining radio failure had an assigned altitude of 7,000 feet, and while en route to his destination came to a route segment for which the MEA was 9,000 feet, he would climb to 9,000 feet at the time or place where it became necessary to comply with that MEA. If later, while he was proceeding to his destination, the MEA dropped from 9,000 feet to 5,000 feet, the pilot would descend to 7,000 feet (the last assigned altitude), because that altitude is higher than the MEA.

It is apparent that the portion of the rule delineating climb requirements has been the major source of confusion in the rule. The FAA has determined that this portion of the rule is not required for accomplishing observance of appropriate radio failure procedures, and may be rescinded in the interest of clarity in understanding the provisions of the basic rule.

Since this amendment is clarifying in nature, and imposes no burden on the public, notice and public procedure thereon are unnecessary and good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, § 91.127 of the Federal Aviation Regulations is amended as follows, effective February 5, 1971; paragraph (c)(2) is revised, paragraph (c)(3) is revoked, and the heading for paragraph (c)(5) is revised. As amended § 91.127 reads as follows:

§ 91.127 IFR operations; two-way radio communications failure.

* * * * *

(c) * * *

(2) *Altitude.* At the highest of the following altitudes or flight levels for the route segment being flown: * * *

(3) [Revoked]

* * * * *

(5) *Descent for approach.* * * *

* * * * *

(Secs. 307(c), 313(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(c), 1354(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on January 29, 1971.

J. H. SHAFFER,
Administrator.

[FR Doc.71-1611 Filed 2-4-71;8:48 am]

[Docket No. 10052; Amdts. 91-87, 135-26]

PART 91—GENERAL OPERATING AND FLIGHT RULES

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS OF SMALL AIRCRAFT

Preflight Action

The purpose of these amendments to Parts 91 and 135 of the Federal Aviation Regulations is to specifically require, as a part of the preflight action prescribed in § 91.5, that the pilot in command of an aircraft familiarize himself with all available information concerning the runway lengths at airports of intended use and takeoff and landing distance information appropriate to the aircraft. In addition, this amendment deletes § 135.113 which currently contains the substance of the change incorporated herein in § 91.5.

This amendment is based on a notice of proposed rule making, Notice 70-1, published in the FEDERAL REGISTER on January 10, 1970 (35 F.R. 386). Several comments were received in response to the notice. Some comments stated that the current requirements of § 91.5, which are general in nature, are adequate and recognize the fact that preflight knowledge of runway distance information is a good operating practice that is covered by that section. Therefore, by expressly making this specific good operating practice mandatory, these commentators believe the FAA is unnecessarily subjecting pilots to possible violations of the regulations.

The FAA recognizes that good operating practice dictates that a pilot in command familiarize himself, prior to flight, with all available information concern-

ing runway distance information. However, compliance with this good operating practice by all pilots, regardless of the type of operations conducted, can best be insured by removing the current rule from Part 135 and making it a specific operating rule of Part 91 having general applicability.

In addition, objections were raised that there is not enough information available at many airports to enable pilots to comply with the requirements adopted herein, and that the regulation would require pilots to go to great length to find all information concerning runway distance information. In this regard, it should be pointed out that the proposal, and the rule adopted herein, applies only with respect to available information.

As adopted, the rule requires pilots in command of civil aircraft for which an approved airplane or rotocraft flight manual is required, and which contains takeoff and landing distance information, to use that information in compliance with the requirements of § 91.5. Pilots in command of civil aircraft which have not approved airplane or rotorcraft flight manual, or which have manuals which do not provide takeoff and landing distance information, must use other reliable information, if it is available, relating to aircraft performance under expected values of airport elevation, wind and temperature.

Finally, § 135.113 is deleted inasmuch as the substance of that section has been incorporated in the amendment to § 91.5.

Interested persons having been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and for the reasons stated in NPRM 70–1, Parts 91 and 135 of the Federal Aviation Regulations are amended, effective April 6, 1971, as follows:

1. By amending § 91.5 to read as follows:

§ 91.5 Preflight action.

Each pilot in command shall, before beginning a flight, familiarize himself with all available information concerning that flight. This information must include:

(a) For a flight under IFR or a flight not in the vicinity of an airport, weather reports and forecasts, fuel requirements, alternatives available if the planned flight cannot be completed, and any known traffic delays of which he has been advised by ATC.

(b) For any flight, runway lengths at airports of intended use, and the following takeoff and landing distance information:

(1) For civil aircraft for which an approved airplane or rotorcraft flight manual containing takeoff and landing distance data is required, the takeoff and landing distance data contained therein; and

(2) For civil aircraft other than those specified in subparagraph (1) of this paragraph, other reliable information appropriate to the aircraft, relating to aircraft performance under expected values of airport elevation and runway slope, aircraft gross weight, and wind and temperature.

§ 135.113 [Deleted]

2. By deleting and reserving § 135.113.

(Secs. 313(a), 601, 602, and 604, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1422, and 1424; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on January 29, 1971.

J. H. SHAFFER,
Administrator.

[FR Doc.71-1612 Filed 2-4-71;8:48 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-660; Amdt. 16]

PART 207—CHARTER TRIPS AND SPECIAL SERVICES

Extension of Charter Regulations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of January 1971.

In a Notice of Rule Making EDR–183, PSDR–24,[1] the Board, inter alia, gave notice that it had under consideration amendment of Part 207 for the purpose of establishing uniform charter regulations applicable to all types of charters (except inclusive tour charters) performed by all classes of carriers and applicable to on-route as well as off-route charters. To this end it proposed that existing charter regulations set forth in Part 208 of this subchapter, together with amendments to Part 208 proposed therein, should be extended to Part 207, to the extent applicable. For the reasons set forth in ER–659, issued simultaneously herewith, the Board has decided to adopt the proposals to the extent indicated therein. However, as there indicated, the Board is permitting petitions for reconsideration of the amendment to § 207.13(b) concerning full payment in case of split charters 30 days prior to commencement of the transportation and of the amendment § 207.13(c) concerning additional intermingling authority. Twelve (12) copies of such petitions shall be filed with the Docket Section, Civil Aeronautics Board, Room 712, Universal Building, Washington, DC 20428, on or before February 19, 1971. Copies of any petition filed will be available for examination by interested persons in the Docket Section. The filing of petitions shall not operate to stay the effective date of the rules.

Accordingly, the Civil Aeronautics Board hereby amends Part 207 of the economic regulations (14 CFR Part 207), effective April 6, 1971, as follows:

1. Amend the Table of Contents by (a) placing §§ 207.1 through 207.10 under a new Subpart A; (b) adding titles to new §§ 207.11 through 207.16 under Subpart A; and (c) adding new Subparts B, C, and D. As amended, the Table of Contents will read as follows:

[1] May 8, 1970 (35 F.R. 7587).

Subpart A—General Provisions

Sec.
207.1 Definitions.
207.2 Applicability of part.
207.3 Scope of authorization.
207.4 Tariffs to be filed for charter trips and special services.
207.4a Written contracts with charterers.
207.5 Limitation on amount of charter trips which may be performed by combination carriers.
207.6 All-cargo carriers: limitation on amount of charter trips which may be performed.
207.7 Charter trips and other special services within the State of Alaska.
207.7a Restriction on frequency and regularity of off-route charter trips and other special services.
207.8 Notice of proposed special services.
207.9 Records and record retention.
207.10 Reports of emergency commercial charters for other direct carriers.
207.11 Charter flight limitations.
207.12 Unused space.
207.13 Terms of service.
207.14 Substitute transportation in emergencies.
207.15 Payments, gratuities and donations.
207.16 Waiver.

Subpart B—Provisions Relating to Pro Rata Charters

207.20 Applicability of subpart.

REQUIREMENTS RELATING TO AIR CARRIERS

207.21 Solicitation and formation of a chartering group.
207.22 Pretrip notification and charter contract.
207.23 Agent's commission.
207.24 Statement of Supporting Information.

REQUIREMENTS RELATING TO TRAVEL AGENTS

207.30 Prohibition against double compensation.
207.31 Statement of Supporting Information.

REQUIREMENTS RELATING TO CHARTERING ORGANIZATION

207.40 Solicitation of charter participants.
207.41 Passengers on charter flights.
207.42 Participation of immediate families in charter flights.
207.43 Charter costs.
207.44 Statement of charges.
207.45 Passenger lists.
207.46 Application for a charter.
207.47 Statement of Supporting Information.

Subpart C—Provisions Relating to Single Entity Charters

207.50 Applicability of subpart.
207.51 Terms of service.
207.52 Commissions paid to travel agents.
207.53 Statement of Supporting Information.

Subpart D—Provisions Relating to Mixed Charters

207.60 Applicable rules.

AUTHORITY: The provisions of this Part 207 issued under secs. 204(a), 401, 403, 404(b), 407, and 416(b) of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 754 (as amended by 76 Stat. 143), 758 (as amended by 74 Stat. 445), 760, 766, 771; 49 U.S.C. 1324, 1371, 1373, 1374, 1377, 1386).

2. Amend § 207.1 by revising the definitions of "charter trip," "mixed charter," and "on-route" and adding new definitions of "charter flight," "charter group," "charter organization," "pro rata

charter," "single entity charter," "study group," and "travel agent," as follows:

§ 207.1 Definitions.

As used in this part, unless the context otherwise requires:

* * * * *

"Charter flight" means air transportation performed in accordance with § 207.11.

"Charter group" means that body of individuals who shall actually participate in the charter flight.

"Charter organization" means that organization, group, or other entity from whose members (and their immediate families) a charter group is derived.

"Charter trip" means air transportation performed in accordance with § 207.11.

* * * * *

"Mixed charter" means a charter, the cost of which is borne, or pursuant to contract may be borne, partly by the charter participants and partly by the charterer.

* * * * *

"On-route shall refer to service performed by an air carrier between points between which said carrier is authorized to provide service pursuant to either its certificate of public convenience and necessity or exemption authority: *Provided, however,* That passenger charter trips by any all-cargo carrier are not considered to be on-route whether or not they performed between points designated to receive service by such carrier in its certificate of public convenience and necessity, except that in the event services are performed pursuant to a contract with the Department of Defense or an agency thereof, by an all-cargo carrier between points designated to receive service by such carrier in its certificate of public convenience and necessity which (1) involves cargo transportation in one direction and passenger transportation in the other direction or (2) involves a charter trip in which passengers and cargo are carried on the same flight, the passenger charter leg or the mileage operated in such charter, as the case may be, will be considered on-route.

NOTE: Charter services for the Department of Defense conducted between points between which the carrier is not otherwise authorized to provide service by its certificate of public convenience and necessity or exemption authority naming such points are not regarded as "on-route."

* * * * *

"Pro rata charter" means a charter, the cost of which is divided among the passengers transported.

"Single entity charter" means a charter, the cost of which is borne by the charterer and not by individual passengers, directly or indirectly.

* * * * *

"Study group" means a charter group comprised of bona fide participants in a formal academic study course abroad and in which (1) the charterer is an educational institution or (2) such study course is for a period of at least 4 weeks' duration at an educational institution abroad. As used in this paragraph, the term "educational institution" means a bona fide school which (i) is empowered to grant college degrees or secondary school diplomas by the government of one of the 50 States of the United States, the District of Columbia, a U.S. territory or possession or a foreign country and (ii) is operated as a school on a year-round basis. An aircraft may carry a maximum of three study groups: *Provided,* That if more than one group is carried, each of the groups shall consist of 40 or more study group participants: *And provided, further,* That the entire aircraft is chartered to a single study group charterer.

* * * * *

"Travel agent" means any person engaged in the formation of groups for transportation or in the solicitation or sale of transportation services.

3. Amend paragraph (a) of § 207.4 to read as follows:

§ 207.4 Tariffs to be filed for charter trips and special services.

(a) No air carrier shall perform any charter trips or other special services unless such air carrier shall have on file with the Board a currently effective tariff showing all rates, fares, and charges for such charter trips and other special services, and showing the rules, regulations, practices, and services in connection with such transportation including the eligibility requirements for charter groups not inconsistent with those established in this part.

* * * * *

4. Add a new paragraph (c) to § 207.9 to read as follows:

§ 207.9 Records and record retention.

Each air carrier shall obtain and retain the following records in accordance with Part 249 of this subchapter:

* * * * *

(c) Every statement of supporting information and proof of the commission paid to any travel agent for each pro rata charter trip.

5. Add new §§ 207.11 through 207.16 as follows:

§ 207.11 Charter flight limitations.

Charter flights (trips) in air transportation shall be limited to the following:

(a) Air transportation of persons and/or property pursuant to contracts with the Department of Defense where the entire capacity of one or more aircraft has been engaged by the Department;

(b) Air transportation performed on a time, mileage or trip basis where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage and/or the movement of property;

(1) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel or company property, or in cases of emergency, of comercial traffic: *Provided,* That emergency charters for commercial traffic shall be reported in accordance with § 207.10);

(2) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons, as agent or representative of such group;

(3) By an air freight forwarder or international air freight forwarder holding a currently effective operating authorization under Part 296 or Part 297 of this subchapter for the carriage of property in air transportation;

(4) By a person authorized by the Board to transport by air used household goods of personnel of the Department of Defense; or

(c) Air transportation performed on a time, mileage or trip basis where less than the entire capacity of an aircraft has been engaged for the movement of persons and their personal baggage by two or more of the following persons: *Provided,* That such persons in the aggregate engage the entire capacity of the aircraft:

(1) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial passenger traffic: *Provided,* That emergency charters for commercial traffic shall be reported in accordance with § 207.10);

(2) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services), for the transportation of a group of persons as agent or representative of such group;

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided, further,* That paragraph (c) shall not be construed to apply to movements of property.

§ 207.12 Unused space.

An air carrier may, with the written consent of the charterer(s), utilize any unused space for the transportation of (a) the carrier's own personnel and property and/or (b) the directors, officers, and employees of a foreign air carrier or another air carrier traveling pursuant to a pass interchange arrangement.

§ 207.13 Terms of service.

(a) The total charter price and other terms of service rendered pursuant to this part shall conform to those set forth in the applicable tariff on file with the Board and in force at the time of the respective charter flight and the contract must be for the entire capacity, or for less than the entire capacity (see § 207.11(c)) of one or more aircraft. Where a carrier's charter charge computed according to a mileage tariff includes a charge for ferry mileage, the carrier shall refund to the charterer any sum charged for ferry mileage which is not in fact flown in the performance of

the charter: *Provided,* That the carrier shall not be carried, there shall be no mileage flown in addition to that stated in the contract unless such mileage is flown for the convenience of and at the express direction of the charterer.

(b) The carrier shall require full payment of the total charter price or the posting of a satisfactory bond for full payment prior to the commencement of the air transportation: *Provided, however,* That in the case of a charter for less than the entire capacity of an aircraft pursuant to § 207.11(c), the carrier shall require full and nonrefundable payment of the total charter price not less than 30 days prior to the commencement of the transportation.

(c) In the case of a charter contract calling for four or more round trips, per-calendar year one-way passengers shall not charge the charterer for ferry intermingling of passengers and each planeload group, or less than planeload group (see § 207.11(c)), shall move as a unit in both directions, except as provided in § 207.14.

§ 207.14 Substitute transportation in emergencies.

(a) A carrier shall be permitted to transport a passenger on a charter flight with a group other than his own or on a ferry flight (as defined in § 241.03 of this subchapter) under the following circumstances:

(1) The passenger was transported by the carrier on an outbound charter flight;

(2) The transportation is for return passage only;

(3) When the passenger is required to return at a different time than his own charter flight due to emeregncy circumstances beyond the passenger's control; and

(4) The charter group with which the passenger is to travel expresses no objection to his participation in the charter flight.

For the purposes of this paragraph, "emergency circumstances beyond the passenger's control" shall mean illness or injury to the passenger or a member of his immediate family; death of a member of the passenger's immediate family; or weather conditions or unforeseeable and unavoidable delays in ground transportation or connecting air transportation.

(b) In cases where such substitute transportation is furnished, the carrier shall file a report with the Director, Bureau of Operating Rights, within 30 days after the substitute transportation is provided setting forth the circumstances of the carriage. Such report shall include the name of the passenger; the name of his chartering organization; the name of the chartering organization with whom he traveled in substitute transportation; the date he was originally scheduled to return and the date on which he actually returned; a description of the circumstances which made the substitute transportation necessary; and the evidence which the carrier obtained to substantiate the need for substitute transportation (e.g., a doctor's certificate).

§ 207.15 Payments, gratuities, and donations.

(a) Neither a carrier nor a travel agent shall make any payments or extend gratuities of any kind, directly or indirectly, to any member of a chartering organization in relation either to air transportation or land tours or otherwise.

(b) Neither a carrier nor a travel agent shall make any donation to a chartering organization or an individual charter participant.

(c) Nothing in this section shall preclude a carrier from paying a commission (within the limits of §§ 207.23 and 207.52) to a member of a chartering organization if such member is its agent, or restrict a carrier or a travel agent from offering to each member of the charter group such advertising and goodwill items as are customarily extended to individually ticketed passengers (e.g., canvas traveling bag or a money exchange computer).

§ 207.16 Waiver.

A waiver of any of the provisions of this part may be granted by the Board upon the submission by an air carrier of a written request therefor not less than 30 days prior to the flight to which it relates provided such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein. Notwithstanding the foregoing, waiver applications filed less than 30 days prior to a flight may be accepted by the Board in emergency situations in which the circumstances warranting a waiver did not exist 30 days before the flight.

6. Adopt new Subparts B, C, and D as follows:

Subpart B—Provisions Relating to Pro Rata Charters

§ 207.20 Applicability of subpart.

This subpart sets forth the special rules applicable to pro rata charters, both on-route and off-route.

REQUIREMENTS RELATING TO AIR CARRIERS

§ 207.21 Solicitation and formation of a chartering group.

(a) A carrier shall not engage, directly or indirectly, in any solicitation of individuals (through personal contact, advertising, or otherwise) as distinguished from the solicitation of an organization for a charter trip, except after a charter contract has been signed.

(b) A carrier shall not employ, directly or indirectly, any person for the purpose of organizing and assembling members of any organization, club, or other entity into a group to make the charter flight, except after a charter contract has been signed.

§ 207.22 Pretrip notification and charter contract.

(a) Upon a charter flight date being reserved by the carrier or its agent, the carrier shall provide the prospective charterer with a copy of this Part 207.[2] The charter contract shall include a provision that the charterer, and any agent thereof, shall only act with regard to the charter in a manner consistent with this part and that the charterer shall within due time submit to the carrier such information as specified in § 207.45. The carrier shall also require that the charterer and any travel agent involved shall furnish it at least 30 days prior to departure of the first flight the statements of supporting information required in §§ 207.47 and 207.31, respectively, unless the charter has been contracted for within 30 days before the date of departure, in which event the statement and attachments shall be filed with the carrier on the date the charter contract is executed. In the event of a substitution of carriers, the carrier with whom the statements and attachments have been filed may forward them to the substitute carrier, in which case new statements need not be executed.

(b) The carrier shall attach to its copy of the charter contract a certification by an officer of the chartering organization, or other qualified person, authorizing the person who executes the contract to do so on behalf of the chartering organization.[3] If the carrier executes a charter contract within 15 days of the flight date, the carrier shall require the person who executes the contract on behalf of the charterer to certify as to whether or not a contract for the flight has been canceled by another carrier because the chartering organization was found to be ineligible under the regulations. The carrier shall also notify the Board within 5 days after the contract has been executed, that its execution took place within 15 days of flight date. Where the certification discloses, or the carrier has reason to believe, that a contract for the flight has been canceled by another carrier, the notification to the Board shall also state that the carrier has made an independent inquiry and has satisfied itself that such cancellation was not caused by the ineligibility of the chartering organization. If a charter contract is for the return flight of a one-way charter by the same charter organization, a copy of the passenger list (§ 207.45) of the outbound charter shall be attached to the charter contract.

§ 207.23 Agent's commission.

The carrier shall not pay its agent a commission or any other benefits, directly or indirectly, in excess of 5 percent of the total charter price as set forth in the carrier's charter tariff on file with the Board, or more than the commission related to charter flights paid to an agent by a carrier certificated to render regular service on the same route, whichever is greater. The carrier shall not pay any

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[2] Copies of this part are available by purchase from the Superintendent of Documents, Washington, D.C. 20402. Single copies will be furnished without charge on written requests to the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

[3] Not applicable where the charter is based on employment in one entity or employee or student status at a school.

commission whatsoever to an agent if the agent receives a commission from the charterer for the same service.

§ 207.24 Statement of Supporting Information.

Prior to performing a charter flight, the carrier shall execute, and require the travel agent (if any) and the charterer to execute, the Statement of Supporting Information attached hereto and made a part hereof.[4] If a charter contract covers more than one charter flight, only one statement need be filed: *Provided, however,* That separate financial data (see item 13 of statement) shall be filed for each one-way or round-trip flight. The carrier shall require the charterer to annex to the statement copies of all announcements of the charterer in connection with the charter issued after the contract is signed.

REQUIREMENTS RELATING TO TRAVEL AGENTS

§ 207.30 Prohibition against double compensation.

A travel agent may not receive a commission from both the direct air carrier and the charterer for the same service.

§ 207.31 Statement of Supporting Information.

Travel agents shall execute, and furnish to air carriers, section A of part II of the Statement of Supporting Information attached hereto and made a part hereof,[4] at such time as required by the carrier to afford it due time for review thereof.

REQUIREMENTS RELATING TO CHARTERING ORGANIZATION

§ 207.40 Solicitation of charter participants.

(a) As used in this section, "solicitation of the general public" means:

(1) A solicitation going beyond the bona fide members of an organization (and their immediate families). This includes air transportation services offered by an air carrier under circumstances in which the services are advertised in mass media, whether or not the advertisement is addressed to members of a specific organization, and regardless of who places or pays for the advertising. Mass media shall be deemed to include radio and television, and newspapers and magazines. Advertising in such media as newsletters or periodicals of membership organizations, industrial plant newsletters, college radio stations, and college newspapers shall not be considered advertising in mass media to the extent that:

(i) The advertising is placed in a medium of communication circulated mainly to members of an organization that would be eligible to obtain charter service, and

(ii) The advertising states that the charter is open only to members of the organization referred to in subdivision (i) of this subparagraph, or only to members of a subgroup thereof. In this context, a subgroup shall be any group with membership drawn primarily from members of the organization referred to in subdivision (i) of this subparagraph: *Provided,* That this paragraph shall not be construed as prohibiting air carrier advertising which offers charter services to bona fide organizations, without reference to a particular organization or flight.

(2) The solicitation, without limitation, of the members of an organization so constituted as to ease of admission to membership, and nature of membership, as to be in substance more in the nature of a segment of the public than a private entity.

(b) Members of the charter group may be solicited only from among the bona fide members of an organization, club, or other entity, and their immediate families, and may not be brought together by means of a solicitation of the general public. "Bona fide members" means those members of a charter organization who (1) have not joined the organization merely to participate in the charter as the result of solicitation of the general public; and (2) are members for a minimum of 6 months prior to the starting flight date. The requirement in subparagraph of this paragraph is not applicable to—

(i) Students and employees of a single school, and immediate families thereof;

(ii) Employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof; or

(iii) Participants in a study group charter.

(c) Solicitation of, as well as participation by, members of an organization with respect to charter flights shall extend only to the organization, or the particular chapter or unit thereof, which signs the charter agreement with the air carrier as the charterer.

(d) A charterer shall not advertise or otherwise solicit its members for any charter until a charter contract has been signed: *Provided, however,* That this prohibition shall not extend to oral inquiries or internal mailings directed to members to determine interest in a charter flight or charter program so long as no fixed price for air transportation is held out. After a charter contract is signed, copies of solicitation material shall be furnished the carrier at the same time it is distributed to members.

§ 207.41 Passengers on charter flights.

Only bona fide members of the charterer, and their immediate families (except as provided in § 207.42) may participate as passengers on a charter flight, and the participants must be members of the specific organization or chapter which authorized the charter. The charterer must maintain a central membership list, available for inspection by the carrier or Board representative, which shows the date each person became a member.[5] When four or more round trips are contracted for, intermingling between flights or reforming or planeload or less than planeload charter groups shall not be permitted, and each group must move as a unit in both directions, except as provided in § 207.14.

§ 207.42 Participation of immediate families in charter flights.

(a) The immediate family of any bona fide member of a charter organization may participate in a charter flight: *Provided, however,* That this section shall not apply to study group charters as defined herein (§ 207.1).

(b) "Immediate family" means only the following persons who are living in the household of a member of a charter organization, namely, the spouse, dependent children, and parents, of such member.

§ 207.43 Charter costs.

(a) The costs of charter flights shall be prorated equally among all charter passengers, and no charter passenger shall be allowed free transportation; except that (1) children under 12 years of age may be transported at a charge less than the equally prorated charge; and (2) children under two years of age may be transported free of charge.

(b) The charterer shall not make charges to the charter participants which exceed the actual costs incurred in consummating the charter arrangements, nor include as a part of the assessment for the charter flight any charge for purposes of charitable donations. All charges related to the charter flight arrangements collected from the charter participants which exceed the actual costs thereof shall be refunded to the participants in the same ratio as the charges were collected.

(c) Reasonable administrative costs of organizing the charter may be divided among the charter participants. Such costs may include a reasonable charge for compensation to members of the charter organization for actual labor and personal expenses incurred by them. Such charge shall not exceed $300 (or $500 where the charter participants number more than 80) per round-trip flight. Neither the organizers of the charter, nor any member of the chartering organization, may receive any gratuities or compensation, direct or indirect from the carrier, the travel agent, or any organization which provides any service to the chartering organization whether of an air transportation nature or otherwise. Nothing in this section shall preclude a member of a chartering organization who is the carrier's agent from receiving a commission from the carrier (within the limits of § 207.23), or prevent any member of the charter group from accepting such advertising and goodwill items as are customarily extended to individually ticketed passengers (e.g., a canvas traveling bag or a money exchange computer).

(d) If the total expenditures, including among other items compensation to members of the chartering organization, referred to in paragraph (c) of this section, but exclusive of expenses for air transportation or land tours, exceed $750

[4] Statement filed as part of the original document.

[5] Where the charter is based on employment in one entity or student or employee status at a school, records of the corporation, agency or school will suffice to meet the requirements.

per round-trip flight, such expenditures shall be supported by properly authenticated vouchers.

§ 207.44 Statement of charges.

The chartering organization, in any announcements or statements to prospective charter participants giving price per seat, shall state that the seat price is a pro rata share of total charter cost and is subject to increase or decrease depending on the number of participants. All announcements shall separately state the the cost of ground arrangements, if any, the cost of air transportation, the administrative expenses of the charterer, and the total cost of the entire trip. All announcements shall also identify the carrier, the number of seats available and the type of aircraft to be used for the charter.

§ 207.45 Passenger lists.

(a) Prior to each one-way or round-trip flight, a list shall be filed by the charterer with the air carrier showing the names and addresses of the persons to be transported, including standbys who may be transported, specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended if passengers are added or dropped before flight.

(b) The relationship of a prospective passenger shall be classified under one of the following categories and specified on the passenger list as follows:

(1) A bona fide member of the chartering organization who will have been a bona fide member of the chartering organization for at least 6 months prior to the starting flight date. Specify on the passenger list as "(1) member."

(2) The spouse, dependent child or parent of a bona fide member who lives in such member's household. Specify on the passenger list as "(2) spouse" or "(2) dependent child" or "(2) parent." Also give name and address of member relative where such member is not a prospective passenger.

(3) Bona fide members of entities consisting only of persons from a study group, or students and employees of a school, or employed by a single Government agency, industrial plant, or mercantile company, or persons whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver. Specify on the passenger list as "(3) special" or "(3) member" (where participants are from a study or school group or from a Government agency, industrial plant or mercantile company).

(c) In the case of a round-trip flight, the above information must be shown for each leg of the flight and any variations between the outbound and inbound trips must be explained on the list.

(d) Attached to such list must be a certification, signed by a duly authorized representative of the charterer, reading:

> The attached list of persons includes every individual who may participate in the charter flight. Every person as identified on the attached list (1) was a bona fide member of the chartering organization, and will have been a member for at least 6 months prior to the starting flight date, or (2) is a bona fide member of an entity consisting of (a) students and employees of a single school, or (b) employees of a single Government agency, industrial plant, or mercantile establishment, or (3) is a person whose participation has been specifically permitted by the Civil Aeronautics Board, or (4) is the spouse, dependent child, or parent of a person described hereinbefore and lives in such person's household, or (5) is a bona fide participant in a study group charter.[6]
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> (Signature)

§ 207.46 Application for a charter.

A chartering organization shall make written application to the air carrier, setting forth the number of seats desired, points to be included in the proposed flight or flights, and the dates of departure for each one-way or round-trip flight.

§ 207.47 Statement of Supporting Information.

Charterers shall excute and file with the air carrier section B of part II of the Statement of Supporting Information attached hereto and made a part hereof [7] at such time as required by the carrier to afford it due time for review thereof.

Subpart C—Provisions Relating to Single Entity Charters

§ 207.50 Applicability of subpart.

This subpart sets forth the special rules applicable to single entity charters.

§ 207.51 Terms of service.

The provisions of § 207.13 shall apply to charters under this subpart except that paragraphs (b) and (c) of such section shall not be applicable and the second sentence of paragraph (a) of such section shall not be applicable.

§ 207.52 Commissions paid to travel agents.

No direct air carrier shall pay a travel agent any commission in excess of 5 percent of the total charter price or more than the commission related to charter flights paid to an agent by a carrier certificated to fly the same route, whichever is greater.

§ 207.53 Statement of Supporting Information.

The Statement of Supporting Information prescribed in §§ 207.24 and 207.47 shall be applicable in the case of single entity charters.

Subpart D—Provisions Relating to Mixed Charters

§ 207.60 Applicable rules.

The rules set forth in Subpart B of this part shall apply in the case of mixed charters.

(Secs. 204(a), 401, 403, 404(b), 407, 416(b), of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 754 (as amended by 76 Stat. 143), 758 (as amended by 74 Stat. 445), 760, 766, 771; 49 U.S.C. 1324, 1371, 1373, 1374, 1377, 1386))

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

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-1562 Filed 2-4-71;8:45 am]

[Reg. ER-659; Amdt. 9]

PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

Extension of Charter Regulations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of January 1971.

By Notice of Proposed Rule Making EDR-183, PSDR-24 [1] (hereafter referred to as EDR-183), dated May 8, 1970, the Board announced that it had under consideration proposed amendments of Parts 207,[2] 208,[3] 212,[4] 214,[5] 249 [6] and repeal of Part 295 [7] of its economic regulations and amendment of Part 399, its statements of general policy. These proposals were divided into nine general categories: (1) Consolidation of Parts 208 and 295; (2) uniform charter regulations; (3) regulations designed to curb the activities of "passenger forwarders" and better enable the carriers to police the regulations; (4) regulations designed to prevent "umbrella-type" organizations; (5) rules to restrict solicitation

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[6] Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both. Title 18, U.S.C., section 1001.

[7] Statement filed as part of the original document.

[1] 35 F.R. 7587.

[2] Governing charter trips and special services of U.S. route carriers.

[3] Presently governing supplemental transportation other than transatlantic.

[4] Charter trips by foreign air carriers.

[5] Terms, conditions, and limitations of foreign air carrier permits authorizing charter transportation only.

[6] Preservation of air carrier accounts, records, and memoranda.

[7] Transatlantic supplemental air transportation.

across chapter lines; (6) regulations to prohibit carriers from performing charters involving certain activities of travel agents; (7) rules designed to take the profit element out of pro rata charters; (8) proposals to relax existing requirements in the regulations; and (9) miscellaneous clarifying and implementing amendments.

Pursuant to the notice of rule making a large number of comments on the proposals have been filed.[8] In addition the Board has heard oral argument on the proposals in EDR–183 and on a proposal submitted by the member carriers of the National Air Carrier Association (NACA) in a petition for rule making filed in Docket 22409. Upon consideration, the Board has determined to adopt at this time (1) the proposal relating to consolidation of Parts 208 and 295 and repeal of the latter; (2) the proposals on uniform charter regulations; (3) with some exceptions, the proposals, as modified herein, concerning "passenger forwarder" activities, and facilitating policing of the regulations by carriers; (4) the proposals with modification, to relax existing regulatory requirements; and (5) the miscellaneous clarifying and implementing amendments. We are not adopting at this time the proposals contained in the other categories referred to, with one exception.[9] In addition, we are concurrently issuing an advance notice of proposed rule making concerning a modified version of the NACA carriers' proposal in Docket 22409.[10]

Our determination to defer action on the remaining proposals in EDR–183 is grounded on the proposition that the affinity concept embodied in the present regulations governing pro rata charters contain well-recognized infirmities upon which we need not elaborate here.[11] The NACA carriers' proposal essentially calls for abolition of the affinity concept. Until we have finally acted on the NACA proposals as modified, we consider it untimely to adopt new and more restrictive proposals generally aimed at securing greater adherence to a charter concept based on affinity, while we are in the process of examining an alternative to this concept. Instead, for this interim period, we believe that we should adopt only proposals generally directed to securing greater enforcement of existing regulations by the carriers and curbing the activities of "passenger forwarders" engaged essentially in individually ticketed services in violation of the Act.

We recognize that the proposals being adopted now will not be as effective in reaching the problem of "umbrella-type" organizations and the related problem of persons engaging in pro rata charters at a profit as would a number of the proposals advanced in EDR–183 which we are not now adopting. However, we are not withdrawing the EDR–183 proposals not being presently adopted. Should the affinity concept continue as it has in the past to be the basic test for charterworthiness, the Board reserves the right to promulgate rules containing any of the remaining EDR–183 proposals it finds should be adopted.[12]

In the meantime we are adopting and making effective for the 1971 summer season the revised and uniform regulations hereafter described and set forth in the amendments to Part 208 herein, and in concurrently issued amendments to Parts 207, 212, 214, 249, 295, 378, and 399. As to the proposals now being made final, we adopt and incorporate by reference herein the tentative findings reach in EDR–183, except as modified herein.

We next discuss the rules being adopted herein.[13]

1. *Uniform charter regulations.* The Board proposed to establish uniform charter regulations applicable to all types of charters (except ITC's) performed by all classes of carriers and applicable to on-route as well as off-route charters. The proposal will be adopted.

Frontier and certain foreign carriers object to application of the rules to on-route charters.[14] Their objections do not meet the overriding considerations for imposing the rules on on-route charters set forth in EDR–183, and we find no reason to disturb the conclusion there reached. In addition, the recent Statement on International Transportation Policy calls for additional uniformity in charter regulations.

A number of foreign air carriers, both scheduled an dcharter only, request that the Board not apply the rules to foreign-originated charters. Again we are not persuaded that their objections offset the reasons advanced in EDR–183 for applying the regulations uniformly. While Atlantis and Martins assert that the rules would have extra territorial application, in point of fact Part 214, under which they operate, presently applies to foreign-originated charters and nothing novel has been proposed on that score.[15] Moreover, to apply more stringent charter regulations on the U.S. supplemental carriers than are imposed on foreign air carriers would result in serious competitive advantage to the latter. We cannot, consistent with our statutory responsibilities, exclude foreign-originated charters by supplementals from the regulations.[16] While we do not have a similar statutory responsibility with respect to foreign air carriers, we cannot allow U.S. supplementals to operate at a disadvantage in foreign markets, whereas foreign air carriers compete on the same terms as our carriers in the U.S. market.

The only other controversy connected with the uniformity provisions is extending the ferry mileage provision in Parts 208 and 295 to Part 207. The provision in question provides: "Where a carrier's charter charge computed according to a mileage tariff includes a charge for ferry mileage, the carrier shall refund to the charterer any sum charged for ferry mileage which is not in fact flown in the performance of the charter: *Provided,* That the carrier shall not charge the charterer for ferry mileage flown in addition to that stated in the contract unless such mileage is flown for the convenience of and at the express direction of the charterer."

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[8] On Nov. 6, 1970, the NACA carriers filed a motion for leave to file a supplement to their comments in the form of three economic studies. An answer opposing the motion has been filed by 12 trunkline carriers. The motion is denied. Neither the proposals here adopted, nor those proposed in EDR–183, are predicated upon an adjustment of the relationships between charter and scheduled services. Rather, both the proposed action and that which we are now taking stems from a need for uniformity in the regulations applicable to the charter services of the various classes of carriers, and a clarification of the rules relating to those services for more efficient administration and enforcement. Furthermore, we have no reason to believe that the amendments now being adopted will adversely affect the economic opportunities of either the charter or the scheduled services. Finally, a grant of the NACA motion would unduly delay and protract these proceedings.

[9] This exception is the proposal to require written application for charter in category (4) supra, p. 1, although we are eliminating the inclusion of seat data.

[10] SPDR–22.

[11] See SPDR–22.

[12] On June 24, 1970, the NACA carriers filed a motion in this docket for an adjudicatory hearing or alternatively for an evidentiary hearing within the rule making. In Order 70–7–125, the Board deferred action on the motion until after receipt of initial and reply comments. In brief, the motion is predicated on the following statment: "Since the adoption of the proposed rules will make far more stringent the eligibility requirements for affinity charters and thus reduce substantially the size of the market for affinity charterers, adoption of the rules would in effect constitute an amendment or modification of the certificate of public convenience and necessity held by each of the supplemental carriers." Since the rules now being adopted do not make "far more stringent the eligibility requirements for affinity charterers," NACA's motion is presently moot. However, in the event certain of the remaining EDR–183 proposals are adopted, we shall dispose of the motion at that time as well as certain other objections based on legal or policy grounds raised by the NACA carriers.

[13] No comments on the proposal to consolidate Parts 208 and 295 were received. For the reasons set forth in EDR–183, Part 295 will be repealed.

[14] Swissair asks that any action with respect to inclusion of on-route charters in Part 212 should be deferred and considered together with responses to EDR–184, July 13, 1970, concerning proposed amendment of Part 212. The request is denied. See Order 70–9–115, Sept. 23, 1970.

[15] KLM is apparently under the misapprehension that the Board is asserting jurisdiction over foreign charterers as such, since it sees a parallel between foreign charterers and foreign air freight forwarders and tour operators, which are indirect air carriers. The Board has no jurisdiction over the users of air transportation, but only those who provide the transportation. In this connection, we are aware of, but do not agree with, KLM's position that all charterers are indirect air carriers.

[16] See SPR–28, adopted Jan. 7, 1969.

The trunkline carriers[17] oppose the proposal, and particular exception is taken to it in separate comments filed by American, Pan American, and United. For example American contends, first, that the rule would undermine the integrity of the charter contract; ferry mile estimates would be binding on the carrier, but not the charterer; second, the rule would lead to higher live mileage charges.

As to the first contention, it is the carrier, not the charterer, which is in a position to estimate ferry mileage, since it, not the charterer, is knowledgeable as to its aircraft utilization and positioning problems. Accordingly, should the need for ferrying envisaged by the carrier at the time of signing the contract not exist at the time the flight is performed, it is only equitable that the carrier not retain payments made for such prospective ferrying. As to ferrying performed in excess of that contracted for (except where requested by the charterer), again the burden should be on the carrier, for the reasons indicated, to foresee the ferrying that will be necessary and contract accordingly, assuming any additional mileage.

It is conceivable that the rule could lead to higher live mileage charges. However, such an increase would appear to be offset by the refund requirement. The rule is manifestly one to insure fair treatment of a charterer with respect to a matter in which he has no expertise, and he deserves the protection afforded. The provision has applied to supplemental and Part 214 carriers for years, being first announced on November 26, 1957, with respect to the 1958 transatlantic policy, and we see no reason why this issue should be explored in a separate rule making proceeding as requested by United.[18]

2. *Proposals designed to curb the activities of "Passenger Forwarders" and better enable the carriers to police the regulations.* We next turn to the proposals designed to curb the activities of "passenger forwarders" and to better enable the carriers to police the regulations.

The Board proposed that the definition of "bona fide" members in § 208.3 (a) be amended so as to (1) make mandatory the 6-month membership rule presently set forth in Parts 214 and 295, and (2) require that persons are not bona fide members of a charter organization unless they are members at the time the organization first give notice to its members of firm charter plans or at the time the charter contract is signed, whichever is earlier.[19]

We shall adopt only the 6-month rule. Although the NACA carriers in particular oppose the 6-month rule, they have submitted nothing which rebuts the reasons set forth in EDR–183 for its adoption. Thus, the fact that the Board did not adopt a 6-month provision in Part 208, upon recommendation of an examiner on the basis of the record before him, is not persuasive that it should not be adopted for all charters, and be made mandatory.

The record before the examiner in 1965 is hardly one upon which to confine rules in 1971 in light of experience since that time. Further, although the supplementals assert that virtually all of the recent enforcement complaints involved alleged violations of Part 295, which presently contains a presumptive 6-month rule, not Part 208, they are well aware that the Board proposed to consolidate Part 295 into Part 208, as they requested, and that Part 208 will apply to transatlantic as well as charters in other geographic areas. In addition, we find no unjust discrimination in the rule, as alleged by the NACA carriers.[20] The condition of persons who have been members of an organization for 6 months or less generally differs from other members, since short-term membership could be used merely to participate in an organization's charter flights.

The NACA carriers also object to the proposal to make ineligible a member who joined the organization after the contract was signed but before the organization gave notice to its members of firm charter plans. They contend that there is no solid reason why a person who joined an organization unaware of a charter flight not yet announced to the members should be disqualified.[21] In view of our adoption of a mandatory six months rule we believe the additional proposed rule is unnecessary and it will not be adopted.

In addition, United asserts that the term "firm charter plans" in the existing rule is unclear. We agree that the term is imprecise and lacks sufficient definitiveness to be effective. We shall, therefore, delete from Parts 208 and 214 the test relating to membership "at the time the organization first gives notice to its members of firm charter plans."

The notice of rule making proposed to require a Statement of Supporting Information to be executed by the direct carrier, travel agent (if any), and charterer and to be filed by the travel agent and/or charterer with the carrier 30 days prior to the scheduled date of departure, unless the charter has been contracted for within 30 days before the date of departure, in which event the statement and attachments shall be filed with the carrier on the date the charter contract is executed. If the charter contract covers more than one charter flight, the statement would be filed for each one-way or round-trip flight. In addition, it was proposed that the carrier require the charterer to annex to the statement copies of all announcements of the charterer in connection with the charter issued after the charter contract is signed.

The NACA carriers agree that a Statement of Supporting Information requirement should be added to Part 208, that the statement should be submitted to the carrier at least 30 days prior to departure, and that the charterer should provide copies of all announcements. However, they say there is no point in requiring a separate statement for each flight in a charter program, if the pro rata price does not change. They also suggest that the charterer be required to furnish the carrier with copies of solicitation material at the time it is distributed.

We find merit in both suggestions. We shall therefore revise § 208.202a[22] to permit a single statement for all flights in a charter program, with separate financial data (Item 13 of the Statement) for each flight. This rule is somewhat more liberal than that recommended by the NACA carriers, since a single statement may be furnished even though the pro rata price changes. The second suggestion will be adopted by amending § 208.210 (Solicitation of charter participants), since it will enable the carriers to monitor the solicitation as it progresses, rather than having only one chance to review the material 30 days before departure.

KLM suggests that, in the event of substitution, the statement filed with the first carrier shall be forwarded to the substitute carrier with no new statement required. We doubt the practicability of a mandatory requirement, but will revise the rule to permit the statement to be forwarded to the substitute carrier.

With these modifications the proposal described above will be adopted.[23]

In EDR–183 it was stated that investigation had disclosed that some charters have been illegally arranged by travel agents in order to realize large profits from the land tour part of the trip, and

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[17] As used herein the term "trunkline carriers" will generally refer to the following carriers filing joint comments: American, Braniff, Continental, Delta, Eastern, National, Northwest, Pan American, United, and Western. American, Pan American, and United filed additional comment. TWA filed a separate comment.

[18] Southern states that the rule as proposed in Part 207 should not extend to single entity charters. Southern is correct (see Order E–23600, Apr. 29, 1960). Consistent with § 208.301, Parts 207, 212, and 214 will be appropriately conformed.

[19] The present rule establishes a presumption against bona fide membership if the person is not a member at the time "the organization first gives notice of their charter plans."

[20] It appears somewhat inconsistent for the supplementals to attack this rule as "arbitrary," "unreasonable," and an instance of unjust discrimination in light of their proposal in Docket 22409 "that the group must have been formed at least 6 months prior to departure."

[21] The NACA carriers also note that the word "merely" was dropped from the definition of "bona fide" members "who have not joined the organization merely to participate in the charter." The omission of the word was inadvertent and it will be restored.

[22] The section was proposed as § 208.202c.

[23] We reject the suggestions that statements be filed with the Board rather than the carriers. Aside from the heavy administrative burden, the sugegstions are inconsistent with the objective of placing greater responsibility for policing the regulations on the carriers.

the charter participant has no way of knowing his pro rata share of air transportation cost. To counter this situation it was proposed to amend § 208.213 (charter costs) to provide that the chartering organization, in any announcement giving price per seat, shall state that the seat price is a pro rata share of total charter costs and is subject to increase or decrease depending on the number of participants. This amendment will be adopted as proposed.[24] It was also proposed to amend § 208.213 to provide: "All announcements shall separately state the total cost of the entire trip; and shall separately state the cost of air transportation and accommodations, if any, and identify the carrier and the number of seats available and the type of aircraft to be used for that charter."

United has pointed up some ambiguity in the language and we are revising it as indicated in the margin.[25] In addition, United states that the proposed language duplicates to some extent language presently appearing in § 208.214 (Statements of charges). To cure this situation, the language, as revised, will be incorporated in § 208.214 and no amendment in § 208.213 will be made in this respect.

We are also adopting without modification the following proposals: (1) To require that a Statement of Supporting Information include certification by the charterer that all participants have been informed of eligibility and pro rata cost requirements and that a flight may be canceled if ineligible participants are included and (2) to require that the charterer certify that it has not offered charter flights simultaneously with the solicitation of membership in any mass media advertisement or notice or through direct mailing.

In addition, the proposals described in EDR–183, pp. 11–12 (subdivision 3(f)) [26] amending § 208.201 (Pretrip notification and charter contract), are being adopted, as well as the amendment to § 208.210 (Solicitation of charter participants) to require that a charterer shall not advertise or solicit for a charter until a charter contract has been signed. We shall, however, modify the latter as requested by the NACA carriers to make clear that survey-type inquiries to determine interest in a charter are not precluded.[27]

On the other hand, two proposals dealing with membership lists and the carriers' warranty [28] are not being adopted at this time. These are: (1) The proposal to amend § 208.211 (Passenger or charter flights) to provide that where total membership is less than 1,000, the membership list shall be furnished the carrier within 30 days after the charter contract is signed or at the time the contract is signed, if it is signed within 6 months of flight date [29] and (2) the proposal to require the warranty of the air carrier with respect to the Statement of Supporting Information to include certification that it has checked and compared the passenger list with the official membership records, has checked the articles of incorporation, etc., and has made a record of the officers and directors of the organization.

3. *Proposals to relax existing requirements in the regulations*—(a) *Split charters.* Parts 208, 214, and 295 authorize "split charters"—charters of less than the entire capacity of an aircraft for the transportation of a group—provided that a maximum of three groups be chartered on one aircraft, each group consisting of 40 or more passengers. In EDR–183 the Board took note that the supplemental carriers had requested removal of the three-group limitation. In support the supplementals had pointed out that the original split charter authority was granted in 1961 for one-half the capacity of an aircraft which assumed a capacity of at least 80 passengers on the piston equipment then being used by the supplementals for transatlantic charters, or based on each group having at least 40 persons. They further alluded to the fact that the three-group limitation was adopted in 1966 when the supplementals were using aircraft with increased seating capacity. In addition, the supplementals predicted that in the spring of 1971 the first supplemental will acquire 400-passenger B–747 equipment and at that time, according to the supplementals, the present split charter rules will be clearly inappropriate.

In the notice of rule making, the Board expressed its belief that some revision of the charter regulations may be appropriate in recognition of the technical advance cited by the supplementals. However, rather than propose a specific rule applicable to all classes of carriers, the Board considered that a final rule be framed in light of comment received. In this connection it was noted that IATA Resolution 045 precludes split charters, and the definitions of "charter trip" in Parts 207 and 212 do not include split charters. And the Board stated that comments should include suggestions as to whether these parts should be revised to conform to Parts 208 and 214 with respect to split charters.

Scheduled Carriers, both United States and foreign, oppose dropping the three-group restriction, but it is, of course, supported by the supplementals, as well as Atlantis, ASTA, and AITS. As in the case of the recent amendment to Part 378 eliminating the three-group limitation for ITC's,[30] we have decided to drop the like limitation on split charters in Parts 208 and 214, and we shall adopt the NACA carriers' suggestion that the rule be cast in terms of seats rather than passengers, but require that all seats be paid for by the chartering organization. In addition, Parts 207 and 212 will be conformed in these respects.[31]

As indicated, the three-group limitation was adopted in 1966 when the supplementals were using aircraft with increasing seating capacity—250-seat jets. The contemplation now is for 400-seat capacity B–747's for supplementals,[32] and the route carriers, of course, are already operating these aircraft. A three-group limitation would require groups to

[24] Atlantis, in commenting on this proposal, states "the effort to enforce different seat prices among club members is almost impossible." The comment is not understood, since the proposal is aimed at insuring that all charter participants are informed that they pay the same price for air transportation; i.e., that the costs of charter flights shall be prorated equally among all charter passengers, as is presently required (see §§ 208.213 and 214.33). Atlantis' suggestion that the "proration should be based on the total flights chartered by a given group for the charter season" could lead to individually ticketed services where large organizations are concerned and cannot be adopted.

[25] "All announcements shall separately state the cost of ground arrangements, if any, the cost of air transportation, the administrative expenses of the charterer, and the total cost of the entire trip. All announcements shall also identify the carrier, the number of seats available and the type of aircraft to be used for the charter."

[26] The more significant of these are: (1) To provide that if a carrier signs a contract for a charter within 15 days of the flight date, the carrier shall require the person who executes it on behalf of the charterer to certify as to whether a contract for the flight has been canceled by another carrier; (2) to provide that the carrier shall notify the Board, within 5 days after the contract has been executed, that its execution took place within 15 days of flight date, and that, if the flight has been canceled, the carrier has made inquiry and has satisfied itself that the cancellation was not caused by the ineligibility of the charterer.

[27] Specifically the rule will permit oral inquiries on internal mailings directed to members to determine interest in a charter flight or charter program so long as no fixed price for air transportation is held out.

[28] A footnote to the warranty, adopted from Part 295, refers to title 18, U.S.C. section 1001, concerning fraudulent statements. United suggests that section 902(e) supersedes title 18, Title 18 U.S.C. § 1001, in fact, postdates section 902(e), but we are adding a reference to the latter. In addition we are adding reference to title 18 U.S.C. section 1001 to the certification required in § 208.215 (Passenger lists).

[29] Consistent with this determination, the Statement of Supporting Information is being revised (Item 6 of section B).

[30] SPR–39, adopted Aug. 5, and effective Sept. 7, 1970.

[31] Pan American states that split charter authority for the scheduled carriers should be permissive, not mandatory. This will be the case.

[32] We understand that two supplemental carriers have wide-bodied jets on order for delivery in 1973 and 1975. A third, Universal, has on order a 747–200F, a convertible version, for mid-1972 delivery.

average about 130 persons. Groups of this magnitude are more difficult to assemble and manage effectively than are smaller groups.

However, our decision does not rest on the contemplated use of B–747's by supplementals. With the 250-seat aircraft presently used it appears that under the current rules the supplementals have never been able to develop at significant market for split charters. Thus, the NACA carriers point to the fact that in 1969 only 6.7 percent of all supplemental transatlantic charters were splits.[33] Elimination of the three-group limitation will introduce far more flexibility in providing split charters for all classes of carriers and assist them in developing a meaningful market for this service.[34]

But the paramount consideration is the benefit to the traveling public which removal of the limitation will bring. At present a group must average about 80 persons on a stretched jet to be carried on a split charter. The new rule will permit much smaller groups to take advantage of this type of charter. Thus small organizations will not be handicapped in the use of charter services, and the 40-seat limitation will insure adherence to the group concept.

Pan American notes that when the Board's authority to permit split charters was reviewed in the American Case, the court stated: "Congress intended, although not without limits, that the Board should be free to evolve a definition [of charter] in relation to such variable factors as changing needs and changing aircraft." [35] According to Pan American, to permit carriage of an "unlimited number of groups" would violate the proscription. In the first place, the rule does not permit an "unlimited" number of groups. On 250-seat capacity aircraft no more than six groups may be carried, on 400-seat capacity aircraft, no more than 10. In addition, the court elaborated on the language quoted by stating that these limits related to the preservation of the distinction between "groups and individually ticketed travel."

We believe that the necessary distinction is maintained by requiring each group to purchase 40 or more seats. TWA, however, claims that "marketing charters on a per seat basis, as the supplementals appear to suggest in connection with expanded split charter authority, would be inimical to the charter concept and would involve the sale of individually ticketed service." We cannot agree. A group must contract for at least 40 seats, the costs of which are prorated among the number which participate in the charter and they are thus not individually ticketed. The great advantage of the seat limitation rule, as contrasted with the previous passenger limitation rule, is that it will no longer be necessary for a charterer contracting for 40 seats to cancel where only 39 passengers show up.

(b) *Split charters comprised of all types of charters.* In EDR–183 the Board expressed the tentative view that the regulations should be amended to provide that all types of passenger charters, except inclusive tour charters, be permitted to be combined on one aircraft. It further noted that such an amendment appeared necessary to make split charters economically feasible in light of the advent of the jumbo jet. However, it stated that it did not believe that inclusive tour charters (ITC's) should be combined with other charters. In this connection, it took note of the circumstance that as an indirect carrier, the tour operator of an ITC, should not be permitted to rely upon pro rata affinity charters to fill up the aircraft, since cancellation of the affinity charter groups, for lack of charterworthiness or other reasons, would jeopardize the transportation of the inclusive tour passengers. However, it was said that this consideration would not apply to split charters where all the charterers are inclusive tour operators, and it would appear appropriate to amend Part 208, with implementing amendment of Part 378, to permit split charters for ITC's when the entire aircraft is used for this type of charter.

Upon consideration, we have determined to amend Part 208, with implementing amendment of Part 378, to permit all types of charters, including ITC's, to be combined as split charters on one aircraft. In addition Parts 207, 212, and 214 will be amended to permit all types of charters, not including ITC's to be combined as split charters on one aircraft.[36]

We are permitting split charters on a "mix or match" basis to develop a market that has remained relatively undeveloped not only because of the restrictive nature of the regulations, but also because it has not proved suited even to smaller capacity equipment than the jumbo jet. With the advent of the jumbo jet, as noted, such liberalized split charter authority appears necessary to make split charters economically feasible. Further, the new rules will make split charters available to all qualified charterers, whereas continuance of the present regulatory framework would only work to deny this opportunity to all but the largest organizations.

Our reconsideration of the earlier view that ITC's should not be combined with other splits is predicated on our adopting herein a rule which will prevent last minute cancellations of split charters. The prospect of cancellation of one split, requiring the ensuing cancellation of remaining splits, has been a deterrent to split charters under the existing regulations. This problem would be aggravated under the expanded split charter authority being adopted, particularly since the cancellation rate of ITC's has been high. To alleviate the problem, we are amending § 208.32(e) (Tariffs and terms of service), with corresponding changes in the "Terms of Service" sections in Parts 207, 212, and 214,[37] to require that in the case of a split charter, the carrier shall require full and nonrefundable payment of the charter price not less than 30 days prior to the commencement of the transportation. This in effect, requires either that the charter be cancelled or that the remaining charterers pay the additional price. Since this rule was not proposed in EDR–183, it will be subject to reconsideration.

We have, as noted, decided to permit split ITC's and to amend Part 378 accordingly. The trunkline carriers in their joint comments and TWA in its separate comment strenuously oppose split ITC's. Split ITC's are also opposed by Frontier, JAL and Swissair.

First the trunklines contend that the Board has already rejected such a proposal on the basis of an evidentiary record, and it should not reverse this finding without a similar factual basis. Specifically they allude to the examiner's decision in the Supplemental Air Service Proceeding, affirmed by Board Orders E–23350, dated March 11, 1966, and E–24237 et seq., served September 30, 1966. In his decision the examiner stated that split affinity charters had originally been justified by concern for the smaller affinity passenger groups which, with charters limited to planeload movements, were being substantially disadvantaged because of the great increase in aircraft size.[38] In the case of ITC's he pointed out that there is no affinity requirement; the travel agent may sell tours indiscriminately to individual members of the public; and therefore the fundamental justification for split charters disappears when related to all-expense tour charters.[39]

We reject the notion that these findings are controlling here. In the first place, the examiner's decision, and the Board's affirmance, was based on a very scant record with respect to split char-

[33] Exhibit NACA–A, p. 18, Docket 20781.

[34] Pan American states that the trunklines are informed that the split charter concept is unacceptable to many foreign governments and the more it is expanded, the less likely will be the prospects for persuading foreign governments to accept this "maverick" type of charter. If this is the case, U.S.-flag carriers have little to fear from the liberalized split charter rules being adopted.

[35] American Airlines, Inc. v. CAB, 348 F. 2d 349, 354 (D.C. Cir. 1965).

[36] Part 378 covers ITC's only by supplemental air carriers and certain foreign air carriers (those whose permits authorize ITC's), and it was not proposed to amend Part 378 to provide for ITC's by other carriers. In this connection IATA Resolution 045 prohibits ITC's, and the scheduled carriers are apparently not seeking to be included in Part 378 at this time. On this point we note the trunkline carriers comment that "if and when the Board should decide to renew inclusive tour authorizations after the experiment has run its course and been subject to full review, then all classes of carriers should be authorized equally by the regulation to engage in inclusive tour charters."

[37] §§ 207.13, 212.10, and 214.14.

[38] The examiner referred to the Transatlantic Charter Investigation, Order E–20581, Oct. 8, 1963.

[39] R.D. 66–67.

ters [40] compiled 6 years ago. We have refused to accede to the position of the NACA carriers that we are bound, in these rule making proceedings, to a record and decision in proceedings years ago with respect to the 6 months rule, and we take the same view as to split ITC's.

Moreover, there is, we believe, a sufficient factual basis upon which to validly bottom different conclusions than those previously reached, the trunklines contrary claims notwithstanding. At the time of the examiner's decision, jet aircraft were just coming into use by the supplementals.[41] Now 250-seat jet aircraft are commonly used by the supplementals and 400-seat wide-bodied jets are in the offing. At this juncture split charters are still obviously necessary to enable smaller affinity groups to charter. Moreover, as contrasted with the time the examiner's decision issued, tour operators have no alternative but to charter 250-seat aircraft under the present rules.

We might not be disposed, however, to permit split ITC's if experience since the Supplemental Air Service Proceeding had shown that restricting ITC's to planeload charters had met with reasonable success. The reverse is true.

As is well known, the supplementals have had great difficulty in developing a market for ITC's. The only really successful ITC market—between the Mainland and Hawaii—has been virtually wiped out by the scheduled carriers' GIT fares. Split ITC authority will contribute to the supplementals' ability to compete with GIT fares. At the present time, a tour operator who wishes to organize a tour of less than planeload size has no alternative but to use scheduled services. With split ITC authority, they could at least attempt to compete for this business. It may be added, on this point, that split ITC authority is consistent with the Statement of International Air Transportation Policy.[42]

The examiner's recommendation against split ITC's was also predicated on the finding that it "would increase the diversionary consequences, particularly for those carriers most heavily dependent upon resort type traffic." To deny split ITC's because it would further divert from the scheduled carriers a type of traffic they had been accustomed to carry was valid in 1965 or 1966. It is not valid today.

In the intervening years, the industry, as well as the Board, has drawn away from any notion that certain types of traffic were reserved for the special province of either scheduled or supplemental carriers. The scheduled carriers have invaded the charter market for carriage of ethnic, fraternal or social organizations through GIT's, CBIT's, and group affinity fares. And the supplementals have every right to compete with scheduled carriers for "resort type traffic" which is the essence of ITC's. As the Board recently stated in approving the IATA Agreement establishing transatlantic affinity group fares, there is nothing improper in competition between supplemental and IATA carriers and neither is entitled to a given share of a competitive market over the other.[43] Further recognition of the view that supplemental carriers are entitled to a fair opportunity to compete in the bulk transportation market has been accorded by the policy statement, as just noted.

Accordingly, the fact that split ITC's may cause diversion from the scheduled carriers is not a persuasive reason for denying supplementals such authority. Nor is this conclusion altered by the severe financial losses and declining load factors which Pan American and TWA in particular have been experiencing. The fact of the matter is that the supplemental carriers have also suffered severe financial losses.[44] Under these circumstances, we cannot permit the current financial woes assailing the industry to govern our determinations herein, unless these determinations would impair either charter or scheduled services.

The trunkline carriers make no claim that split ITC authority would impair scheduled services, nor is there any basis for believing that substantial diversion would occur. The Mainland-Hawaii market has been the only market in which the supplementals were able to develop a large volume of ITC traffic. Indeed, a 1967 staff study concluded that "less than two percent * * * of the inclusive tour passenger charters were in fact diverted from the Mainland-Hawaii services of the scheduled carriers" and "[i]n terms of the number of passengers using scheduled Mainland-Hawaii services, the diversion was de minimis." [45]

This minimal diversion occurred, of course, under requirements that a single tour operator charter an aircraft with no more than three groups on board.[46] The new rule will permit an aircraft to be chartered by more than one tour operator or split with other types of charters, and the Board has now removed the three-group limitation. Nevertheless, ITC participants still must travel under restrictions making ITC's less attractive than GIT's or group affinity fares.[47] Under these circumstances it is unlikely that split ITC's will divert substantial traffic from the scheduled carriers.

The trunklines, including TWA, also argue that split ITC's would be illegal, since, they assert, the Congress considered—and rejected—a proposal which would have empowered the Board to authorize such charters. Thus, they advert to the fact that the original bill introduced in the Senate as S. 3566 on May 29, 1968, would have included the following definition:

> * * * inclusive tour charter trip means the charter of an aircraft or portion thereof by a tour operator for the carriage by a supplemental air carrier of passengers in interstate, overseas, and foreign air transportation on a round trip tour which is to one or more points and combines air transportation and land services.

The trunklines point out that the S. 3566 was reported out of Committee on July 1, 1968, with the "portion" language completely eliminated. They add: "The conclusion which must be reached as a consequence of this action is that the Senate Committee rejected the concept of inclusive tour charters of less than planeload size."

This conclusion does not comport with the legislative history. The "portion" language and, indeed, the entire definition of inclusive tour charter trips were deleted after the then Chairman of the Board suggested it and presented the Committee with proposed language which it ultimately adopted. In his prepared testimony the Chairman gave the following explanation for his proposal to delete the definition:

> The definition of inclusive tour charter trip in section 1 of the bill is not required to achieve the stated objectives and we would recommend its exclusion to the extent that there is an unexpressed desire to legislatively establish or change the definition of an "inclusive tour charter" trip. We believe that it would be unwise. Changes in such definition may be required from time to time but in our view they should be left to the informed discretion of the Board, the agent of Congress, as circumstances warrant.[48]

The following statement from the House Report also supports the view that Congress intended to give the Board broad authority to change its ITC regulations, so long as the distinction between individually ticketed and charter services was maintained:

> The committees' assessment of the present situation is that regardless of the legal arguments which have been and are taking place concerning CAB's past action, the supplemental air carriers should be allowed to provide the air transportation part of an inclusive tour, within the confines of Part 378 as it exists today. We recognize that

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[40] The examiner noted that "there is little information of record with respect to split charters." (R.D. 66.)

[41] Appendix A to the examiner's decision shows that the transatlantic supplementals then owned a total of six pure jets with four on order.

[42] "Both scheduled carriers and supplemental carriers should be permitted to compete in the bulk transportation market. We consider passengers traveling at group rates on scheduled services to be part of that market."

[43] Order 70-2-123, Feb. 27, 1970.

[44] According to the NACA carriers, the supplementals as a group lost $7.7 million in 1969 and preliminary figures for the first 6 months of 1970 show a loss of $9.4 million.

[45] Economic Impart of Inclusive Tour Charters on Scheduled North Atlantic Services (CAB Research Study, 1969, p. 17).

[46] It also took place at a time when the supplementals did not have the fleets of large capacity jets that they have today (See Id. Appendix F).

[47] I.e., a minimum of 7 days must elapse between departure and return; the land portion must provide overnight hotel accommodations at a minimum of three places other than the point of origin, such places to be no less than 50 air miles apart.

[48] Hearings on S. 3566 before the Aviation Subcommittee of the Senate Commerce Committee, 90th Cong., second session, p. 12 (1968).

shifting economic considerations and the public convenience and necessity may require modification in the regulations. We do not undertake here to proscribe the usual rule making procedures of the CAB, and will leave the Board with its present flexibility, which must be exercised within the confines of the statute, due process, and full participation on the part of interested parties in the Board's rule making proceedings. The committee, however, expects the Board to keep it fully and currently informed as to contemplated changes in Part 378.[49]

We agree with the NACA carriers that the trunklines' effort to construe this statement as referring only to the Board's "power to change the regulations relating to the performance" of ITC's and not the definition of "inclusive tour charter" itself, is wholly unpersuasive.[50]

We conclude that the Board does have power to grant split ITC authority by amendment of Part 378.

(c) *NACA carriers split charter proposals.* The NACA carriers have also offered split charter proposals for (1) split passenger/cargo authority, (2) split cargo charters[51] and (3) "guaranteed split charters," by which the supplementals could offer split charters on the basis of guaranteed departures at a guaranteed price, even if the entire aircraft is not under charter. These proposals are opposed by the trunkline carriers, Flying Tiger and Seaboard, and we find that they should be denied.

In the first place these proposals, which are directed only to expanding the supplemental carriers' authority, are inconsistent with our determination that charter rules be uniform, as well as the Statement of International Air Transportation Policy calling for additional uniformity of charter rules. Secondly, permitting only the supplementals such authority would give them a decided competitive advantage vis-a-vis combination and all-cargo carriers.

As to the split charter proposal, however, the supplemental carriers argue that there is no danger that it would divert substantial cargo from scheduled services because of the high minimum capacity requirement that each charterer take at least 10,000 pounds of capacity (or its cubic equivalent), and that such large shipments represent a small portion of the scheduled cargo traffic.[52] The protection offered by the 10,000 pound capacity requirement is illusory, since it would apply to charters by air freight forwarders, and the larger forwarders would have little difficulty in consolidating small shipments of this size. Furthermore, Flying Tiger points out that while the average shipment weight for combination carriers may be low, the average shipment weight for the all-cargo carriers is more than three times that of any trunkline.[53]

More specifically Flying Tiger states that for the 12 months ended September 30, 1970, $9.8 million or 35.9 percent of its domestic traffic and $4.3 million or 26.4 percent of its international traffic was derived from shipments in excess of 10,000 pounds. Accordingly, of $49.9 million of commercial cargo revenues for this period, more than $24.6 million or over 45 percent of its total traffic would be exposed to diversion.[54] Similarly, Seaboard estimates that 45 percent of the tonnage it carried was composed of shipments of 10,000 pounds and over.[55]

Accordingly, there is no support whatever for the NACA carriers' assertion that there is no danger that substantial cargo would be diverted from scheduled services. To the contrary, it is quite clear that such a danger exists.

Moreover, as regards cargo charters, the only regulatory requirement which presently inhibits supplemental carriers from engaging in individually waybilled cargo services such as are offered by the scheduled carriers is the planeload charter requirement. To remove this requirement and permit split charters as the supplementals propose would, in our view, be in derogation of their statutory function.

With respect to the guaranteed charter proposal, the NACA carriers state that the principal drawback to implementation of split charter authority has always been (and absent revision of the rules will continue to be) the threat of cancellation of the flight if other splits are either not obtained or are subsequently canceled. The supplementals note that in December 1969 the Board ruled that under the charter definition in Part 208, a split charter cannot be performed unless the entire aircraft is under charter.[56] The NACA carriers believe that the rules should be amended to permit the supplementals to offer split charters on the basis of guaranteed departures at a guaranteed price, even if the entire aircraft is not under charter. They add that an amendment of this kind would benefit small charterers and would not, in their view, do violence to the charter concept so long as the minimum group size of 40 is maintained. Moreover, they assert, the ability of supplemental carriers to offer guaranteed split charter departures would negate one of the "decisive competitive advantages" that the scheduled carriers possess under CBIT and GIT fares.

We are not persuaded by the NACA proposal. Instead of a time, mile, or trip basis, as presently required, charters could be sold on a seat basis and the amount charged to and received from the charterer would depend on the load factor. For example, a supplemental could charge $10 a seat on a 250-seat aircraft for 200 seats or 190 seats, leaving 50 or 60 seats unsold. Even if these amounts were prorated among charter participants, as between the charterer and the supplementals, the arrangement would smack of individually ticketed service. Finally, as pointed out previously, we are taking other steps to ameliorate the cancellation problem.

(d) *Additional intermingling authority.* We shall adopt the proposal to add a new §208.36 to permit intermingling of passengers on the return leg of pro rata charters under prescribed circumstances. We are also amending §208.32(f) (Tariffs and terms of service) to provide additional intermingling authority.

Section 208.32(f) presently provides that in the case of a round-trip passenger charter, one-way passengers shall not be carried except that up to 5 percent of the charter group may be transported in each direction. In the case of a charter contract calling for two or more round trips, the section provides that there shall be no intermingling of passengers and each planeload group or less than planeload group shall move as a unit in both directions.[57]

In our view, this rule is unduly restrictive and unnecessary to maintain the distinction between charter and individually ticketed services, and we are amending it to permit intermingling on charter programs not exceeding three round trips per calendar year. Thus §208.32(f) will read as follows: "In the case of a charter contract calling for four or more round trips per calendar year, one-way passengers shall not be carried, there shall be no intermingling of passengers, and each planeload group, or less than planeload group (see §208.6 (c)), shall move as a unit in both directions, except as provided in §208.36."

Since the pro rata charter rules prohibit solicitation of the general public, limit ticket agent activities, and restrict charter participation, we do not consider that the present rule is necessary to vindicate the charter concept. Moreover, by precluding intermingling where a charter contract calls for four or more round trips, we are persuaded that the new rule will not invite abuse by unauthorized indirect air carriers. We further point out that the intermingling will be confined to members of the chartering organization who are on the list of prospective passengers. Since, however, the rule was not proposed in EDR-183, we shall allow petitions for reconsideration of this amendment to § 208.32

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[49] H.R. Rep. 1639, 90th Cong., second session, p. 3.

[50] The trunkline carriers also cite some occasional statements in the Committee reports to the effect that an inclusive tour charter is the charter of "an" aircraft by "a" tour operator. But, as the supplemental carriers point out, these statements were all made in the context of an explanation as to how ITC's differ from other charters, and were not directed at all to the question of whether split ITC's should be permitted.

[51] Since the supplementals hold no transatlantic cargo authority the cargo proposals would only affect domestic and transpacific service.

[52] They refer to the fact that 52.3 percent of American's cargo shipments in the first half of 1969 weighed 100 pounds or less.

[53] Citing initial decision in the Minimum-Charges Case, Docket 20398, July 27, 1970, p. 12.

[54] Oral argument, transcript, pp. 90–91.

[55] Oral argument, transcript, p. 99.

[56] Order 69–12–113, Dec. 29, 1969.

[57] See editorial change made in ER–649, p. 7, footnote 8.

(p), and its counterparts in Parts 207, 212, and 214.[58]

4. *Miscellaneous matters.* The Department of Defense (DOD) notes that in EDR–173, December 1, 1969, the Board proposed amendments to Parts 208, 214, and 295 which, inter alia, would establish a class of charter for overseas military personnel and their immediate families. DOD is desirous that the general subject of pro rata charters and the special subject of overseas military charters be kept separate. Although EDR–173 is presently pending before the Board, the Board intends to take separate action on the subject of overseas military personnel charters.

DOD also seeks clarification as to whether the proposed pro rata charter regulations apply to charter services provided by carriers under contract with MAC and the procurement of charter airlift by MTMTS under arrangements with ATA and NACA. DOD charters, being single entity, are not covered by the pro rata charter regulations except to the very minimal extent described in Subpart D of Part 208, as well as Subpart C of Part 207.

In connection with DOD charters, Part 208 alone includes a definition of "charter flight" as "air transportation of persons and/or property pursuant to contracts with the Department of Defense * * *." United has noted the omission in proposed Part 207,[59] and states that this raises an implication that the scheduled carriers are not authorized to provide such DOD charters. We have accordingly added this definition to Part 207.

New § 208.6(b) restricts "charter flights," inter alia, to "air transportation on a time, mileage, or trip basis where the entire capacity of one or more aircraft has been engaged for the movement of persons and property (or of persons and their personal baggage in the case of supplemental air transportation as defined in § 208.3(c)(2)." [60] United notes that the comparable provision in proposed § 207.21 (now § 207.11) refers to "the movement of persons and their baggage or for the movement of property." United requests that the word "or" be changed to "and."

Instead of adopting United's suggestion, we shall amend the pertinent provisions in Parts 207, 212, and 214 by substituting the words "and/or" for the present language. This will make clear that single entity charterers may put passengers and/or property on aircraft where the entire capacity is engaged by one charterer.

The definition of "bona fide members" reads, inter alia, "members of a charter organization who have not joined the organization to participate in the charter as a result of solicitation directed to the general public." United suggests substitution of the phrase "solicitation of the general public" to make clear that the definition of the latter which appears in the regulation is applicable.

We agree and have made this change. In addition we have removed the definitions of "bona fide members," "immediate family," and "solicitation of the general public" from the definitions section to "Requirements Relating to the Chartering Organization" under Subpart C.[61] These terms are not used generally in the part, but only relate to chartering organizations. The present format in which one must refer back to the definitions section for the meaning of terms which, in the case of "bona fide members" and "solicitation of the general public" are quite lengthy, has proved confusing and cumbersome.

The definition of "bona fide" members excludes from certain membership restrictions charters composed inter alia of "Students and educational staff of a single school, and immediate families thereof." United believes that all employees of a school are in the same position as all employees of an industrial plant or mercantile establishment, which are in the exclusionary provision. We believe that United's point is well taken that charters of students and employees of a single school and their immediate families should be excluded from the specified membership requirements.

Proposed § 207.21(b) (Charter flight limitations) retained language from § 207.1 emphasizing the distinction between charter trips and individually ticketed services.[62] United notes that a similar provision is not included in § 208.6. Its omission in Part 208 is owing to the fact that it does not presently appear in Part 208 (or 214). However, in the interests of uniformity and because the language now appears superfluous in view of our adding pro rata regulations to Part 207, we are dropping the language from Part 207, as well as comparable language from Part 212.[63] Insofar as route air carriers are concerned, any permissive transportation service offered to individual members of the public pursuant to section 401(e)(6) will continue to fall within the category of special services.

Section 207.9 (Records and record retention) provides that each air carrier shall retain the following in accordance with Part 249: (a) A record of the names and addresses of all passengers transported on each pro rata trip; (b) a copy of every charter contract. United states that proposed § 207.25 (Passenger names and addresses) [64] is duplicative. It is duplicative so far as the records to be maintained are concerned, but proposed § 207.25 contained a new element concerning where records may be maintained. However, we find that the provision permitting record maintenance at either the principal office or the principal operations base is unnecessary as to Part 207 or foreign air carriers.[65] Under these circumstances we shall eliminate the section on passenger names and addresses from Parts 207, 212, and 214.[66]

United also requests clarification as to certain matters. First, it says that the proposed Part 207 regulations fail to indicate that definitions of "off-route," "special services," "transatlantic charter trips," and "transpacific charter trips" are retained. Since these definitions have not been deleted, they perforce are retained. Regarding the definition of "mixed charter," [67] United also says that it is not clear whether the charterer may pay the entire share of some of the participants or whether it must contribute part of the share of all of the participants so that each participant pays something. Either alternative is permissible.

Proposed § 207.27 (Solicitation and formation of a chartering group) is addressed to air carriers and was added to conform to Part 208. It provides (a) that a carrier shall not engage in solicitation of individuals as distinguished from the solicitation of an organization for a charter trip, except after a charter contract has been signed and (b) that a carrier shall not employ any person for the purpose of organizing and assembling members of any organization into a group to make the charter flight, except after a charter contract is signed. United states that the activities permissible in this section can reach substantial proportions and involve substantial expense. It adds that it is not clear whether the Board considers such activities to be a service in connection with air transportation for which an appropriate tariff charge should be made. Further, it states that if the administrative expense limitations proposed do not apply to such carrier activity, it is probable that the carriers will find themselves under

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[58] §§207.13(c), 212.10, and 214.9.

[59] It is also omitted in present Part 207.

[60] Section 208.3(c)(2) defines transatlantic transportation, and the supplementals have no authority to carry property in this area.

[61] "Bona fide members" and "solicitation of the general public" appear in § 208.210 (Solicitation of charter participants) and "immediate families" appears in § 208.212 (Participation of immediate families in charter flights).

[62] "Within the meaning of this part, a charter trip shall not be deemed to include transportation services offered by an air carrier to individual members of the general public * * *."

[63] See present § 212.1(b).

[64] "Each air carrier shall maintain a record of the names and addresses of all passengers transported on each pro rata charter trip. Such record shall be retained in accordance with Part 249 of this subchapter except that it may be maintained at either the principal office or the principal operations base of the carrier."

[65] It appears in Part 208 only because § 249.8 requires retention at the supplemental carrier's principal office.

[66] JAL appears to believe that existing § 212.7(a) (Records and record retention) requires foreign air carriers to maintain a list of passenger names and addresses only for U.S. originating charters. Such an interpretation is obviously incorrect as the section refers to charter trips "originating or terminating in the United States."

[67] "A charter, the cost of which is borne, or pursuant to contract may be borne, partly by the charter participants and partly by the charterer."

pressure to provide promotional assistance so that charterers may avoid the strictures of the expense limitations.

We are not at this time adopting the proposed new administrative expense limitations. Instead Part 207 will contain the present provisions on administrative expenses appearing in § 208.213(c). Apparently, in the past, the supplemental carriers have regarded whatever services they perform for a chartering organization as ancillary services included in the charter price. Whether services performed for a chartering organization should be included in tariffs cannot be determined without precise information as to the nature and extent of the services.

KLM states that §§ 212.21 (Charter flight limitations), 212.22 (Unused space), 212.23 (Terms of service) and 212.24 (Substitute transportation) apply to all passenger charters and therefore should appear in the introductory part of the regulation and not Subpart A (Pro rata charters).[68] We agree that these sections, as well as proposed § 212.25 (Payments, gratuities and donations) should be put in an introductory Subpart which will be designated "A—General Provisions" in both Parts 207 and 212 to conform to Parts 208 and 214.

Finally, we shall grant two requests concerning the contents of the Statement of Supporting Information adapted from Part 295. Part I of the statement, to be executed by the air carrier, requires carriers to state "Technical stops required by carrier" and "Planned routing." (Items 3 (d) and (e).) Pan American states that it is unlikely in its experience that routings, temporary NOTAMS, crew patterns and other developments that affect these matters will be known at the time of completion of Part I. It says that it is not aware of any substantial purpose that would be served by requiring an advance statement of these matters, particularly when it cannot be made with any assurance of accuracy. It adds that the actual record of how an operation is conducted is, of course, available from aircraft-log entries. The items referred to are being deleted from the statement. In addition we are granting a request of American to the extent that it asks that "Purpose of trip" (item 8 of section B of part II) be deleted.

Except to the extent granted herein, all other requests, suggestions, and proproposals submitted in the comments relating to the regulations now being adopted are denied.

5. *Proposals beyond the scope of the proceeding.* A number of proposals have been submitted in comments which are beyond the scope of this rule making proceeding and cannot therefore be entertained. Included in this category are the following: (1) TWA's proposal for volume limitations on the operations of the supplemental carriers;[69] (2) Pan American's proposal for regulation of supplemental carrier's advertising of charter rates; (3) proposal of ASTA and Pan American for study group regulation;[70] (4) ASTA's proposal for bonding of chartering organizations;[71] (5) ASTA's proposal for regulation of travel agents; (6) AITS proposal for "affinity inclusive tour charters";[72] (7) Club Mediterranee's proposal for "travel available charters";[73] and (8) proposals by ARTA and David Travels for revision of Part 378.

While none of these proposals can be considered herein, we believe some comment is in order concerning the last four referred to.

The AITS and Club Mediterranee proposals, as well as the ARTA and Davis proposals, essentially would expand ITC authority and/or liberalize present restrictions on ITC's under Part 378. The question of renewal of ITC authority will come up shortly. Under these circumstances, whatever merit these proposals may have should only be considered in connection with renewal, and it would be neither appropriate nor feasible to institute rule making proceedings concerning any of them, as AITS suggests, at this time.

As indicated previously, we are permitting petitions for reconsideration of the amendment to § 208.32(e) concerning full payment in the case of split charters 30 days prior to commencement of the transportation and of the amendment to § 208.32(f) concerning additional intermingling authority. Twelve (12) copies of such petitions shall be filed with the Docket Section, Civil Aeronautics Board, Room 712 Universal Building, Washington, DC 20428, on or before February 19, 1971. Copies of any petition filed will be available for examination by interested persons in the Docket Section. The filing of petitions shall not operate to stay the effective date of the rules.

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[68] Southern and United make the same point with respect to "charter flight limitations."

[69] It is not entirely clear that TWA is proposing volume limitations in this proceeding. Its comment in this regard may be interpreted as merely calling the Board's attention to the fact that it has urged the imposition of such conditions in its brief to the examiner in the Transatlantic Supplemental Charter Authority Renewal Case, Docket 20564.

[70] By SPDR-20, EDR-191, Nov. 3, 1970, the Board issued a notice of rule making for promulgation of a new Part 373 to authorize, subject to conditions provided therein, study group charters by study group charterers and related amendments to Parts 207, 208, 212, 214, and 295.

[71] ASTA's request is, in part, encompassed in SPDR-20, EDR-191, supra. See also SPDR-19, Nov. 3, 1970, proposing to modify surety bond requirements in Parts 378 and 378a.

[72] AITS asks, alternatively, that its proposal be considered as a separate petition for rule making. For reasons hereafter appearing, the Board finds that the petition does not disclose sufficient reasons to justify the institution of public rule making proceedings and it is therefore denied.

[73] The proposal was advanced at oral argument (Tr. 166-167).

Accordingly, the Civil Aeronautics Board hereby amends Part 208 of its Economic Regulations (14 CFR Part 208) effective April 6, 1971, as follows:

1. Amend the Table of Contents by adding titles to new §§ 208.6, 208.7, 208.36, 208.202a, 208.204, 208.216, and 208.217 and revising the titles of §§ 208.101, 208.201, and 208.215. As amended, the Table of Contents will read in pertinent part:

Sec.
208.6 Charter flight limitations.
208.7 Unused space.
208.36 Substitute transportation in emergencies.
208.101 Minimum rates and compensation for air transportation performed for the Department of Defense.
208.201 Pretrip notifications and charter contract.
208.202a Statement of Supporting Information.
208.204 Statement of Supporting Information.
208.215 Passenger lists.
208.216 Application for a charter.
208.217 Statement of Supporting Information.

2. Amend § 208.1 to read as follows:

§ 208.1 Applicability.

This part contains terms, conditions, and limitations on the operating authority of supplemental air carriers, including substantive regulations implementing paragraphs (1), (2), and (3) of section 401(n) of the Act. The requirements of this part shall constitute terms, conditions, and limitations attached to certificates issued pursuant to section 401(d)(3) of the Act. The requirements shall also attach to special operating authorizations issued under section 417 or to exemptions issued under section 416 of the Act.

3. Amend § 208.3 by deleting and reserving paragraphs (o), (p), and (q) and amending paragraphs (b), (c), (s), and (t) to read as follows:

§ 208.3 Definitions.

For the purposes of this part:

* * * * *

(b) "Supplemental air carrier" means an air carrier holding a certificate issued under section 401(d)(3) of the Act, or a special operating authorization issued under section 417 of the Act.

(c) "Supplemental air transportation" means charter flights in air transportation performed pursuant to a certificate of public convenience and necessity issued under section 401(d)(3) of the Act (1) authorizing the holder to engage in supplemental air transportation of persons and property, between any point in any State of the United States or the District of Columbia, and any other point in any State of the United States or the District of Columbia (exclusive of air transportation within the State of Alaska) or in foreign or overseas supplemental transportation or (2) authorizing the holder to engage in supplemental air transportation of persons and

their personal baggage between points within the 48 contiguous States of the United States, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand.

* * * * *

(o) [Reserved]
(p) [Reserved]
(q) [Reserved]

* * * * *

(s) "Charter flight" means air transportation performed by supplemental air carriers in accordance with § 208.6.

(t) "Substitute service" means the performance by an air carrier of foreign or overseas air transportation, or air transportation between the 48 contiguous States, on the one hand, and the State of Alaska or Hawaii, on the other hand, in planeload lots pursuant to an agreement with another air carrier to fulfill such other air carrier's contractual obligations to perform such air transportation for the Department of Defense.

* * * * *

4. Add new §§ 208.6 and 208.7 to read as follows:

§ 208.6 Charter flight limitations.

Charter flights in air transportation performed by supplemental air carriers shall be limited to the following:

(a) Air transportation of persons and/or property pursuant to contracts with the Department of Defense where the entire capacity of one or more aircraft has been engaged by the Department;

(b) Air transportation performed on a time, mileage or trip basis where the entire capacity of one or more aircraft has been engaged for the movement of persons and/or property (or of persons and their personal baggage in the case of supplemental air transportation as defined in § 208.3(c)(2)):

(1) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel or company property, or in cases of emergency, of commercial traffic: *Provided,* That emergency charters for commercial traffic shall be reported in accordance with § 208.5);

(2) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons and/or their property, as agent or representative of such group;

(3) By an air freight forwarder or international air freight forwarder holding a currently effective operating authorization under Part 296 or Part 297 of this subchapter for the carriage of property in air transportation, or by a person authorized by the Board to transport by air used household goods of personnel of the Department of Defense; or

(4) By a tour operator or a foreign tour operator as defined in Part 378 of this chapter.

(c) Air transportation performed on a time, mileage, or trip basis where less than the entire capacity of an aircraft has been engaged for the movement of persons and their personal baggage by two or more of the following persons: *Provided,* That such persons in the aggregate engage the entire capacity of the aircraft:

(1) By a person for his own use (including a direct air carrier or a direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage or in cases of emergency, of commercial passenger traffic: *Provided,* That emergency charters for commercial traffic shall be reported in accordance with § 208.5);

(2) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services), for the transportation of a group of persons and their personal baggage, as agent or representative of such group;

(3) By a tour operator or a foreign tour operator as defined in Part 378 of this chapter.

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided further,* That paragraph (c) shall not be construed to apply to movements of property.

5. Amend paragraph (b) of § 208.12 to read as follows:

§ 208.12 Terms and conditions of insurance coverage.

* * * * *

(b) The liability of the insurer shall apply to all operations by the insured carrier in air transportation. The liability of the insurer shall not be subject to any exclusion by virtue of violations, by the insured carrier, of any applicable safety or economic provision of the Federal Aviation Act of 1958, as amended, or of any applicable safety or economic rule, regulation, order or other legally imposed requirement prescribed thereunder by the Federal Aviation Administration or the Civil Aeronautics Board, respectively.

* * * * *

6. Amend paragraphs (e) and (f) of § 208.32 to read as follows:

§ 208.32 Tariffs and terms of service.

* * * * *

(e) The carrier shall require full payment of the total charter price or the posting of a satisfactory bond for full payment prior to the commencement of the air transportation: *Provided, however,* That in the case of a charter for less than the entire capacity of an aircraft pursuant to § 208.6(c) the carrier shall require full and nonrefundable payment of the total charter price not less than 30 days prior to the commencement of the transportation.

(f) In the case of a charter contract calling for four or more round trips per calendar year, one-way passengers shall not be carried, there shall be no intermingling of passengers and each planeload group, or less than planeload group (see § 208.6(c)), shall move as a unit in both directions, except as provided in § 208.36.

7. Amend paragraph (b)(1) of § 208.32a to read as follows:

§ 208.32a Flight delays and substitute air transportation (foreign).

* * * * *

(b) *Incidental expenses.*[74] (1) On the return leg of a charter flight bound from a point outside the country where the charter originated and is to terminate, unless the air carrier causes an aircraft to finally enplane each passenger and commence the takeoff procedures at the airport of departure before the 6th hour following the time scheduled for the departure of such flight, it shall pay incidental expenses in accordance with the provisions of this paragraph. Such payments shall be made at the airport of departure as soon as they become due to the charterer, or its duly authorized agent, for the account of each passenger, including infants and children traveling at reduced fares. In the case of charter flights bound to or from the United States on the return leg, "country" as used in this paragraph means the 48 contiguous States of the United States.

* * * * *

8. Add new § 208.36 to read as follows:

§ 208.36 Substitute transportation in emergencies.

(a) A carrier shall be permitted to transport a passenger on a charter flight with a group other than his own or on a ferry flight (as defined in § 241.03 of this subchapter) under the following circumstances:

(1) The passenger was transported by the carrier on an outbound charter flight;

(2) The transportation is for return passage only;

(3) When the passenger is required to return at a different time than his own charter flight due to emergency circumstances beyond the passenger's control; and

(4) The charter group with which the passenger is to travel expresses no objection to his participation in the charter flight.

For the purposes of this paragraph, "emergency circumstances beyond the

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[74] Although the requirements with respect to providing incidental expenses are made expressly applicable only to the return leg of a charter flight, the air carriers are expected, in the case of delay in departure of the originating leg of a flight, to furnish such incidental expenses to charter passengers whose homes are not located within a reasonable distance from the point of origination of the charter.

passenger's control" shall mean illness or injury to the passenger or a member of his immediate family; death of a member of the passenger's immediate family; or weather conditions or unforeseeable and unavoidable delays in ground transportation or connecting air transportation.

(b) In all cases where such substitute transportation is furnished, the carrier shall file a report with the Director, Bureau of Operating Rights, within 30 days after the substitute transportation is provided setting forth the circumstances of the carriage. Such report shall include the name of the passenger; the name of his chartering organization; the name of the chartering organization with whom he traveled in substitute transportation; the date he was originally scheduled to return and the date on which he actually returned; a description of the circumstances which made the substitute transportation necessary; and the evidence which the carrier obtained to substantiate the need for substitute transportation (e.g., a doctor's certificate).

9. Amend the title and the text of § 208.101 to read as follows:

§ 208.101 Minimum rates and compensation for air transportation performed for the Department of Defense.

The authority conferred upon a supplemental air carrier pursuant to a certificate of public convenience and necessity issued under section 401(d)(3) of the Act, insofar as it encompasses the right to provide air transportation pursuant to contract with the Department of Defense or any branch thereof in foreign or overseas air transportation, air transportation between the 48 contiguous States on the one hand and the State of Alaska or Hawaii on the other hand, or between military installations within the 48 contiguous States, shall be subject to the condition that the rate or compensation received by the carrier for any such air transportation is not less than that set forth in § 288.7 of this subchapter.

10. Amend § 208.150 to read as follows:

§ 208.150 Military backhaul exemption.

Subject to the provisions of this part and all other applicable rules, regulations, conditions, or requirements, supplemental air carriers are hereby exempted from the provisions of section 401 of the Act to the extent necessary to permit them to engage in overseas or foreign "supplemental air transportation" on the reverse leg of a charter performed in the opposite direction under a contract with the Department of Defense calling for one-way service.

11. Amend § 208.200 to read as follows:

§ 208.200 Applicability of subpart.

This subpart sets forth the special rules applicable to pro rata charters.

12. Amend the title and text of § 208.201 to read as follows:

§ 208.201 Pretrip notification and charter contract.

(a) Upon a charter flight date being reserved by the carrier or its agent the carrier shall provide the prospective charterer with a copy of this Part 208.[75] The charter contract shall include a provision that the charterer, and any agent thereof, shall only act with regard to the charter in a manner consistent with this part and that the charterer shall within due time submit to the carrier such information as specified in § 208.215. The carrier shall also require that the charterer and any travel agent involved shall furnish it at least 30 days prior to departure of the first flight the statements of supporting information required in §§ 208.217 and 208.211, respectively, unless the charter has been contracted for within 30 days before the date of departure, in which event the statement and attachments shall be filed with the carrier on the date the charter contract is executed. In the event of a substitution of carriers, the carrier with whom the statements and attachments have been filed may forward them to the substitute carrier, in which case new statements need not be executed.

(b) The carrier shall attach to its copy of the charter contract a certification by an officer of the chartering organization or other qualified person, authorizing the person who executes the contract to do so on behalf of the chartering organization.[76] If the carrier executes a charter contract within 15 days of the flight date, the carrier shall require the person who executes the contract on behalf of the charterer to certify as to whether or not a contract for the flight has been canceled by another carrier because the chartering organization was found to be ineligible under the regulations. The carrier shall also notify the Board, within 5 days after the contract has been executed, that its execution took place within 15 days of flight date. Where the certification discloses, or the carrier has reason to believe, that a contract for the flight has been canceled by another carrier, the notification to the Board shall also state that the carrier has made an independent inquiry and has satisfied itself that such cancellation was not caused by the ineligibility of the chartering organization. If a charter contract is for the return flight of a one-way charter by the same charter organization, a copy of the passenger list (§ 208.215) of the outbound charter shall be attached to the charter contract.

13. Add new § 208.202a to read as follows:

§ 208.202a Statement of Supporting Information.

Prior to performing a charter flight the carrier shall execute, and require the travel agent (if any) and the charterer to execute, the Statement of Supporting Information attached hereto and made a part hereof.[77] If a charter contract covers more than one charter flight, only one statement need be filed: *Provided, however,* That separate financial data (see item 13 of statement) shall be filed for each one-way or round trip flight. The carrier shall require the charterer to annex to the statement copies of all announcements of the charterer in connection with the charter issued after the contract is signed.

14. Add new § 208.204 to read as follows:

§ 208.204 Statement of Supporting Information.

Travel agents shall execute, and furnish to air carriers, section A of Part II of the Statement of Supporting Information attached hereto and made a part hereof,[77] at such time as required by the carrier to afford it due time for review thereof.

15. Amend §§ 208.210 and 208.211 to read as follows:

§ 208.210 Solicitation of charter participants.

(a) As used in this section, "solicitation of the general public" means:

(1) A solicitation going beyond the bona fide members of an organization (and their immediate families). This includes air transportation services offered by an air carrier under circumstances in which the services are advertised in mass media, whether or not the advertisement is addressed to members of a specific organization, and regardless of who places or pays for the advertising. Mass media shall be deemed to include radio and television, and newspapers and magazines. Advertising in such media as newsletters or periodicals of membership organizations, industrial plant newsletters, college radio stations, and college newspapers shall not be considered advertising in mass media to the extent that

(i) The advertising is placed in a medium of communication circulated mainly to members of an organization that would be eligible to obtain charter service, and

(ii) The advertisings states that the charter is open only to members of the organization referred to in subdivision (i) of this subparagraph, or only to members of a subgroup thereof. In this context, a subgroup shall be any group with membership drawn primarily from members of the organization referred to in subdivision (i) of this subparagraph: *Provided,* That this paragraph shall not be construed as prohibiting air carrier advertising which offers charter services to bona fide organizations, without reference to a particular organization or flight.

(2) The solicitation, without limitation, of the members of an organization so constituted as to ease the admission to membership, and nature of membership, as to be in substance more in the nature of a segment of the public than a private entity.

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[75] Copies of this part are available by purchase from the Superintendent of Documents, Washington, D.C. 20402. Single copies will be furnished without charge on written requests to the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

[76] Not applicable where the charter is based on employment in one entity or employee or student status at a school.

[77] Statement filed as part of the original document.

(b) Members of the charter group may be solicited only from among the bona fide members of an organization, club, or other entity, and their immediate families, and may not be brought together by means of a solicitation of the general public. "Bona fide members" means those members of a charter organization who (1) have not joined the organization merely to participate in the charter as the result of solicitation of the general public; and (2) are members for a minimum of six months prior to the starting flight date. The requirement in subparagraph (2) of this paragraph is not applicable to

(i) Students and employees of a single school, and immediate families thereof;

(ii) Employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof or

(iii) Participants in a study group charter.

(c) Solicitation of, as well as participation by, members of an organization with respect to charter flights shall extend only to the organization, or the particular chapter or unit thereof, which signs the charter agreement with the air carrier as the charterer.

(d) A charterer shall not advertise or otherwise solicit its members for any charter until a charter contract has been signed: *Provided, however,* That this prohibition shall not extend to oral inquiries or internal mailings directed to members to determine interest in a charter flight or charter program so long as no fixed price for air transportation is held out. After a charter contract is signed, copies of solicitation material shall be furnished the carrier at the same time it is distributed to members.

§ 208.211 Passengers on charter flights.

Only bona fide members of the charterer, and their immediate families (except as provided in § 208.212), may participate as passengers on a charter flight, and the participants must be members of the specific organization or chapter which authorized the charter. The charterer must maintain a central membership list, available for inspection by the carrier or Board representative, which shows the date each person became a member.[78] When four or more round trips are contracted for, intermingling between flights or reforming of plane-load or less than plane-load charter groups shall not be permitted, and each group must move as a unit in both directions, except as provided in § 208.36.

16. Amend § 208.212 by adding a new paragraph (b) and designating the present text as paragraph (a). As amended § 208.212 will read as follows:

§ 208.212 Participation of immediate families on charter flights.

(a) The immediate family of any bona fide member of a charter organization may participate in a charter flight: *Provided, however,* That this section shall not apply to study group charters as defined herein (§ 208.3(r)).

(b) "Immediate family" means only the following persons who are living in the household of a member of a charter organization, namely, the spouse, dependent children, and parents, of such member.

17. Amend § 208.214 to read as follows:

§ 208.214 Statements of charges.

The chartering organization, in any announcements or statements to prospective charter participants giving price per seat, shall state that the seat price is a pro rata share of total charter cost and is subject to increase or decrease depending on the number of participants. All announcements shall separately state the cost of ground arrangements, if any, the cost of air transportation, the administrative expenses of the charterer, and the total cost of the entire trip. All announcements shall also identify the carrier, the number of seats available and the type of aircraft to be used for the charter.

18. Amend § 208.215 and add new §§ 208.216 and 208.217 to read as follows:

§ 208.215 Passenger lists.

(a) Prior to each one-way or round-trip flight, a list shall be filed by the charterer with the air carrier showing the names and addresses of the persons to be transported, including standbys who may be transported, specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended if passengers are added or dropped before flight.

(b) The relationship of a prospective passenger shall be classified under one of the following categories and specified on the passenger list as follows:

(1) A bona fide member of the chartering organization who will have been a bona fide member of the chartering organization for at least 6 months prior to the starting flight date. Specify on the passenger list as "(1) member."

(2) The spouse, dependent child or parent of a bona fide member who lives in such member's household. Specify on the passenger list as "(2) spouse" or "(2) dependent child" or "(2) parent." Also give name and address of member relative where such member is not a prospective passenger.

(3) Bona fide members of entities consisting only of persons from a study group, or students and employees of a school, or employed by a single Government agency, industrial plant, or mercantile company, or persons whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver. Specify on the passenger lists as "(3) special" or "(3) member" (where participants are from a study or school group or from a Government agency, industrial plant or mercantile company).

(c) In the case of a round-trip flight, the above information must be shown for each leg of the flight and any variations between the outbound and inbound trips must be explained on the list.

(d) Attached to such list must be a certification, signed by a duly authorized representative of the charterer, reading:

The attached list of persons includes every individual who may participate in the charter flight. Every person as identified on the attached list (1) was a bona fide member of the chartering organization, and will have been a member for at least 6 months prior to the starting flight date, or (2) is a bona fide member of an entity consisting of (a) students and employees of a single school, or (b) employees of a single Government agency, industrial plant, or mercantile establishment, or (3) is a person whose participation has been specifically permitted by the Civil Aeronautics Board, or (4) is the spouse, dependent child, or parent of a person described hereinbefore and lives in such person's household, or (5) is a bona fide participant in a study group charter.[79]

(Signature)

§ 208.216 Application for a charter.

A chartering organization shall make written application to the air carrier, setting forth the number of seats desired, points to be included in the proposed flight or flights, and the dates of departure for each one-way or round-trip flight.

§ 208.217 Statement of Supporting Information.

Charterers shall execute and file with the air carrier section B of part II of the statement of Supporting Information attached hereto and made a part hereof [80] at such time as required by the carrier to afford it due time for review thereof.

19. Amend § 208.300 to read as follows:

§ 208.300 Applicability of subpart.

This subpart sets forth the special rules applicable to single entity charters.

20. Amend § 208.400 to read as follows:

§ 208.400 Applicable rules.

The rules set forth in Subpart C of this part shall apply in the case of mixed charters.

(Secs. 204(a), 401, 407, Federal Aviation Act of 1958, as amended (72 Stat. 743, 754 (as amended by 76 Stat. 143), 766; 49 U.S.C. 1324, 1371, and 1377))

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[78] Where the charter is based on employment in one entity or student or employee status at a school, records of the corporation, agency or school will suffice to meet the requirements.

[79] Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years or both. Title 18, U.S.C., § 1001.

[80] Statement filed as part of the original document.

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

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-1563 Filed 2-4-71;8:45 am]

[Reg. ER-661]

PART 212—CHARTER TRIPS BY FOREIGN AIR CARRIERS

Extension of Charter Regulations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of January 1971.

In a Notice of Rule Making EDR-183, PSDR-24,[1] the Board, inter alia, gave notice that it had under consideration amendment of Part 212 for the purpose of establishing uniform charter regulations applicable to all types of charters (except inclusive tour charters) performed by all classes of carriers and applicable to on-route as well as off-route charters. To this end it proposed that existing charter regulations set forth in Part 208 of this subchapter, together with amendments to Part 208 proposed therein, should be extended to Part 212, to the extent applicable. For the reasons set forth in ER-659, issued simultaneously herewith, the Board has decided to adopt the proposals to the extent indicated therein. However, as there indicated, the Board in permitting petitions for reconsideration of the amendment to § 212.10(b) concerning full payment in case of split charters 30 days prior to commencement of the transportation and of the amendment to § 212.10(c) concerning additional intermingling authority. Twelve (12) copies of such petitions shall be filed with the Docket Section, Civil Aeronautics Board, Room 712 Universal Building, Washington, DC 20428, on or before February 19, 1971. Copies of any petition filed will be available for examination by interested persons in the Docket Section. The filing of petitions shall not operate to stay the effective date of the rules.

Accordingly, the Civil Aeronautics Board hereby amends Part 212 of the economic regulations (14 CFR Part 212), effective April 6, 1971, as follows:

1. Amend the Table of Contents by (a) placing §§ 212.1 through 212.7 under a new Subpart A; (b) adding titles to new §§ 212.8 through 212.13 under Subpart A; and (c) adding new Subparts B, C, and D. As amended, the Table of Contents will read as follows:

Subpart A—General Provisions

Sec.
212.1 Definitions.
212.2 Scope of authorization.
212.3 Tariffs to be filed for charter trips.
212.3a Written contracts with charterers.
212.4 Limitation on the operation of off-route charter trips.
212.5 Statements of Authorization; application.
212.6 Issuance of Statement of Authorization.
212.7 Records and record retention.
212.8 Charter flight limitations.
212.9 Unused space.
212.10 Terms of service.
212.11 Substitute transportation in emergencies.
212.12 Payments, gratuities, and donations.
212.13 Waiver.

Subpart B—Provisions Relating to Pro Rata Charters

212.20 Applicability of subpart.

REQUIREMENTS RELATING TO AIR CARRIERS

212.21 Solicitation and formation of a charter group.
212.22 Pretrip notification and charter contract.
212.23 Agent's commission.
212.24 Statement of Supporting Information.

REQUIREMENTS RELATING TO TRAVEL AGENTS

212.30 Prohibition against double compensation.
212.31 Statement of Supporting Information.

REQUIREMENTS RELATING TO CHARTERING ORGANIZATION

212.40 Solicitation of charter participants.
212.41 Passengers on charter flights.
212.42 Participation of immediate families in charter flights.
212.43 Charter costs.
212.44 Statement of charges.
212.45 Passenger lists.
212.46 Application for a charter.
212.47 Statement of Supporting Information.

Subpart C—Provisions Relating to Single Entity Charters

212.50 Applicability of subpart.
212.51 Terms of service.
212.52 Commissions paid to travel agents.
212.53 Statement of Supporting Information.

Subpart D—Provisions Relating to Mixed Charters

212.60 Applicable rules.

AUTHORITY: The provisions of this Part 212 issued under secs. 204(a), 402, 403, 404(b), and 416(a) of the Federal Aviation Act of 1958 (72 Stat. 743, 757, 758 (as amended by 74 Stat. 445), 760, 771; 49 U.S.C. 1324, 1372, 1373, 1374, and 1386.

2. Amend § 212.1 by revising the definitions of "charter trip" and "off-route charter trip"; adding new definitions of "charter flight", "charter group", "charter organization", "mixed charter", "on-route charter trip", "pro rata charter", "single entity charter", "study group" and "travel agent"; deleting definition (b); and deleting the alphabetical designations of definitions (a) and (c). As amended § 212.1 will read as follows:

§ 212.1 Definitions.

For the purposes of this part:

"Charter flight" means air transportation performed pursuant to § 212.21.

"Charter group" means that body of individuals who actually participate in the charter flight.

"Charter organization" means that organization, group, or other entity from whose members (and their immediate families) a charter group is derived.

"Charter trip" means air transportation performed pursuant to § 212.21 of this part.

"Mixed charter" means a charter, the cost of which is borne, or pursuant to contract may be borne, partly by the charter participants and partly by the charterer.

"Off-route charter trip" means any charter trip which is not an "on-route charter trip."

"On-route charter trip" means a charter trip in foreign air transportation performed by a foreign air carrier between points between which it holds authority under a foreign air carrier permit to engage in foreign air transportation on an individually ticketed or individually waybilled basis: *Provided*, That for the purposes of this part a charter trip between a point in the United States named in the foreign air carrier permit of the carrier performing such charter trip and a point outside the United States which is not so named if such charter trip is operated via, and lands at, the homeland terminal point named in the foreign air carrier permit of such foreign air carrier, shall also be considered an "on-route charter trip."

"Pro rata charter" means a charter, the cost of which is divided among the passengers transported.

"Single entity charter" means a charter, the cost of which is borne by the charterer and not by individual passengers, directly or indirectly.

"Study group" means a charter group comprised of bona fide participants in a formal academic study course abroad and in which (1) the charterer is an educational institution or (2) such study course is for a period of at least 4 weeks' duration at an educational institution abroad. As used in this paragraph, the term "educational institution" means a bona fide school which (i) is empowered to grant college degrees or secondary school diplomas by the government of one of the 50 States of the United States, the District of Columbia, a U.S. territory or possession or a foreign country and (ii) is operated as a school on a year-round basis. An aircraft may carry a maximum of three study groups: *Provided*, That if more than one group is carried each of the groups shall consist of 40 or more study group participants: *And provided, further*, That the entire aircraft is chartered to a single study group charterer.

"Travel agent" means any person engaged in the formation of groups for transportation or in the solicitation or sale of transportation services.

3. Amend paragraph (a) of § 212.3 to read as follows:

§ 212.3 Tariffs to be filed for charter trips.

(a) No foreign air carrier shall perform any charter trips unless such foreign air carrier shall have on file with the Board a currently effective tariff showing all rates, fares, and charges for such charter trips, and showing the rules,

[1] May 8, 1970 (35 F.R. 7587).

regulations, practices, and services in connection with such transportation, including eligibility requirements for charter groups not inconsistent with those established in this part.

* * * * *

4. Add a new subparagraph (4) to § 212.7(a) to read as follows:

§ 212.7 Records and record retention.

(a) * * *

(4) Every Statement of Supporting Information and proof of the commission paid to any travel agency by the carrier for each pro rata charter trip.

* * * * *

5. Add new §§ 212.8 through 212.13 to read as follows:

§ 212.8 Charter flight limitations.

Charter flights (trips) shall be limited to foreign air transportation performed by a foreign air carrier holding a foreign air carrier permit issued pursuant to section 402 of the Act authorizing such carrier to engage in foreign air transportation on an individually ticketed or individually waybilled basis—

(a) Where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage and/or for the movement of property, on a time, mileage or trip basis—

(1) By a person for his own use;

(2) By a person (no part of whose business is the formation of groups for transportation or solicitation or sale of transportation services) for the transportation of a group of persons as agent or representative of such group;

(3) By an international air freight forwarder holding a currently effective operating authorization issued under Part 297 of this subchapter for the carriage of property in foreign air transportation, by a person authorized by the Board to transport by air used household goods of personnel of the Department of Defense or by a foreign indirect air carrier, whether or not the property to be carried is the result of a previous consolidation;

(4) By a direct air carrier, direct foreign air carrier, or surface carrier when such aircraft is engaged solely for the transportation of company personnel or company property, or in cases of emergency, of commercial traffic.

(b) Where less than the entire capacity of an aircraft has been engaged for the movement of persons and their personal baggage, on a time, mileage or trip basis by two or more of the following persons: *Provided*, That such persons in the aggregate engage the entire capacity of the aircraft—

(1) By a person for his own use;

(2) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services), for the transportation of a group of persons as agent or representatives of such group;

Provided, That with respect to paragraph (c) of this section each person engaging less than the entire capacity of an aircraft shall contract and pay for 40 or more seats: *And provided, further*, That paragraph (c) of this section shall not be construed to apply to movements of property.

§ 212.9 Unused space.

An air carrier may, with the written consent of the charterer(s), utilize any unused space for the transportation of (a) the carrier's own personnel and property and/or (b) the directors, officers, and employees of a foreign air carrier or another air carrier traveling pursuant to a pass interchange arrangement.

§ 212.10 Terms of service.

(a) The total charter price and other terms of service rendered pursuant to this part shall conform to those set forth in the applicable tariff on file with the Board and in force at the time of the respective charter flight and the contract must be for the entire capacity, or for less than the entire capacity (see § 207.11 (c) of this subchapter) of one or more aircraft. Where a carrier's charter charge computed according to a mileage tariff includes a charge for ferry mileage, the carrier shall refund to the charterer any sum charged for ferry mileage which is not in fact flown in the performance of the charter: *Provided*, That the carrier shall not charge the charterer for ferry mileage flown in addition to that stated in the contract unless such mileage is flown for the convenience of and at the express direction of the charterer.

(b) The carrier shall require full payment of the total charter price or the posting of a satisfactory bond for full payment prior to the commencement of the air transportation: *Provided however*, That in the case of a charter for less than the entire capacity of an aircraft pursuant to § 212.8(c) the carrier shall require full and nonrefundable payment of the total charter price not less than 30 days prior to the commencement of the transportation.

(c) In the case of a charter contract calling for four or more round trips per calendar year, one-way passengers shall not be carried, there shall be no intermingling of passengers and each planeload group, or less than planeload group (see § 212.8(c)), shall move as a unit in both directions, except as provided in § 212.11.

§ 212.11 Substitute transportation in emergencies.

(a) A carrier shall be permitted to transport a passenger on a charter flight with a group other than his own or on a ferry flight (as defined in § 241.03 of this subchapter) under the following circumstances:

(1) The passenger was transported by the carrier on an outbound charter flight;

(2) The transportation is for return passage only;

(3) When the passenger is required to return at a different time than his own charter flight due to emergency circumstances beyond the passenger's control; and

(4) The charter group with which the passenger is to travel expresses no objection to his participation in the charter flight.

For the purposes of this paragraph, "emergency circumstances beyond the passenger's control" shall mean illness or injury to the passenger or a member of his immediate family; death of a member of the passenger's immediate family; or weather conditions or unforeseeable and unavoidable delays in ground transportation or connecting air transportation.

(b) In cases where such substitute transportation is furnished, the carrier shall file a report with the Director, Bureau of Operating Rights, within 30 days after the substitute transportation is provided setting forth the circumstances of the carriage. Such report shall include the name of the passenger; the name of his chartering organization; the name of the chartering organization with whom he traveled in substitute transportation; the date he was originally scheduled to return and the date on which he actually returned; a description of the circumstances which made the substitute transportation necessary; and the evidence which the carrier obtained to substantiate the need for substitute transportation (e.g., a doctor's certificate).

§ 212.12 Payments, gratuities, and donations.

(a) Neither a carrier nor a travel agent shall make any payments or extend gratuities of any kind, directly or indirectly, to any member of a chartering organization in relation either to air transportation or land tours or otherwise.

(b) Neither a carrier nor a travel agent shall make any donation to a chartering organization or an individual charter participant.

(c) Nothing in this section shall preclude a carrier from paying a commission (within the limits of §§ 212.23 and 212.52) to a member of a chartering organization if such member is its agent, or restrict a carrier or a travel agent from offering to each member of the charter group such advertising and goodwill items as are customarily extended to individually ticketed passengers (e.g., canvas traveling bag or a money exchange computer).

§ 212.13 Waiver.

A waiver of any of the provisions of this part may be granted by the Board upon the submission by an air carrier of a written request therefor not less than 30 days prior to the flight to which it relates provided such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein. Notwithstanding the foregoing, waiver applications filed less than 30 days prior to a flight may be accepted by the Board in emergency situations in which the circumstances warranting a waiver did not exist 30 days before the flight.

6. Adopt new Subparts B, C, and D as follows:

Subpart B—Provisions Relating to Pro Rata Charters

§ 212.20 Applicability of subpart.

This subpart sets forth the special rules applicable to pro rata charters, both on-route and off-route.

REQUIREMENTS RELATING TO AIR CARRIERS

§ 212.21 Solicitation and formation of a chartering group.

(a) A carrier shall not engage, directly or indirectly, in any solicitation of individuals (through personal contact, advertising, or otherwise) as distinguished from the solicitation of an organization for a charter trip, except after a charter contract has been signed.

(b) A carrier shall not employ, directly or indirectly, any person for the purpose of organizing and assembling members of any organization, club, or other entity into a group to make the charter flight, except after a charter contract has been signed.

§ 212.22 Pretrip notification and charter contract.

(a) Upon a charter flight date being reserved by the carrier or its agent the carrier shall provide the prospective charterer with a copy of this Part 212.[2] The charter contract shall include a provision that the charterer, and any agent thereof, shall only act with regard to the charter in a manner consistent with this part and that the charterer shall within due time submit to the carrier such information as specified in § 212.45. The carrier shall also require that the charterer and any travel agent involved shall furnish it at least 30 days prior to departure of the first flight the statements of supporting information required in §§ 212.47 and 212.31, respectively, unless the charter has been contracted for within 30 days before the date of departure, in which event the statement and attachments shall be filed with the carrier on the date the charter contract is executed. In the event of a substitution of carriers, the carrier with whom the statements and attachments have been filed may forward them to the substitute carrier, in which case new statements need not be executed.

(b) The carrier shall attach to its copy of the charter contract a certification by an officer of the chartering organization, or other qualified person, authorizing the person who executes the contract to do so on behalf of the chartering organization.[3] If the carrier executes a charter contract within 15 days of the flight date, the carrier shall require the person who executes the contract on behalf of the charterer to certify as to whether or not a contract for the flight has been canceled by another carrier because the chartering organization was found to be ineligible under the regulations. The carrier shall also notify the Board, within 5 days after the contract has been executed, that its execution took place within 15 days of flight date. Where the certification discloses, or the carrier has reason to believe, that a contract for the flight has been canceled by another carrier, the notification to the Board shall also state that the carrier has made an independent inquiry and has satisfied itself that such cancellation was not caused by the ineligibility of the chartering organization. If a charter contract is for the return flight of a one-way charter by the same charter organization, a copy of the passenger list (§ 212.45) of the outbound charter shall be attached to the charter contract.

§ 212.23 Agent's commission.

The carrier shall not pay its agent a commission or any other benefits directly or indirectly, in excess of 5 percent of the total charter price as set forth in the carrier's charter tariff on file with the Board, or more than the commission related to charter flights paid to an agent by a carrier certificated to render regular service on the same route, whichever is greater. The carrier shall not pay any commission whatsoever to an agent if the agent receives a commission from the charterer for the same service.

§ 212.24 Statement of Supporting Information.

Prior to performing a charter flight, the carrier shall execute, and require the travel agent (if any) and the charterer to execute, the Statement of Supporting Information attached hereto and made a part hereof. If a charter contract covers more than one charter flight, only one statement need be filed: *Provided, however,* That separate financial data (see item 13 of statement) shall be filed for each one-way or round-trip flight. The carrier shall require the charterer to annex to the statement copies of all announcements of the charterer in connection with the charter issued after the contract is signed.

REQUIREMENTS RELATING TO TRAVEL AGENTS

§ 212.30 Prohibition against double compensation.

A travel agent may not receive a commission from both the direct air carrier and the charterer for the same service.

§ 212.31 Statement of Supporting Information.

Travel agents shall execute, and furnish to air carriers, section A of Part II of the Statement of Supporting Information attached hereto and made a part hereof,[3a] at such time as required by the carrier to afford it due time for review thereof.

REQUIREMENTS RELATING TO THE CHARTERING ORGANIZATION

§ 212.40 Solicitation of charter participants.

(a) As used in this section, "solicitation of the general public" means:

(1) A solicitation going beyond the bona fide members of an organization (and their immediate families). This includes air transportation services offered by an air carrier under circumstances in which the services are advertised in mass media, whether or not the advertisement is addressed to members of a specific organization, and regardless of who places or pays for the advertising. Mass media shall be deemed to include radio and television, and newspapers and magazines. Advertising in such media as newsletters or periodicals of membership organizations, industrial plant newsletters, college radio stations, and college newspapers shall not be considered advertising in mass media to the extent that—

(i) The advertising is placed in a medium of communication circulated mainly to members of an organization that would be eligible to obtain charter service, and

(ii) The advertising states that the charter is open only to members of the organization referred to in subdivision (i) of this subparagraph, or only to members of a subgroup thereof. In this context, a subgroup shall be any group with membership drawn primarily from members of the organization referred to in subdivision (i) of this subparagraph: *Provided,* That this paragraph shall not be construed as prohibiting air carrier advertising which offers charter services to bona fide organizations, without reference to a particular organization or flight.

(2) The solicitation, without limitation, of the members of an organization so constituted as to ease of admission to membership, and nature of membership, as to be in substance more in the nature of a segment of the public than a private entity.

(b) Members of the charter group may be solicited only from among the bona fide members of an organization, club, or other entity, and their immediate families, and may not be brought together by means of a solicitation of the general public. "Bona fide members" means those members of a charter organization who (1) have not joined the organization merely to participate in the charter as the result of solicitation of the general public; and (2) are members for a minimum of 6 months prior to the starting flight date. The requirement in subparagraph (2) of this paragraph is not applicable to

(i) Students and employees of a single school, and immediate families thereof;

(ii) Employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof; or

(iii) Participants in a study group charter.

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[2] Copies of this part are available by purchase from the Superintendent of Documents, Washington, D.C. 20402. Single copies will be furnished without charge on written requests to the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

[3] Not applicable where the charter is based on employment in one entity or employee or student status at a school.

[3a] Statement filed as part of original document.

(c) Solicitation of, as well as participation by, members of an organization with respect to charter flights shall extend only to the organization, or the particular chapter or unit thereof, which signs the charter agreement with the air carrier as the charterer.

(d) A charterer shall not advertise or otherwise solicit its members for any charter until a charter contract has been signed: *Provided, however,* That this prohibition shall not extend to oral inquiries or internal mailings directed to members to determine interest in a charter flight or charter program so long as no fixed price for air transportation is held out. After a charter contract is signed, copies of solicitation material shall be furnished the carrier at the same time it is distributed to members.

§ 212.41 Passengers on charter flights.

Only bona fide members of the charterer, and their immediate families (except as provided in § 212.42), may participate as passengers on a charter flight, and the participants must be members of the specific organization or chapter which authorized the charter. The charterer must maintain a central membership list, available for inspection by the carrier or Board representative, which shows the date each person became a member.[4] When four or more round trips are contracted for, intermingling between flights or reforming of planeload or less than planeload charter groups shall not be permitted, and each group must move as a unit in both directions, except as provided in § 212.11.

§ 212.42 Participation of immediate families on charter flights.

(a) The immediate family of any bona fide member of a charter organization may participate in a charter flight: *Provided, however,* That this section shall not apply to study group charters as defined herein (§ 212.1).

(b) "Immediate family" means only the following persons who are living in the household of a member of a charter organization, namely, the spouse, dependent children, and parents, of such member.

§ 212.43 Charter costs.

(a) The costs of charter flights shall be prorated equally among all charter passengers, and no charter passenger shall be allowed free transportation except that (1) children under 12 years of age may be transported at a charge less than the equally prorated charge; and (2) children under 2 years of age may be transported free of charge.

(b) The charterer shall not make charges to the charter participants which exceed the actual costs incurred in consummating the charter arrangements, nor include as a part of the assessment for the charter flight any charge for purposes of charitable donations. All charges related to the charter flight arrangements collected from the charter participants which exceed the actual costs thereof shall be refunded to the participants in the same ratio as the charges were collected.

(c) Reasonable administrative costs of organizing the charter may be divided among the charter participants. Such costs may include a reasonable charge for compensation to members of the charter organization for actual labor and personal expenses incurred by them. Such charge shall not exceed $300 (or $500 where the charter participants number more than 80) per round-trip flight. Neither the organizers of the charter, nor any member of the chartering organization, may receive any gratuities or compensation, direct or indirect, from the carrier, the travel agent, or any organization which provides any service to the chartering organization whether of an air transportation nature or otherwise. Nothing in this section shall preclude a member of a chartering organization who is the carrier's agent from receiving a commission from the carrier (within the limits of § 212.23), or prevent any member of the charter group from accepting such advertising and goodwill items as are customarily extended to individually ticketed passengers (e.g., a canvas traveling bag or a money exchange computer).

(d) If the total expenditures, including among other items compensation to members of the chartering organization, referred to in paragraph (c) of this section, but exclusive of expenses for air transportation or land tours, exceed $750 per round-trip flight, such expenditures shall be supported by properly authenticated vouchers.

§ 212.44 Statement of charges.

The chartering organization, in any announcements or statements to prospective charter participants giving price per seat, shall state that the seat price is a pro rata share of total charter cost and is subject to increase or decrease depending on the number of participants. All announcements shall separately state the cost of ground arrangements, if any, the cost of air transportation, the administrative expenses of the charterer, and the total cost of the entire trip. All announcements shall also identify the carrier, the number of seats available and the type of aircraft to be used for the charter.

§ 212.45 Passenger lists.

(a) Prior to each one-way or round-trip flight, a list shall be filed by the charterer with the air carrier showing the names and addresses of the persons to be transported, including standbys who may be transported, specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended if passengers are added or dropped before flight.

(b) The relationship of a prospective passenger shall be classified under one of the following categories and specified on the passenger list as follows:

(1) A bona fide member of the chartering organization who will have been a bona fide member of the chartering organization for at least 6 months prior to the starting flight date. Specify on the passenger list as "(1) member."

(2) The spouse, dependent child, or parent of a bona fide member who lives in such member's household. Specify on the passenger list as "(2) spouse" or "(2) dependent child" or "(2) parent." Also give name and address of member relative where such member is not a prospective passenger.

(3) Bona fide members of entities consisting only of persons from a study group, or students and employees of a school, or employed by a single Government agency, industrial plant, or mercantile company, or persons whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver. Specify on the passenger list as "(3) special" or "(3) member" (where participants are from a study or school group or from a Government agency, industrial plant or mercantile company).

(c) In the case of a round-trip flight, the above information must be shown for each leg of the flight and any variations between the outbound and inbound trips must be explained on the list.

(d) Attached to such list must be a certification, signed by a duly authorized representative of the charterer, reading:

The attached list of persons includes every individual who may participate in the charter flight. Every person as identified on the attached list (1) was a bona fide member of the chartering organization, and will have been a member for at least 6 months prior to the starting flight date, or (2) is a bona fide member of an entity consisting of (a) students and employees of a single school, or (b) employees of a single Government agency, industrial plant, or mercantile establishment, or (3) is a person whose participation has been specifically permitted by the Civil Aeronautics Board, or (4) is the spouse, dependent child, or parent of a person described hereinbefore and lives in such person's household, or (5) is a bona fide participant in a study group charter.[5]

(Signature)

§ 212.46 Application for a charter.

A chartering organization shall make written application to the air carrier,

[4] Where the charter is based on employment in one entity or student or employee status at a school, records of the corporation, agency, or school will suffice to meet the requirements.

[5] Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both. Title 18, U.S.C., § 1001.

setting forth the number of seats desired, points to be included in the proposed flight or flights, and the dates of departure for each one-way or round-trip flight.

§ 212.47 Statement of Supporting Information.

Charterers shall execute and file with the air carrier section B of part II of the Statement of Supporting Information attached hereto and made a part hereof [6] at such time as required by the carrier to afford it due time for review thereof.

Subpart C—Provisions Relating to Single Entity Charters

§ 212.50 Applicability of subpart.

This subpart sets forth the special rules applicable to single entity charters.

§ 212.51 Terms of service.

The provisions of § 212.10 shall apply to charters under this subpart except that paragraphs (b) and (c) of such section shall not be applicable and the second sentence of paragraph (a) of such section shall not be applicable.

§ 212.52 Commissions paid to travel agents.

No direct air carrier shall pay a travel agent any commission in excess of 5 percent of the total charter price or more than the commission related to charter flights paid to an agent by a carrier certificated to fly the same route, whichever is greater.

§ 212.53 Statement of Supporting Information.

The Statement of Supporting Information prescribed in §§ 212.24 and 212.47 shall be applicable in the case of single entity charters.

Subpart D—Provisions Relating to Mixed Charters

§ 212.60 Applicable rules.

The rules set forth in Subpart B of this part shall apply in the case of mixed charters.

(Secs. 204(a), 402, 403, 404(b), 416(a), Federal Aviation Act of 1958, 72 Stat. 743, 757, 758 (as amended by 74 Stat. 445), 760, 771; 49 U.S.C. 1324, 1372, 1373, 1374, 1386)

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

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-1564 Filed 2-4-71;8:45 am]

[Reg. ER-662]

PART 214—TERMS, CONDITIONS, AND LIMITATIONS OF FOREIGN AIR CARRIER PERMITS AUTHORIZING CHARTER TRANSPORTATION ONLY

Extension of Charter Regulations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of January 1971.

In a Notice of Rule Making EDR-183, PSDR-24,[1] the Board, inter alia, gave notice that it had under consideration amendment of Part 214 for the purpose of establishing uniform charter regulations applicable to all types of charters (except ITC charters) performed by all classes of carriers. To this end it proposed that existing charter regulations set forth in Part 208 of this subchapter, together with amendments to Part 208 proposed therein, should be extended to Part 214, to the extent applicable. For the reasons set forth in ER-659, issued simultaneously herewith, the Board has decided to adopt the proposals to the extent indicated therein. As indicated therein, we are permitting petitions for reconsideration of the amendment to § 214.14 (b) concerning full payment in the case of split charters 30 days prior to commencement of the transportation and of the amendment to § 214.14(c) concerning additional intermingling authority. Twelve (12) copies of such petitions shall be filed with the Docket Section, Civil Aeronautics Board, Room 712, Universal Building, Washington, DC 20428, on or before February 19, 1971. Copies of any petition filed will be available for examination by interested persons in the Docket Section. The filing of petitions shall not operate to stay the effective date of the rules.

Accordingly, the Civil Aeronautics Board hereby amends Part 214 of the economic regulations (14 CFR 214), effective April 6, 1971, as follows:

1. Amend the Table of Contents by (a) revising the titles of §§ 214.12 and 214.35; (b) adding titles for new §§ 214.7, 214.8, 214.9, 214.17, 214.22, 214.36, and 214.37; deleting Subpart D and § 214.60. As amended, the Table of Contents will read in pertinent part:

Sec.
214.7 Charter flight limitations.
214.8 Unused space.
214.9 Substitute transportation in emergencies.
214.12 Pre-trip notification and charter contract.
214.17 Statement of Supporting Information.
214.22 Statement of Supporting Information.
214.35 Passenger lists.
214.36 Application for a charter.
214.37 Statement of Supporting Information.

2. Amend § 214.2 by (a) deleting and reserving paragraphs (j), (k), and (l) and amending the definition of "charter flight" as follows:

§ 214.2 Definitions.

* * * * *

(b) "Charter flight" means air transportation performed pursuant to § 214.7.

* * * * *

(j) [Reserved]
(k) [Reserved]
(l) [Reserved]

* * * * *

3. Amend § 214.3 to read as follows:

§ 214.3 Waiver.

A waiver of any of the provisions of this part may be granted by the Board upon the submission by a foreign air carrier of a written request therefor not less than 30 days prior to the flight to which it relates provided such waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein. Notwithstanding the foregoing, waiver applications filed less than 30 days prior to a flight may be accepted by the Board in emergency situations in which the circumstances warranting a waiver did not exist 30 days before the flight.

4. Add a new subparagraph (4) to § 214.6(a) to read as follows:

§ 214.6 Record retention.

(a) Every foreign air carrier operating pursuant to this part shall retain true copies of the following documents at its principal or general office for the following periods:

* * * * *

(4) Every statement of supporting information: Two years.

* * * * *

5. Add new §§ 214.7, 214.8, and 214.9 to read as follows:

§ 214.7 Charter flight limitations.

Charter flights shall be limited to air transportation performed by a direct foreign air carrier on a time, mileage, or trip basis where—

(a) The entire capacity of one or more aircraft has been engaged for the movement of persons and their personal baggage:

(1) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage or, in cases of emergency, of commercial passenger traffic: *Provided,* That emergency charters for commercial passenger traffic shall be reported in accordance with § 214.5);

(2) By a representative (or representatives acting jointly) of a group for the use of such group (provided no such representative is professionally engaged in the formation of groups for transportation or in the solicitation or sale of transportation services); or

(b) Less than the entire capacity of an aircraft has been engaged for the movement of persons and their personal baggage by two or more of the following persons: *Provided,* That such persons in the aggregate engage the entire capacity of the aircraft:

(1) By a person for his own use (including a direct air carrier or direct foreign air carrier when such aircraft is engaged solely for the transportation of company personnel and their personal baggage, or in cases of emergency, of commercial passenger traffic: *Provided,* That emergency charters for commercial passenger traffic shall be reported in accordance with § 214.5);

(2) By a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of

[6] Statement filed as part of original document.

[1] May 8, 1970 (35 F.R. 7587).

transportation services) for the transportation of a group of persons and their personal baggage, as agent or representative of such group;

Provided, That paragraph (b) of this section shall not apply with respect to any foreign air carrier to the extent that its permit authorizes it to engage in "planeload" charter foreign air transportation of persons: *Provided, further,* That with respect to paragraph (b) of this section each person engaging less than the entire capacity of the aircraft shall contract and pay for 40 or more seats.

§ 214.8 Unused space.

A direct foreign air carrier may, with the written consent of the charterer(s), utilize any unused space for the transportation of (1) the carrier's own personnel and property and/or (2) the directors, officers, and employees, of an air carrier or another air carrier traveling pursuant to a pass interchange arrangement.

§ 214.9 Substitute transportation in emergencies.

(a) A carrier shall be permitted to transport a passenger on a charter flight with a group other than his own or on a ferry flight (as defined in § 241.03 of this subchapter) under the following circumstances:

(1) The passenger was transported by the carrier on an outbound charter flight;

(2) The transportation is for return passage only;

(3) When the passenger is required to return at a different time than his own charter flight due to emergency circumstances beyond the passenger's control; and

(4) The charter group with which the passenger is to travel expresses no objection to his participation in the charter flight.

For the purposes of this paragraph, "emergency circumstances beyond the passenger's control" shall mean illness or injury to the passenger or a member of his immediate family; death of a member of the passenger's immediate family; or weather conditions or unforeseeable and unavoidable delays in ground transportation or connecting air transportation.

(b) In cases where such substitute transportation is furnished, the carrier shall file a report with the Director, Bureau of Operating Rights, within 30 days after the substitute transportation is provided setting forth the circumstances of the carriage. Such report shall include the name of the passenger; the name of his chartering organization; the name of the chartering organization with whom he traveled in substitute transportation; the date he was originally scheduled to return and the date on which he actually returned; a description of the circumstances which made the substitute transportation necessary; and the evidence which the carrier obtained to substantiate the need for substitute transportation (e.g., a doctor's certificate).

6. Amend § 214.12 by revising the title and content to read as follows:

§ 214.12 Pretrip notification and charter contract.

(a) Upon a charter flight date being reserved by the carrier or its agent, the carrier shall provide the prospective charterer with a copy of this Part 214.[2] The charter contract shall include a provision that the charterer, and any agent thereof, shall only act with regard to the charter in a manner consistent with this part and that the charterer shall within due time submit to the carrier such information as specified in § 214.35. The carrier shall also require that the charterer and any travel agent involved shall furnish it at least 30 days prior to departure of the first flight the statements of supporting information required in §§ 214.37 and 214.22, respectively, unless the charter has been contracted for within 30 days before the date of departure, in which event the statement and attachments shall be filed with the carrier on the date the charter contract is executed. In the event of a substitution of carriers, the carrier with whom the statements and attachments have been filed may forward them to the substitute carrier, in which case new statements need not be executed.

(b) The carrier shall attach to its copy of the charter contract a certification by an officer of the chartering organization, or other qualified person, authorizing the person who executes the contract to do so on behalf of the chartering organization.[3] If the carrier executes a charter contract within 15 days of the flight date, the carrier shall require the person who executes the contract on behalf of the charterer to certify as to whether or not a contract for the flight has been canceled by another carrier because the chartering organization was found to be ineligible under the regulations. The carrier shall also notify the Board, within 5 days after the contract has been executed, that its execution took place within 15 days of flight date. Where the certification discloses, or the carrier has reason to believe, that a contract for the flight has been canceled by another carrier, the notification to the Board shall also state that the carrier has made an independent inquiry and has satisfied itself that such cancellation was not caused by the ineligibility of the chartering organization. If a charter contract is for the return flight of a one-way charter by the same charter organization, a copy of the passenger list (§ 214.35) of the outbound charter shall be attached to the charter contract.

[2] Copies of this part are available by purchase from the Superintendent of Documents, Washington, D.C. 20402. Single copies will be furnished without charge on written requests to the Publications Services Section, Civil Aeronautics Board, Washington, D.C. 20428.

[3] Not applicable where the charter is based on employment in one entity or employee or student status at a school.

7. Amend paragraphs (b) and (c) of § 214.14 to read as follows:

§ 214.14 Terms of service.

* * * * *

(b) The carrier shall require full payment of the total charter price or the posting of a satisfactory bond for full payment prior to the commencement of the air transportation: *Provided, however,* That in the case of a charter for less than the entire capacity of an aircraft pursuant to § 214.7(b) the carrier shall require full and nonrefundable payment of the total charter price not less than 30 days prior to the commencement of the transportation.

(c) In the case of a charter contract calling for four or more round trips per calendar year, one-way passengers shall not be carried, there shall be no intermingling of passengers and each planeload group, or less than planeload group (see § 214.7(b)), shall move as a unit in both directions, except as provided in § 214.9.

8. Add new § 214.17 to read as follows:

§ 214.17 Statement of Supporting Information.

Prior to performing a charter flight, the carrier shall execute, and require the travel agent (if any) and the charterer to execute, the Statement of Supporting Information attached hereto and made a part hereof.[3a] If a charter contract covers more than one charter flight, only one statement need be filed: *Provided, however,* That separate financial data (see item 13 of statement), shall be filed for each one-way or round-trip flight. The carrier shall require the charterer to annex to the statement copies of all announcements of the charterer in connection with the charter issued after the contract is signed.

9. Add new § 214.22 to read as follows:

§ 214.22 Statement of Supporting Information.

Travel agents shall execute, and furnish to foreign air carriers, section A of Part II of the Statement of Supporting Information attached hereto and made a part hereof,[3a] at such time as required by the carrier to afford it due time for review thereof.

10. Amend § 214.30 to read as follows:

§ 214.30 Solicitation of charter participants.

(a) As used in this section, "solicitation of the general public" means:

(1) A solicitation going beyond the bona fide members of an organization (and their immediate families). This includes air transportation services offered by an air carrier under circumstances in which the services are advertised in mass media, whether or not the advertisement is addressed to members of a specific organization, and regardless of

[3a] Statement filed as part of original document.

who places or pays for the advertising. Mass media shall be deemed to include radio and television, and newspapers and magazines. Advertising in such media as newsletters or periodicals of membership organizations, industrial plant newsletters, college radio stations, and college newspapers shall not be considered advertising in mass media to the extent that

(i) The advertising is placed in a medium of communication circulated mainly to members of an organization that would be eligible to obtain charter service, and

(ii) The advertising states that the charter is open only to members of the organization referred to in subdivision (i) of this subparagraph, or only to members of a subgroup thereof. In this context, a subgroup shall be any group with membership drawn primarily from members of the organization referred to in subdivision (i) of this subparagraph: *Provided*, That this paragraph shall not be construed as prohibiting air carrier advertising which offers charter services to bona fide organizations, without reference to a particular organization or flight.

(2) The solicitation, without limitation, of the members of an organization so constituted as to ease of admission to membership, and nature of membership, as to be in substance more in the nature of a segment of the public than a private entity.

(b) Members of the charter group may be solicited only from among the bona fide members of an organization, club, or other entity, and their immediate families, and may not be brought together by means of a solicitation of the general public. "Bona fide members" means those members of a charter organization who (1) have not joined the organization merely to participate in the charter as the result of solicitation of the general public; and (2) are members for a minimum of 6 months prior to the starting flight date. The requirement in subparagraph (2) of this paragraph is not applicable to—

(i) Students and employees of a single school, and immediate families thereof;

(ii) Employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof; or

(iii) Participants in a study group charter.

(c) Solicitation of, as well as participation by, members of an organization with respect to charter flights shall extend only to the organization, or the particular chapter or unit thereof, which signs the charter agreement with the air carrier as the charterer.

(d) A charterer shall not advertise or otherwise solicit its members for any charter until a charter contract has been signed: *Provided, however*, That this prohibition shall not extend to oral inquiries or internal mailings directed to members to determine interest in a charter flight or charter program so long as no fixed price for air transportation is held out. After a charter contract is signed, copies of solicitation material shall be furnished the carrier at the same time it is distributed to members.

11. Amend § 214.31 to read as follows:

§ 214.31 Passengers on charter flights.

Only bona fide members of the charterer, and their immediate families (except as provided in § 214.32), may participate as passengers on a charter flight, and the participants must be members of the specific organization or chapter which authorized the charter. The charterer must maintain a central membership list, available for inspection by the carrier or Board representative, which shows the date each person became a member.[4] When four or more round trips are contracted for, intermingling between flights or reforming of planeload or less than planeload charter groups shall not be permitted, and each group must move as a unit in both directions, except as provided in § 214.9.

12. Amend § 214.32 by adding a new paragraph (b) to read as follows:

§ 214.32 Participation of immediate families on charter flights.

* * * * *

(b) "Immediate family" means only the following persons who are living in the household of a member of a charter organization, namely, the spouse, dependent children, and parents, of such member.

13. Amend § 214.34 to read as follows:

§ 214.34 Statements of charges.

The chartering organization, in any announcements or statements to prospective charter participants giving price per seat, shall state that the seat price is a pro rata share of total charter cost and is subject to increase or decrease depending on the number of participants. All announcements shall separately state the cost of ground arrangements, if any, the cost of air transportation, the administrative expenses of the charterer, and the total cost of the entire trip. All announcements shall also identify the carrier, the number of seats available and the type of aircraft to be used for the charter.

14. Amend the title and content of § 214.35 to read as follows:

§ 214.35 Passenger lists.

(a) Prior to each one-way or round-trip flight, a list shall be filed by the charterer with the air carrier showing the names and addresses of the persons to be transported, including stand-bys who may be transported, specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described), the date the person joined or last renewed a lapsed membership in the charter organization, and the designation "one-way" in the case of one-way passengers. The list shall be amended as passengers are added or dropped before flight.

(b) The relationship of a prospective passenger shall be classified under one of the following categories and specified on the passenger list as follows:

(1) A bona fide member of the chartering organization who will have been a bona fide member of the chartering organization for at least 6 months prior to the starting flight date. Specify on the passenger list as "(1) member."

(2) The spouse, dependent child, or parent of a bona fide member who lives in such member's household. Specify on the passenger list as "(2) spouse" or "(2) dependent child" or "(2) parent." Also give name and address of member relative where such member is not a prospective passenger.

(3) Bona fide members of entities consisting only of persons from a study group, or students and employees of a school, or employed by a single Government agency, industrial plant, or mercantile company, or persons whose proposed participation in the charter flight was permitted by the Board pursuant to request for waiver. Specify on the passenger list as "(3) special" or "(3) member" (where participants are from a study or school group or from a Government agency, industrial plant or mercantile company).

(c) In the case of a round-trip flight, the above information must be shown for each leg of the flight and any variations between the outbound and inbound trips must be explained on the list.

(d) Attached to such list must be a certification, signed by a duly authorized representative of the charterer, reading:

> The attached list of persons includes every individual who may participate in the charter flight. Every person as identified on the attached list (1) was a bona fide member of the chartering organization, and will have been a member for at least 6 months prior to the starting flight date, or (2) is a bona fide member of an entity consisting of (a) students and employees of a single school, or (b) employees of a single Government agency, industrial plant, or mercantile establishment, or (3) is a person whose participation has been specifically permitted by the Civil Aeronautics Board, or (4) is the spouse, dependent child, or parent of a person described hereinbefore and lives at such person's household, or (5) is a bona fide participant in a study group charter.[5]
>
> ---
> (Signature)

15. Add new §§ 214.36 and 214.37 to read as follows:

§ 214.36 Application for a charter.

A chartering organization shall make written application to the air carrier,

[4] Where the charter is based on employment in one entity or student or employee status at a school, records of the corporation, agency or school will suffice to meet the requirements.

[5] Whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both. Title 18, U.S.C. § 1001.

setting forth the number of seats desired, points to be included in the proposed flight or flights, and the dates of departure for each one-way or round-trip flight.

§ 214.37 Statement of Supporting Information.

Charterers shall execute and file with the air carrier section B of Part II of the Statement of Supporting Information attached hereto and made a part hereof 3a at such time as required by the carrier to afford it due time for review thereof.

§ 214.60 [Deleted]

16. Delete Subpart D and § 214.60.

(Secs. 204(a), 402, 403, 404(b), 416(a), Federal Aviation Act, as amended (72 Stat. 743, 757, 758 (as amended by 74 Stat. 445), 760, 771; 49 U.S.C. 1324, 1372, 1373, 1374, 1386)

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

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-1565 Filed 2-4-71;8:45 am]

[Reg. ER-663]

PART 249—PRESERVATION OF AIR CARRIER ACCOUNTS, RECORDS AND MEMORANDA

Miscellaneous Amendments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of January 1971.

In a Notice of Rule Making EDR-183, PSDR-24,[1] the Board proposed to amend Part 249 to implement certain other proposals therein. Specifically, it was noted that Category 14(b) of § 249.8 presently requires a transatlantic supplemental carrier to retain for 2 years proof of the commission paid to travel agents.[2] It was proposed to extend this requirement to all supplemental carriers in order to assure compliance with §§ 208.202 and 208.203. It was further proposed to conform the record retention requirements of all classes of carriers.[3] In ER-659, issued simultaneously, the Board adopted these proposals.

Accordingly, the Civil Aeronautics Board hereby amends Part 249 of the Economic Regulations (14 CFR Part 249), effective April 6, 1971 as follows:

1. Delete Special Economic Regulation, ER-363, in its entirety, immediately following the Table of Contents.

2. Revise the definition of "Supplemental air carrier" in § 249.2 to read as follows:

§ 249.2 Definitions.

* * * * *

"Supplemental air carrier" means an air carrier holding a certificate issued under section 401(d)(3) of the Act, or a special operating authorization issued under section 417 of the Act.

* * * * *

3. Amend § 249.8 by adding category 15 in the "Category of Records" table to read as follows:

§ 249.8 Period of preservation of records by supplemental air carriers.

* * * * *

Category of records	*Period to be retained*
* * *	* * *
15. The following documents pertaining to Part 208 of the Economic Regulations:	
(a) Every Statement of Supporting Information.	2 years.
(b) Proof of the commission paid to any travel agent by the carrier.	Do.
* * *	* * *

4. Amend § 249.12 by adding a new subparagraph (4) to paragraph (c) as follows:

§ 249.12 Period of preservation of records by foreign air carriers.

Each foreign air carrier, other than those foreign air carriers which are authorized to engage in charter transportation only,[4] shall retain its records in accordance with the provisions of this section.

* * * * *

(c) * * *

(4) Every Statement of Supporting Information and proof of the commission paid to any travel agent by the carrier for each pro rata charter trip originating or terminating in the United States: Two years.

5. Amend § 249.13(f) by revising category 302 in the "Category of Records" table to read as follows:

§ 249.13 Period of preservation of records by certificated route air carriers.

* * * * *

Category of records	*Period to be retained*
* * *	* * *
302 Reservations reports and records:	
(a) Cards and charts constituting original source of passengers' names, telephone numbers, etc.	2 months.
(b) Telegrams and radio messages relating to the clearance of space, passenger dispatching, etc.	1 month.
(c) Names and addresses of all passengers transported on each pro rata charter trip.	6 months.
(d) Every Statement of Supporting Information required by Part 207 of this subchapter and proof of the commission paid to any travel agent by the carrier for each pro rata charter trip.	2 years.
* * *	* * *

(Secs. 204, 407, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 766; 49 U.S.C. 1324, 1377)

NOTE: The record-retention requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-1566 Filed 2-4-71;8:45 am]

[Reg. ER-664]

PART 295—TRANSATLANTIC SUPPLEMENTAL AIR TRANSPORTATION

Repeal of Part

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of January 1971.

In a Notice of Rule Making EDR-183, PSDR-24,[1] the Board proposed, inter alia, to consolidate Part 295 into Part 208 of its economic regulations and to repeal Part 295. In ER-659 issued simultaneously, the Board determined to adopt this proposal.

Accordingly, the Civil Aeronautics Board hereby deletes Part 295 (14 CFR Part 295) from the economic regulations.

(Sec. 204, Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-1567 Filed 2-4-71;8:45 am]

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-42]

PART 378—INCLUSIVE TOURS BY SUPPLEMENTAL AIR CARRIERS, CERTAIN FOREIGN AIR CARRIERS, AND TOUR OPERATORS

Split Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of January 1971.

In a notice of rule making EDR-183, PSDR-24,[1a] the Board, inter alia, gave notice that it had under consideration amendment of Part 378 to permit split charters for inclusive tour charters when the entire capacity of an aircraft is used for this type of charter. For the reasons set forth in ER-659, issued simultaneously herewith, the Board has determined to permit split inclusive tour charters and further to permit inclusive tour charters to be combined with all other types of passenger charters on one aircraft.

Accordingly, the Civil Aeronautics Board hereby amends Part 378 of the Special Regulations (14 CFR Part 378), effective April 6, 1971, as follows:

Amend paragraph (a) of § 378.2 to as follows:

§ 378.2 Definitions.

As used in this part, unless the context otherwise requires—

[1] May 8, 1970 (35 F.R. 7587).

[2] The same requirement is in § 214.6(a)(3).

[3] An editorial amendment to § 249.2 was also proposed.

[4] The record-retention requirements governing foreign air carriers authorized to engage in charter transportation only are set forth in Part 214 of the Board's economic regulations.

[1] May 8, 1970 (35 F.R. 7587).

[1a] May 8, 1970 (35 F.R. 7587).

(a) "Inclusive tour charter" means the charter of the entire capacity of an aircraft or of less than the entire capacity of an aircraft (provided that the remaining capacity of the aircraft is under charter by a person or persons authorized to charter aircraft under § 208.6(c) of this chapter) by a tour operator or, with respect to tours which originate in a foreign country, by a foreign tour operator for the carriage by a supplemental air carrier of persons traveling in air transportation on inclusive tours.

* * * * *

(Secs. 204, 401, 402, Federal Aviation Act of 1958, as amended, 72 Stat. 743, 754 (as amended), 757; 49 U.S.C. 1324, 1371, 1372)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-1568 Filed 2-4-71;8:45 am]

SUBCHAPTER F—POLICY STATEMENTS

[Reg. PS-42]

PART 399—STATEMENTS OF GENERAL POLICY

Deletion of Certain Charter Regulations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of January 1971.

In a Notice of Proposed Rule Making EDR-183, PSDR-24,[1] the Board, inter alia, proposed to amend Part 212 of the economic regulations to provide that the carriers subject thereto be under the same charter regulations as other classes of carriers with respect to on-route and off-route charters. In view of this proposal the Board noted that there would be no need for § 399.15 (processing of applications of foreign air carriers, pursuant to Part 212 of this chapter, for statements of authorization to conduct off-route charter trips). It therefore proposed to delete this section.[2] In ER-659, issued simultaneously, the Board determined to adopt these proposals.

Accordingly, the Civil Aeronautics Board hereby amends Part 399 (14 CFR 399), effective April 6, 1971, as follows:

1. Amend the table of contents by deleting the titles of §§ 399.15 and 399.17. As amended, the table of contents will read in pertinent part:

Sec.
399.15 [Reserved]
399.17 [Reserved]

2. Delete the titles and text of §§ 399.15 and 399.17.

(Sec. 204, Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.71-1569 Filed 2-4-71;8:45 am]

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[1] May 8, 1970 (35 F.R. 7587).

[2] In addition it was proposed to delete § 399.17 as obsolete.

Title 21—FOOD AND DRUGS

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

PART 302—IMPORTATION AND EXPORTATION OF NARCOTIC DRUGS

Opium Import Permits Pursuant to Single Convention

Pursuant to the provisions of section 2 of the Narcotic Drugs Import and Export Act, 35 Stat. 614, as amended (21 U.S.C. 173); and under the authority vested in the Attorney General by Reorganization Plan No. 1 of 1968 (33 F.R. 5611) and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, § 302.1 of Subpart A of Part 302 of Chapter II of Title 21 of the Code of Federal Regulations is hereby amended as set forth below.

The last sentence of § 302.1 is deleted and replaced by a sentence which reads as follows:

§ 302.1 Importation.

* * * No permit shall be granted for the importation of opium; unless such opium has been produced in a country permitted such production by, and which has become a party to, the 1953 Opium Protocol; or unless such opium is to be exported from a country permitted such exportation by, and which has become a party to, the Single Convention on Narcotic Drugs, 1961.

Effective date. This amendment shall become effective upon publication in the FEDERAL REGISTER (2-5-71).

Dated: February 2, 1971.

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

[FR Doc.71-1626 Filed 2-4-71;8:50 am]

Title 29—LABOR

Chapter XIV—Equal Employment Opportunity Commission

PART 1601—PROCEDURAL REGULATIONS

Procedure After Failure of Conciliation

By virtue of the authority vested in it by section 713(a) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. section 2000e-12(a), 78 Stat. 265, the Equal Employment Opportunity Commission (hereinafter referred to as the Commission), hereby amends paragraph (c) of § 1601.25a issued February 19, 1970 (35 F.R. 3163), and paragraph (d) of § 1601.25b issued June 18, 1970 (35 F.R. 10005), of the Code of Federal Regulations.

Section 1601.25a(c) states in its pertinent part that, "* * * the charging party or the respondent may demand in writing that a notice issue pursuant to 1601.25."

Section 1601.25b(d) states in its pertinent part that, "* * * any member of the class aggrieved by the practices alleged in the charge or any respondent named in the charge, may demand in writing that a Notice-of-Right-to-Sue issue."

It has been the experience of the Commission that the privileges granted to respondents by these provisions have adversely affected the implementation of the Congressional Policy embodied in title VII, that disputes be settled voluntarily and upon failure of voluntary settlement that such disputes should be resolved in the Federal Courts. In most instances in which respondents have requested notice of right to sue, respondents have refused to enter into voluntary settlement negotiations, maintaining that such disputes shall be resolved in court. However, except where the charging parties request a notice, or the Commission's investigatory procedures have culminated in a decision, it is the Commission's experience that they are frequently unable to locate and secure adequate legal representation within the 30-day period provided by statute for the purpose of filing a timely complaint. Thus such requests for issuance of notice have been effectively used by some respondents to prevent both administrative and judicial resolution of the issues in dispute. Since, therefore, the privilege granted by §§ 1601.25a(c) and 1601.25b (d) has been exercised by respondents in a manner which subverts the remedial scheme provided by title VII, the Commission finds it necessary to withdraw the privilege so granted.

Because the amendments herein adopted are procedural in nature, the provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 1003, for public notice and delay in effective date are inapplicable. This amendment shall become effective upon publication in the FEDERAL REGISTER, and shall be applicable with respect to all requests for notices of right to sue made after such date.

Accordingly, the Commission hereby amends § 1601.25a(c) by deleting the phrase, "or the respondent" and amends § 1601.25b(d) by deleting the phrase, "or any respondent named in the charge." As amended, the sections read as follows:

§ 1601.25a Processing of cases; when notice issues under § 1601.25.

* * * * *

(c) At any time after the expiration of sixty (60) days from the date of the filing of a charge, or upon dismissal of the charge at any stage of the proceedings, or upon the expiration of the time for filing objections to dismissal by the Field Director pursuant to § 1601.19, the charging party may demand in writing that a notice issue pursuant to § 1601.25, and the Commission shall promptly issue such notice, with copies to all parties.

* * * * *

§ 1601.25b Issuance of notice in cases involving Commissioner Charges.

* * * * *

(d) At any time after 60 days have expired since the charge was filed, any

member of the class aggrieved by the practices alleged in the charge may demand in writing that a notice-of-right-to-sue issue, and the Commission shall promptly issue such notice of right to sue, pursuant to paragraph (c) of this section.

* * * * *

(Sec. 713(a), 78 Stat. 265, 42 U.S.C. 20003–12(a))

This amendment is effective upon publication in the FEDERAL REGISTER (2–5–71).

Signed at Washington, D.C., this 29th day of January 1971.

WILLIAM H. BROWN III,
Chairman.

[FR Doc.71–1518 Filed 2–4–71;8:52 am]

Title 31—MONEY AND FINANCE: TREASURY

Chapter II—Fiscal Service, Department of the Treasury

SUBCHAPTER A—BUREAU OF ACCOUNTS

PART 225—ACCEPTANCE OF BONDS, NOTES, OR OTHER OBLIGATIONS ISSUED OR GUARANTEED BY THE UNITED STATES AS SECURITY IN LIEU OF SURETY OR SURETIES ON PENAL BONDS

Conversion of Book-Entry Treasury Securities

The Department of the Treasury finds it necessary to amend, pursuant to 6 U.S.C. 15, its regulations at 31 CFR 225 (also appearing as Treasury Department Circular No. 154 (Revised)), which govern the acceptance of Treasury securities in lieu of surety or sureties on penal bonds, in order to reflect the revision of Subpart O (Book-Entry Procedures) of Part 306 of this chapter which appeared at 35 F.R. 20001. The Department also finds, in accord with 5 U.S.C. 553, that notice and public procedure thereon are not necessary since the amendment involves a rule of agency procedure.

Accordingly, Part 225, Subchapter A, Chapter II of Title 31 of the Code of Federal Regulations is amended by deleting the word "Transferable" from the text of § 225.22.

(6 U.S.C. 15)

Effective date. This amendment shall be effective on February 1, 1971.

Dated: January 29, 1971.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.71–1609 Filed 2–4–71;8:48 am]

PART 257—PAYMENT ON ACCOUNT OF DEPOSITS IN THE POSTAL SAVINGS SYSTEM

Application by States

The Department of the Treasury finds that it is necessary to amend the existing regulations governing payment on account of deposits in the Postal Savings System at 31 CFR Part 257, by postponing for 2 years the date on which System accounts, transferred by the Post Office Department as active and remaining unpaid or unclaimed, will be deemed by the Treasury Department to be unclaimed, and on and after which the Treasury Department will furnish to State representatives lists and account cards pertaining to those accounts.

The Department finds such amendments necessary in view of the introduction in the 92d Congress of H.R. 135 on January 22, 1971, to provide for five, annual, pro-rata distributions by the Secretary of the Treasury among the states and other jurisdictions of deposit of available amounts of unclaimed Postal Savings System deposits. The proposed distributions would be inconsistent with the present provisions of 31 CFR 257.3 under which the Secretary will furnish to the States as of May 1, 1971, the records necessary for the States to initiate court escheat proceedings to serve as the basis for payments by the Secretary of the Treasury to the States of unclaimed deposits. Further, the continuing number of claims by or on behalf of depositors for deposits classified as active by the Post Office Department, presented to the Treasury Department since August 12, 1969, when 31 CFR 257.3 was promulgated, has demonstrated the need to revise the determination then made as to the date on which the Treasury will deem such deposits to be unclaimed.

The Department also finds in accord with 5 U.S.C. 553 that notice and public procedure are not necessary since the amendments involve interpretative rules and rules of agency procedure, and are impracticable since the subject of payments of unclaimed accounts to the states is now under consideration by the Congress.

Accordingly, Part 257, Subchapter A, Chapter II of Title 31 of the Code of Federal Regulations is amended in the following ways:

1. By revising § 257.3(b)(2) and the introductory text of (d) to read:

§ 257.3 **Application by States.**

* * * * *

(b) *Accounts considered unclaimed.*
* * *

(2) The acounts transferred by the Post Office Department as active accounts and remaining unpaid or unclaimed as of May 1, 1973, being 7 years subsequent to the closing date of the Postal Savings System, will be deemed on that date to be unclaimed in the hands of the Treasury Department.

* * * * *

(d) *Information and records on active accounts.* On or after May 1, 1973, the Bureau of Accounts will furnish, without charge, to the designated State representative:

* * * * *

(5 U.S.C. 301; 31 U.S.C. 725p)

Effective date. These amendments shall be effective upon publication in the FEDERAL REGISTER (2–5–71).

Dated: February 1, 1971.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.71–1655 Filed 2–4–71;8:52 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 207—NAVIGATION REGULATIONS

Tampa Bay, Fla.

Pursuant to the provisions of section 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.175 establishing and governing the use of a seaplane restricted area in Tampa Bay, Fla., is hereby revoked, effective on publication in the FEDERAL REGISTER (2–5–71), as follows:

§ 207.175 **St. Petersburg Harbor and Tampa Bay, Fla.; seaplane restricted and operating areas. [Revoked]**

[Regs., Jan. 18, 1971, 1522–01 (Tampa Bay, Fla.)–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.71–1625 Filed 2–4–71;8:50 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Miscellaneous Amendments

Part 21 of Chapter I of Title 38 is amended as follows:

Subpart A—Vocational Rehabilitation Under 38 U.S.C. Chapter 31

1. In § 21.131, paragraph (b) is amended to read as follows:

§ 21.131 **Commencing dates.**

* * * * *

(b) *Increase for dependent.* Latest of the following dates:

(1) Date of claim: This term means the following, listed in their order of applicability:

(i) Date of veteran's marriage, or birth of his child, or his adoption of a child, if the evidence of the event is received within 1 year of the event.

(ii) Date notice is received of dependent's existence, if evidence is received within 1 year of the Veterans Administration's request.

(2) Date dependency arises.

(3) Date the law permits benefits for dependents generally.

(4) Date of entrance or reentrance into the program. (38 U.S.C. 3010 (f), (n); Public Law 91–584, 84 Stat. 1575)

(See § 3.667 of this chapter as to effective dates with regard to children 18 years of age and older who are attending school.)

* * * * *

Subpart B—Veterans' Educational Assistance Under 38 U.S.C. Chapter 34

2. In § 21.1040, paragraph (e) is amended to read as follows:

§ 21.1040 Basic eligibility.

* * * * *

(e) *Persons on active duty.* Educational assistance may be afforded a person while on active duty if he:

(1) Meets the requirements applicable to a discharged veteran under paragraphs (a), (b), and (d) of this section, or

(2) Meets the requirements of paragraphs (a) and (b) of this section, and has served a total of 181 days or more on active duty, any part of which occurred on or after February 1, 1955, excluding periods of time specified in § 3.15 of this chapter. Educational assistance otherwise payable may be provided under this subparagraph so long as he continues on active duty, or

(3) Has completed 181 consecutive days or more of active duty, any part of which was on or after February 1, 1955, while such assistance is provided under § 21.4235(a)(1). (38 U.S.C. 1652, 1695(b); Public Law 91–219, 84 Stat. 76; Public Law 91–584, 84 Stat. 1575)

Subpart C—War Orphans' and Widows' Educational Assistance Under 38 U.S.C. Chapter 35

3. Section 21.3021 is revised to read as follows:

§ 21.3021 Definitions.

(a) "Eligible person" means:

(1) A child of a:

(i) Veteran who died of a service-connected disability.

(ii) Veteran who died while having a disability evaluated as total and permanent in nature resulting from a service-connected disability.

(iii) Veteran who has a total disability permanent in nature resulting from a service-connected disability.

(iv) Person who is on active duty as a member of the Armed Forces and who now is, and, for a period of more than 90 days, has been, listed by the Secretary concerned as missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power.

(2) The widow of a:

(i) Veteran who died of a service-connected disability.

(ii) Veteran who died while having a disability evaluated as total and permanent in nature resulting from a service-connected disability, arising out of active military, naval or air service after the beginning of the Spanish-American War. (See §§ 3.6(a) and 3.807 of this chapter.)

(3) The wife of a:

(i) Veteran who has a total disability permanent in nature resulting from a service-connected disability.

(ii) Person who is on active duty as a member of the Armed Forces and who now is, and, for a period of more than 90 days, has been, listed by the Secretary concerned as missing in action, captured in line of duty by a hostile force, or forcibly detained or interned in line of duty by a foreign government or power.

(b) "Child" means a son or daughter of a veteran as defined in § 3.807(d) of this chapter. The term includes a child of a Philippine Commonwealth Army veteran and a Philippine Scout (designated as a "New" Philippine Scout under 38 U.S.C. 1766(b)), as defined in § 3.8 (b), (c), or (d) of this chapter, but educational assistance allowance may not be authorized based on such service for any period before September 30, 1966.

(c) "Wife" and "widow" means an individual as defined in § 3.807(d) of this chapter. Educational assistance allowance may not be authorized for a wife or widow for any period before December 1, 1968.

(d) "Parent or guardian" means a natural or adoptive parent, a fiduciary legally appointed by a court of competent jurisdiction or any person who is determined to be otherwise legally vested with the care of the eligible person (38 U.S.C. 1701(a)(4)) or it may be the eligible person himself if he has attained his majority under laws applicable in his State of residence as shown on his application and is under no known legal disability. (38 U.S.C. 1701(b).) The eligible person may be designated as the person by whom required actions may be taken even though he has not attained his majority, or having attained his majority, is under a legal disability, when it is determined that to do otherwise would not be in his best interest, would result in undue delay or would not be administratively feasible. Where necessary to protect his interest and there is reason why the eligible person should not act for himself, some other individual may be designated as the person by whom required actions should be taken. (38 U.S.C. 1701(c).)

(e) "Armed Forces", as to service by the eligible person, means the U.S. Army, Navy, Marine Corps, Air Force, and Coast Guard, including the Reserve components of each, the National Guard of the United States and the Air National Guard of the United States. (38 U.S.C. 1701 (a)(3) and (d) and 1712(a)). Effective December 31, 1970, the term includes the National Oceanic and Atmospheric Administration, the Environmental Science Services Administration and the Coast and Geodetic Survey, as to full-time duty of officers commissioned therein. (38 U.S.C. 101(21)(C); Public Law 91–621, 84 Stat. 1863)

(f) "Duty with the Armed Forces", as to service by the eligible person, means active duty, active duty for training for a period of 6 or more consecutive months, or an initial period of active duty for training of not less than 3 months or more than 6 months in the Ready Reserve. (38 U.S.C. 1701 (a)(3) and (d), 1712(a)) See §§ 21.3041 and 21.3042.

(g) "State" means each of the several States, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, and the Canal Zone. (38 U.S.C. 101(20)) (Although the Republic of the Philippines is not included in the definition of a State, eligible persons may pursue courses of training in that country.)

4. In § 21.3040, paragraph (c) is amended to read as follows:

§ 21.3040 Eligibility; child.

* * * * *

(c) *Age limitation for commencement.* No person is eligible for educational assistance who reached his 26th birthday on or before the effective date of a finding of permanent total service-connected disability, or on or before the date the veteran's death occurred, or on or before the 91st day of listing by the Secretary concerned of the member of the Armed Forces on whose service eligibility is claimed as being in one of the missing status categories of § 21.3021(a) (1)(iv) and (3)(ii).

* * * * *

5. In § 21.3041(e), subparagraph (5) is added to read as follows:

§ 21.3041 Periods of eligibility; child.

* * * * *

(e) *Extensions to ending dates.* * * *

(5) Child is enrolled and eligibility ceases because the member of the Armed Forces upon whose service eligibility is based is no longer listed by the Secretary concerned in any of the categories specified in § 21.3021(a)(1)(iv); extended to date specified in subparagraph (3) of this paragraph without regard to whether the midpoint of the quarter, semester or term has been reached. See § 21.4135(o).

6. In § 21.3042, paragraph (a) is amended to read as follows:

§ 21.3042 Service with Armed Forces.

(a) No educational assistance under chapter 35 may be provided an otherwise eligible person during any period he is on duty with the Armed Forces. See § 21.3021 (e) and (f). This does not apply to brief periods of active duty for training. See § 21.4135(n). (38 U.S.C. 1701 (d)). For chapter 34 benefits see § 21.4235.

* * * * *

7. In § 21.3046, subparagraph (3) is added to paragraph (a) and paragraph (c) is amended so that the added and amended material reads as follows:

§ 21.3046 Periods of eligibility; wives and widows.

* * * * *

(a) *Wives.* * * *

(3) If eligibility arises under § 21.3021 (a)(3)(ii) the beginning date of the

8-year period is December 24, 1970, or the date the member of the Armed Forces on whose service eligibility is based was so listed by the Secretary concerned, whichever last occurs.

* * * * *

(c) *Extension to ending date.* Wife is enrolled and eligibility ceases for a reason specified in subparagraph (1), (2), or (3) of this paragraph: Extended to end of quarter or semester for schools operating on quarter or semester system, or for schools not operating on quarter or semester system, to end of course or for 9 weeks, whichever is earlier, but not to exceed maximum entitlement or beyond the 8-year delimiting date specified in paragraph (a) of this section. Extension is authorized without regard to whether the midpoint of the quarter, semester or term has been reached.

(1) Veteran is no longer rated permanently and totally disabled.

(2) Wife is divorced from veteran without fault on her part.

(3) Spouse no longer is listed in any of the categories of § 21.3021(a)(3)(ii). (38 U.S.C. 1711(b), 1712(b); sec. 2(f), Public Law 90–631, 82 Stat. 1331; Public Law 91–584, 84 Stat. 1575).

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

8. In § 21.4130, the introductory portion preceding paragraph (a) is amended to read as follows:

§ 21.4130 Educational assistance allowance.

Educational assistance allowance will be paid at the rate specified in § 21.4136 or § 21.4137 while the veteran or eligible person is pursuing a course of education. Except for apprenticeship and on-the-job training programs, no payment will be made based on a course not leading to a standard college degree for excessive absences as determined under § 21.4205(b). (See § 21.4136(i) for proportionate reduction where less than 120 hours are completed during month in apprenticeship and on-job training programs.)

* * * * *

9. In § 21.4131, paragraph (e) is amended to read as follows:

§ 21.4131 Commencing dates.

* * * * *

(e) *Increase for dependent; chapter 34.* Latest of the following dates:

(1) Date of claim: This term means the following, listed in their order of applicability:

(i) Date of veteran's marriage, or birth of his child, or his adoption of a child, if the evidence of the event is received within 1 year of the event.

(ii) Date notice is received of dependent's existence if evidence is received within 1 year of the Veterans' Administration's request.

(2) Date dependency arises.

(3) Date the law permits benefits for dependents generally.

(4) Date of entrance or reentrance into the program. (38 U.S.C. 3010 (f), (n); Public Law 91–584, 84 Stat. 1575)

(See § 3.667 of this chapter as to effective dates with regard to children 18 years of age and older who are attending school.)

* * * * *

10. In § 21.4135, paragraph (o) is amended to read as follows:

§ 21.4135 Discontinuance dates.

* * * * *

(o) *Veteran no longer rated permanent total disabled; or wife (trainee) divorced from veteran without fault on her part, or serviceman removed from "missing status" listing; chapter 35 (§§ 21.3041 and 21.3046).* (1) End of quarter or semester if school is operated on quarter or semester system.

(2) End of course or a 9-week period whichever is earlier, if school is not operated on quarter or semester system.

* * * * *

11. In § 21.4136, paragraphs (a) and (e) are amended and paragraph (i) is added so that the added and amended material reads as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. Chapter 34.

(a) *Rates.* Educational assistance allowance is payable for periods commencing on or after February 1, 1970, at the following monthly rates.

Type of courses	Monthly rate: No dependent	One dependent	Two dependents	Additional for each additional dependent
Institutional:				
Full time	$175	$205	$230	$13
¾ time	128	152	177	10
½ time	81	100	114	7
Less than ½, but more than ¼ time	[1] 81			
¼ time or less	[1] 41			
Cooperative, other than farm cooperative (full time only)	141	167	192	10
Apprentice or on-job (full time only but see footnote [2] below):				
Payment designated training assistance allowance:				
1st 6 months	108	120	133	None
2d 6 months	81	92	105	None
3d 6 months	54	66	79	None
4th 6 months and succeeding periods	27	39	52	None
Correspondence	Established charge for number of lessons completed by veteran and serviced by school [3]—Allowance paid quarterly.			
Flight training	90 per centum of the established charges for tuition and fees which similarly circumstanced nonveterans enrolled in the same flight course are required to pay—Allowance paid monthly based on actual flight training received.			
Farm cooperative:				
Full time	$141	$165	$190	$10
¾ time	101	119	138	7
½ time	67	79	92	4

(38 U.S.C. 1677, 1682, 1683; Public Law 91-219, 84 Stat. 76; Public Law 91-584, 84 Stat. 1575)

[1] See paragraph (b) of this section.
[2] See footnote 3 of § 21.4270(c) for measurement of full time and paragraph (i) of this section for proportionate reduction in award for completion of less than 120 hours per month.
[3] Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost for the eligible veteran whichever is the lesser.

* * * * *

(e) *Excessive absences.* Other than apprenticeships and on-job training, when enrollment is in a course which does not lead to a standard college degree absences in excess of the maximum number allowable will cause a reduction in the educational assistance allowance payable for the month in which such absences occurred. The rate of reduction will be determined by the following table:

Days of scheduled attendance per week:	*Rate of reduction for each day of excessive absence*
5 or more	1/25
4	1/20
3	1/15
2	1/10
1	1/5

* * * * *

(i) *Proportionate reduction in monthly training assistance allowance less than 120 hours.* For any month in which an an eligible veteran pursuing an apprenticeship or on-job training program fails to complete 120 hours of training the rate specified in paragraph (a) of this section shall be reduced proportionately in the proportion that the number of hours worked bears to 120 hours. This 120-hour requirement is for training hours worked and may not include hours of related training also required as part of the program. In this computation the number of hours worked is to be rounded to the nearest multiple of eight. (See footnote 5 to § 21.4270 as to the requirements for full-time training.)

12. In § 21.4230, the introductory portion preceding paragraph (a) is amended to read as follows:

§ 21.4230 Requirements.

A program of education will consist of a combination of subjects or unit courses pursued at a school which is generally acceptable to meet requirements for a predetermined educational, professional, or vocational objective. Under chapter 34 it may also consist of such subjects or courses which are generally acceptable

to meet requirements for more than one such objective if all the objectives pursued are generally recognized as being related to a single career field. It also means any unit course or subject, or combination of courses or subjects, pursued by an eligible veteran at an educational institution, required by the Administrator of the Small Business Administration as a condition to obtaining financial assistance under the provisions of section 402(a) of the Economic Opportunity Act of 1964 (42 U.S.C. 2902(a)). (38 U.S.C. 1652(b), 1670, 1691(a); Public Law 91–219, 84 Stat. 76; Public Law 91–584, 84 Stat. 1575).

* * * * *

13. In § 21.4270, footnotes 3 and 5 are amended to read as follows:

§ 21.4270 Measurement of courses.

* * * * *

[3] Cooperative courses may be pursued on full-time basis only.

Where the institution certifies that all undergraduate students enrolled for a minimum of 12 or 13 semester hours or the equivalent are (1) charged full-time tuition, or (2) considered full time for other administrative purposes, such minimum hours will establish the criteria for full-time measurement. The minimum for full time in either instance is 12 such hours. When 12 hours is properly certified as full time, 9 through 11 hours will be measured as ¾ time, 6 through 8 hours will be measured as ½ time, 4 through 5 hours will be measured as less than ½ and more than ¼ time, and 1 through 3 hours will be measured as ¼ time or less. All other undergraduate courses of less than full time will continue to be measured under paragraph (c) or (f) of this section, as appropriate, but where 13 credit hours or the equivalent is certified as full time, ¾ time will be 10 through 12 hours.

Upon request of a beneficiary, an increase in rates warranted under this criteria may be authorized to him effective March 26, 1970, if he was enrolled prior to that date and effective the date of enrollment if he was enrolled on or after March 26, 1970. The request of the beneficiary will not be required for other payments under this criteria.

To meet criteria for full-time measurement under 38 U.S.C. chapters 34 and 35 in standard collegiate courses which include required noncredit deficiency courses, in the absence of a certification under § 21.4272(f) the noncredit deficiency courses will be converted on the basis of the applicable measurement criteria, that is 25 or 30 clock hours, 4 "Carnegie Units", or 12, 13, or 14 (as appropriate) semester hours equal full time. The credit hour equivalent of such noncredit courses may constitute any portion of the required hours for full-time measurement.

* * * * *

[5] Full-time training will consist of the number of hours which constitute the standard workweek of the training establishment, but not less than 30 hours, unless a lesser number of hours is established as the standard workweek for the particular establishment through bona fide collective bargaining between employers and employees.

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

These VA regulations are effective December 24, 1970, except § 21.3021(e) which is effective December 31, 1970, and §§ 21.4130 and 21.4136 (e) and (i) which are effective January 1, 1971.

Approved: February 1, 1971.

[SEAL] DONALD E. JOHNSON,
Administrator.

[FR Doc.71–1584 Filed 2–4–71;8:45 am]

Title 39—POSTAL SERVICE

Chapter I—Post Office Department

PART 124—MATTER MAILABLE UNDER SPECIAL RULES

Sexually Oriented Advertisements; Correction

In the daily issue of Saturday, January 30, 1971 (36 F.R. 1468), the Department promulgated regulations, to be effective February 1, 1971, in implementation of 39 U.S.C. 3010, as enacted by Public Law 91–375. A new § 124.9 was added to Part 124 of Title 39. In paragraph (d)(1) thereof, in the fourth sentence, the word "check" should have been preceded by the word "certified". The amendment which follows will correct the error.

Accordingly, in § 124.9 *Sexually oriented advertisements*, amend paragraph (d)(1) to read as follows:

§ 124.9 Sexually oriented advertisements.

* * * * *

(d) *Availability of Postal Service List.* (1) Copies of the List or portions thereof and periodic amendments thereto shall be available to any person by annual subscription. A subscription year runs from January 1 through December 31, except that in 1971 the subscription year will be deemed to be from February 1, 1971, through December 31, 1971. Requests for information on subscriptions and requests for subscriptions should be submitted to the Director, Office of Mail Classification, Finance and Administration Department, U.S. Postal Service, Washington, DC 20260. Requests for subscriptions must be accompanied by a certified check for $5,000 payable to the U.S. Postal Service. This money will be applied to the subscription price at the end of the year, and any excess will be refunded to the subscriber. The annual subscription price will be established following each subscription year, and will represent the cost, prorated among the subscribers, of compiling, processing, printing, and distributing the List. In no event will the annual subscription price exceed $10,000. The List will be in the form of a reduced reproduction of computer print-outs. For an additional fee of $30 a computer tape of the listings can also be secured in conjunction with subscriptions to the List. Details of the List format may be obtained from the Director, Office of Mail Classification. A computer tape of the Listing may not be purchased without a purchase of the subscription computer print-out List.

* * * * *

(5 U.S.C. 301, 39 U.S.C. 501; 39 U.S.C. 3010 (Public Law 91–375; 84 Stat. 749))

DAVID A. NELSON,
General Counsel.

[FR Doc.71–1637 Filed 2–4–71;8:51 am]

Title 49—TRANSPORTATION

Chapter II—Federal Railroad Administration, Department of Transportation

[Docket No. FRA–Sig 3]

PART 235—INSTRUCTIONS GOVERNING APPLICATIONS FOR APPROVAL OF A DISCONTINUANCE OR MATERIAL MODIFICATION OF A SIGNAL SYSTEM

Additional Required Information; Prints

The purpose of this amendment is to correct § 235.12(d) of Part 235 "Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System" to Title 49 of the Code of Federal Regulations which was published in the FEDERAL REGISTER, Vol. 35, No. 151, Wednesday, August 5, 1970, on pages 12463–5.

The Association of American Railroads in its letter of August 24, 1970, objected to subparagraphs (3) and (4) of § 235.12(d) as requiring information that is inordinately difficult to calculate and not subject to the accuracy and precision contemplated by use of the word "computation." The letter was considered as a petition for reconsideration and was submitted to the Railroad Safety Board for disposition. The Board has reviewed the Docket in this matter and the petitioner's objections and finds that the subparagraphs in question do present unnecessary burdens on the carriers at this time. The Board also noted that these two subparagraphs were added to the paragraph after it had been presented to the Association and to the representatives of railway labor organizations.

In consideration of the foregoing, § 235.12(d) of Part 235 of the Code of Federal Regulations is amended by deleting subparagraphs numbered (3) and (4) and changing the number of present subparagraph (5) to subparagraph (3) as set forth below. This amendment shall be effective 30 days after this publication in the FEDERAL REGISTER.

Issued in Washington, D.C., on January 29, 1971.

THE RAILROAD SAFETY BOARD,
ROBERT LEE KESSLER,
Chairman.

MAC E. ROGERS,
Member.

JAMES H. MACANANNY,
Member.

Paragraph (d) of § 235.12 is hereby deleted and the following paragraph is substituted therefor:

§ 235.12 Additional required information—prints.

* * * * *

(d) If stopping distances are involved, the following information shall also be shown:

(1) Curvature and grade.

(2) Maximum authorized speeds of trains.

(3) Length of signal control circuits for each signal indication displayed.

* * * * *

[FR Doc.71-1587 Filed 2-4-71;8:46 am]

Chapter V—National Highway Traffic Safety Administration, Department of Transportation

PART 553—RULEMAKING PROCEDURES, MOTOR VEHICLE SAFETY STANDARDS

Subpart B—Procedures for Adoption of Rules Under Sections 103 and 119 of the Act

PETITIONS FOR EXTENSION OF TIME TO COMMENT

Section 553.19, rulemaking procedures, in Chapter 5 of Title 49, Code of Federal Regulations, currently requires that a petition for extension of time to comment on a rulemaking notice be received not later than 3 days before the expiration of the comment period specified in the notice. The 3-day requirement has proven unsatisfactory in situations where the petition is received close to the deadline, and the agency determines that it should be denied. The 3-day period does not allow sufficient time for the agency to process the petition, notify the petitioner of its determination, and leave time in the comment period for the petitioner to submit comments.

To remedy this problem, § 553.19 is hereby amended to require that petitions for extensions of time be submitted not later than 10 days before the expiration of the comment period. This will provide time for agency action within the comment period, and for petitioners whose petitions are denied to submit comments, if they wish, before the comment period expires.

In light of the foregoing, § 553.19 of Title 49, Code of Federal Regulations, is revised to read as follows:

§ 553.19 Petitions for extension of time to comment.

A petition for extension of the time to submit comments must be received not later than 10 days before expiration of the time stated in the notice. It is requested, but not required, that 10 copies be submitted. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted, it is granted to all persons, and it is published in the FEDERAL REGISTER.

Since this amendment concerns agency procedure, notice and public procedure thereon are unnecessary, and it is effective upon publication in the FEDERAL REGISTER (2-5-71), with respect to all rulemaking notices issued subsequent to its publication.

(Secs. 103 and 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.51, 35 F.R. 4955)

Issued on February 2, 1971.

DOUGLAS W. TOMS,
Acting Administrator.

[FR Doc.71-1623 Filed 2-4-71;8:49 am]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Definitions and Drafting Usage

The purpose of this notice is to amend Subpart A, General, of Part 571, Federal Motor Vehicle Safety Standards, in Title 49, Code of Federal Regulations, by adding certain definitions and an explanatory section with respect to drafting usage in the standards and regulations issued under the National Traffic and Motor Vehicle Safety Act.

1. A problem that arises frequently in the drafting and interpretation of standards is expression of the concept that a vehicle or item of equipment must meet specified requirements within a range of values, or in connection with all the items in a set, not simultaneously, but at whatever point within the range or with whatever item in the set the Administration selects for testing. Normal English usage describes this concept by use of the word "any", as in the following examples: "The vehicle must meet the requirements of S4.1 when tested at any point between 18 and 22 inches above the ground." "Each tire shall be capable of meeting the requirements of this standard when mounted on any rim specified by the manufacturer as suitable for use with that tire."

The interpretive difficulty arises because, although the requirements of the standards are drafted as descriptions of the limits within which the Administration will test the vehicles and equipment to which the standards apply, some members of the public fail to recognize this, and tend to view the standards (erroneously) as descriptions of the tests that manufacturers must perform. Thus, in the above examples, persons may mistakenly consider the requirement as requiring only that the vehicle must meet the requirements at some one point between 18 and 22 inches from the ground, or that a tire need only meet the requirements when mounted on a particular one of the rims recommended by the manufacturer. To correct any such misconceptions, and to simplify the drafting and interpretation of standards and regulations, an explanatory section is hereby added to the "General" subpart of Part 571.

2. To simplify the drafting and organization of standards and regulations, definitions are hereby added to the list in 49 CFR 571.3 for the terms "longitudinal" or "longitudinally," "gross vehicle weight rating" or "GVWR," "gross axle weight rating" or "GAWR," "gross combination weight rating" or "GCWR," and "unloaded vehicle weight."

Since these amendments are clarifying and interpretative in nature, notice and public procedure thereon are unnecessary, and they are effective upon publication in the FEDERAL REGISTER (2-5-71).

In consideration of the foregoing, Subpart A, General, of Part 571, Federal Motor Vehicle Safety Standards, in Title 49, Code of Federal Regulations, is amended as follows:

1. The following definitions are added to § 571.3, *Definitions*, in the proper alphabetical position:

§ 571.3 Definitions.

* * * * *

"Gross axle weight rating" or "GAWR" means the value specified by the vehicle manufacturer as the loaded weight on a single axle measured at the tire-ground interfaces.

"Gross combination weight rating" or "GCWR" means the value specified by the maufacturer as the loaded weight of a combination vehicle.

"Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the loaded weight of a single vehicle.

* * * * *

"Longitudinal" or "longitudinally" means parallel to the longitudinal centerline of the vehicle.

* * * * *

"Unloaded vehicle weight" means the weight of a vehicle with maximum capacity of all fluids necessary for operation of the vehicle, but without cargo or occupants.

* * * * *

2. A new section is added to Part 571:

§ 571.4 Explanation of usage.

The word "any," used in connection with a range of values or set of items in the requirements, conditions, and procedures of the standards or regulations in this chapter, means generally the totality of the items or values, any one of which may be selected by the Administration for testing, except where clearly specified otherwise.

Examples: "The vehicle shall meet the requirements of S4.1 when tested at any point between 18 and 22 inches above the ground." This means that the vehicle must be capable of meeting the specified requirements at every point between 18 and 22 inches above the ground. The test in question for a given vehicle may call for a single test (a single impact, for example), but the vehicle must meet the requirement at whatever point the Administration selects, within the specified range.

"Each tire shall be capable of meeting the requirements of this standard when mounted on any rim specified by the manufacturer as suitable for use with that tire." This means that, where the manufacturer specifies more than one rim as suitable for use with a tire, the tire must meet the requirements with whatever rim the Administration selects from the specified group.

"Any one of the items listed below may, at the option of the manufacturer, be substituted for the hardware specified in S4.1." Here the wording clearly indicates that the selection of items is at the manufacturer's option.

(Secs. 103 and 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407; delegation of authority at 49 CFR 1.51)

Issued on February 2, 1971.

DOUGLAS W. TOMS,
Acting Administrator.

[FR Doc.71-1622 Filed 2-4-71;8:49 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 914]

ORANGES GROWN IN INTERIOR DISTRICT IN FLORIDA

Method of Allocating Fixed Quantity

Notice is hereby given that the Department is considering proposed rules and regulations (§ 914.130) pursuant to the marketing agreement and Order No. 914 (7 CFR Part 914; 35 F.R. 17169) regulating the handling of oranges grown in the Interior District in Florida. This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The aforesaid rules and regulations were proposed by the Interior Orange Marketing Committee, established under said marketing agreement and order as the agency to administer the terms and provisions thereof. The rules and regulations would provide a method to implement allocation of the total quantity of oranges that may be handled during any week between early and midseason type oranges and late type oranges when both types of oranges are being shipped. The proposed rules and regulations are based on the applicable weekly shipments of both types during the preceding three fiscal periods and will reflect the respective proportions as estimated by the committee of the two types of oranges shipped by all handlers in the applicable week preceding the week for which the committee recommends the Secretary fix such total quantity of oranges.

The proposal is as follows:

§ 914.130 Method of allocating fixed quantity.

(a) Whenever the Secretary has fixed the total quantity of oranges which may be handled during a particular week, the committee shall determine the allocation between early and midseason type oranges and late type oranges, if both types are being shipped, by matching the percentage of early and midseason type oranges in shipments of both types made during the first or second week (as provided in § 914.45(a)) preceding the week in which the committee meets to consider the need for regulation with the corresponding percentage in the left-hand column of the Table in paragraph (b) of this section, and then multiplying the percentage of such oranges in shipments made 2 or 3 weeks later, as applicable, by the quantity fixed for the particular week: *Provided*, That during the weeks of the period beginning with the first full week in January and ending with the first full week in May, allocation to either type of oranges shall not be less than 5 percent of the total quantity of oranges fixed by the Secretary for a particular week.

(b) The following Table shows the respective average decreases in the percentage of early and midseason type oranges in shipments of both types after 2 and 3 weeks based on shipments of such oranges during the previous 3 fiscal periods as prescribed in § 914.45:

TABLE

Early and midseason type oranges in shipments for a given week	Two weeks later	Three weeks later
Percent	*Percent*	*Percent*
99	76	48
98	70	42
97	66	38
96	62	35
95	58	33
94	54	31
93	50	29
92	48	27
91	46	26
90	44	25
89	43	24
88	41	23
87	39	22
86	38	21
85	36	20
84	35	19
83	34	18
82	33	17
81	31	17
80	30	16
79	30	15
78	29	14
77	28	14
76	28	13
75	27	13
74	26	13
73	26	12
72	25	12
71	24	11
70	23	11
69	23	11
68	22	10
67	22	10
66	21	9
65	21	9
64	20	9
63	20	8
62	19	8
61	19	8
60	18	8
59	18	7
58	18	7
57	17	7
56	17	6
55	16	6
54	16	6
53	15	6
52	15	5
51	15	5
50	14	5
49	14	5
48	14	4
47	13	4
46	13	4
45	13	4
44	12	4
43	12	4
42	11	4
41	11	4
40	10	4
39	10	3
38	9	3
37	9	3
36	8	3
35	8	3
34	7	3
33	7	3
32	6	2
31	6	2
30	5	2
29	5	2
28	5	2
27	4	2
26	4	2

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed rules and regulations shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, DC 20250, not later than the 5th day after publication of this notice in the FEDERAL REGISTER. 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)).

Dated: February 2, 1971.

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

[FR Doc.71-1640 Filed 2-4-71;8:51 am]

[7 CFR Part 980]

[980.109, Amdt. 4]

ONIONS

Importation

Notice is hereby given of a proposed amendment of § 980.109 *Onion import regulation* (35 F.R. 11225, 12530, 14539, 18955), applicable to the importation of onions into the United States to become effective March 28, 1971, under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

Under section 8e–1 of the act (7 U.S.C. 608e–1), whenever two or more marketing orders are concurrently in effect regulating the same agricultural commodity produced in different areas of the United States, the importation of such commodity shall be prohibited unless it complies with the grade, size, quality, and maturity provisions of the order which, as determined by the Secretary of Agriculture, regulates the commodity produced in the area with which the imported commodity is in most direct competition.

Onion import regulation § 980.109 (35 F.R. 11225), became effective July 18, 1970, and sets forth similar grade, size, quality, and maturity requirements as those in effect for onions handled under Marketing Order No. 958, as amended (7 CFR Part 958) regulating the shipments of onions grown in designated counties in Idaho and Eastern Oregon. Grade, size, quality, and maturity requirements become effective for the period March 1, through May 29, 1971, under Marketing Order No. 959, as amended (7 CFR Part 959), regulating the handling of onions grown in South Texas. It is anticipated that imported onions will be in most direct competition with those regulated under Marketing Order 959 on or about March 28 and the proposed changes will be necessary to bring import regulations into line with domestic regulations covering these South Texas onions.

Consideration will be given to any written data, views, or arguments pertaining to the proposed amendment which are filed in quadruplicate with the

Hearing Clerk, Room 112–A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than February 17, 1971. 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 proposed amendment is as follows:

Section 980.109 *Onion import regulation* (35 F.R. 11225, 12530, 14539, 18955), is hereby amended to read as follows:

§ 980.109 Onion import regulation.

Pursuant to section 608e–1 of the Act (7 U.S.C. 608e–1) and except as otherwise provided herein, during the period beginning March 28, 1971, and continuing through May 29, 1971, the importation of onions is prohibited unless such onions are inspected and meet the requirements of this section.

(a) Minimum grade and size requirements:

(1) *Grade.* Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Applications of tolerances in U.S. Grade Standards shall apply to in-grade lots.

(2) *Size.* White onions—1 inch minimum diameter; all other varieties of onions—1¾ inches minimum diameter.

(b) Condition: Due consideration shall be given to the time required for transportation and entry of onions into the United States. Onions with transit time from country of origin to entry into the United States of 10 or more days may be entered if they meet an average tolerance for decay of not more than 5 percent, provided they meet the other requirements of this section.

(c) Minimum quantity: Any importation which in the aggregate does not exceed 100 pounds in any day, may be imported without regard to the provisions of this section.

(d) Plant quarantine: Provisions of this section shall not supersede the restrictions or prohibitions on onions under the Plant Quarantine Act of 1912.

(e) Designation of governmental inspection service: The Federal or the Federal-State Inspection Service, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, and the Fruit and Vegetable Division, Production and Marketing Branch, Canada Department of Agriculture, are designated as governmental inspection services for certifying the grade, size, quality, and maturity of onions that are imported into the United States under the provisions of section 8e–1 of the act.

(f) Inspection and official inspection certificates:

(1) An official inspection certificate certifying the onions meet the United States import requirements for onions under section 8e–1 (7 U.S.C. 608e–1), issued by a designated governmental inspection service and applicable to a specific lot is required on all imports of onions.

(2) Inspection and certification by the Federal or Federal-State Inspection Service will be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables, and other products (Part 51 of this title). Each lot shall be made available and accessible for inspection as provided therein. Cost of inspection and certification shall be borne by the applicant.

(3) Since inspectors may not be stationed in the immediate vicinity of some smaller ports of entry, importers of onions should make advance arrangements for inspection by ascertaining whether or not there is an inspector located at their particular port of entry. For all ports of entry where an inspection office is not located, each importer must give at least 1 day advance notice, except the requirement for "All California points" and "All other points" is at least 3 days advance notice, to the applicable office listed below prior to the time the onions will be imported.

All Texas points:
W. T. McNabb, Post Office Box 310, Austin, TX 78767 (Phone 512–385–5385).

All Arizona points:
B. O. Morgan, Post Office Box 1614, Nogales, AZ 85621 (Phone 602–287–2902).

All California points:
D. P. Thompson, 294 Wholesale Terminal Building, 784 South Central Avenue, Los Angeles, CA 90021 (Phone 213–622–8756).

All Hawaii points:
Stevenson Ching, 1428 South King Street, Honolulu, HI 96814 (Phone 808–941–3071).

New York City:
Edward J. Beller, Room 28A, Hunts Point Market, Bronx, NY 10474 (Phone 212–991–7669).

New Orleans:
Pascal J. Lamarca, 5027 Federal Office Building, 701 Loyola Avenue, New Orleans, LA 70113 (Phone 504–527–6741).

All other points:
D. S. Matheson, Fruit and Vegetable Division, C&MS, USDA, Washington, DC 20250 (Phone 202–388–5870).

(4) Inspection certificates shall cover only the quantity of onions that is being imported at a particular port of entry by a particular importer.

(5) Each inspection certificate issued with respect to any onions to be imported into the United States shall set forth, among other things:

(i) The date and place of inspection;

(ii) The name of the shipper, or applicant;

(iii) The commodity inspected;

(iv) The quantity of the commodity covered by the certificate;

(v) The principal identifying marks on the containers;

(vi) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or other identification of the shipment; and

(vii) The following statement, if the facts warrant: "Meets import requirements of 7 U.S.C. 608e–1."

(g) Reconditioning prior to importation: Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of onions for the purpose of making it eligible for importation.

(h) It is hereby determined that imports of onions, during the effective time of this section, are in most direct competition with onions grown in south Texas. The requirements set forth in this section are the same as those applicable to grade, size, quality and maturity being made effective for onions grown in south Texas.

(i) Definitions: For the purpose of this section, "Onions" means all (except red) varieties of Allium cepa marketed dry, except dehydrated, canned and frozen onions, onion sets, green onions, and pickling onions. Onions commonly referred to as "braided," that is, with tops, may be imported if they meet the grade and size requirements except for top length. The term "U.S. No. 1" shall have the same meaning as set forth in the U.S. Standards for Grades of Bermuda-Granex-Grano Type Onions (§§ 51.3195–51.3209 of this title), U.S. Standards for Grades of Creole Onions (§§ 51.3955–51.3970 of this title) or in the U.S. Standards for Grades of Onions Other Than Bermuda-Granex-Grano and Creole Types (§§ 51.2830–51.2854 of this title), whichever is applicable to the particular variety. Tolerances for size shall be those in the applicable U.S. Standards. The requirements of Canada No. 1 grade are deemed comparable to the requirements of U.S. No. 1 grade. "Importation" means release from custody of the U.S. Bureau of Customs.

Dated: February 2, 1971.

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

[FR Doc.71–1641 Filed 2–4–71;8:51 am]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 214]

EMPLOYMENT OF CERTAIN NONIMMIGRANTS

Notice of Proposed Rule Making

Pursuant to section 553 of title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed issuance of the following rule pertaining to the employment of certain nonimmigrants. In accordance with section 553, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 757, 119 D Street NE., Washington, DC 20536, written data, views, or arguments, in duplicate, relative to the proposed rule. Such representations may not be presented orally in any manner. All relevant material received within 20 days following the date of publication of this notice will be considered.

Section 214.1 is amended by adding paragraph (c) to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

* * * * *

(c) *Employment.* A nonimmigrant in the United States in a class defined in section 101(a)(15)(B) of the Act as a temporary visitor for pleasure, or section 101(a)(15)(C) of the Act as an alien in transit through this country, may not engage in any employment. Any other nonimmigrant in the United States may not engage in any employment unless he has been accorded a nonimmigrant classification which authorizes employment or he has been granted permission to engage in employment in accordance with the provisions of this chapter. A nonimmigrant who is permitted to engage in employment may engage in such employment as has been authorized. Any unauthorized employment by a nonimmigrant constitutes a failure to maintain status within the meaning of section 241(a)(9) of the Act.

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

Dated: January 29, 1971.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.71-1608 Filed 2-4-71;8:48 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Airworthiness Docket No. 71-SW-4]

BELL MODEL 206A HELICOPTERS

Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding a new airworthiness directive applicable to Bell Model 206A helicopters. There has been one report of a crack possibly caused by corrosion and two reports of corrosion in the main rotor blade spar lower surface adjacent to the inboard screws which secure the tip inertia weight to the blade. Failure of the blade and resulting loss of tip inertia weight would result in loss of control of the Model 206A helicopter. Since this condition is likely to exist or develop in other helicopters of the same type design, the proposed airworthiness directive would impose a periodic inspection for cracks or corrosion in the spar lower surface from blade station 170 to 180 for certain main rotor blades, P/N 206-010-200-29 on Bell Model 206A helicopters.

It is anticipated that repair procedures for the blade corrosion will be developed by Bell and incorporated in the final amendment prior to adoption of the rule.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or comments as they may desire. Communications should identify the docket number and be submitted in triplicate to the Regional Counsel, Southwest Region, Federal Aviation Administration, Post Office Box 1689, Fort Worth, TX 76101. All communications received on or before March 6, 1971 will be considered by the Director before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX 76101.

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

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

BELL. Applies to Model 206A helicopters certificated in all categories, equipped with main rotor blades, P/N 206-010-200-29, having blade serial numbers, TKK-0001 through TKK-0867 and TKK-1012 through TKK-1030 or having blade serial numbers with the prefix TJK.

Compliance required as indicated. To detect possible corrosion and fatigue cracks in the main rotor blade spar lower surface adjacent to the tip inertia weight attachment screws, accomplish the following:

a. Inspect those main rotor blades having 600 or more hours time in service on the effective date of this AD within 25 hours time in service therefrom, unless already accomplished in accordance with procedures listed below.

b. Inspect those main rotor blades having less than 600 hours time in service before reaching 625 hours time in service in accordance with the procedures listed below.

c. Accomplish repetitive inspections of the main rotor blades in accordance with the procedures listed below at intervals of not more than 25 hours time in service from the last inspection.

d. Visually inspect the lower surface of the spar from blade station 170 to 180 in the area of the screw heads for paint blisters, raised areas, paint cracks and for exposed metal. (Blade station 0 is the center of the main rotor yoke.)

e. If any of the conditions in subparagraph d are found, remove the finish in accordance with the instructions of Item 5 of Bell Helicopter Company Service Bulletin No. 206A-19 dated December 18, 1970, or later revision, and inspect for corrosion and cracks in the spar adjacent to the screw heads using a dye penetrant or equivalent inspection method.

f. If no corrosion or cracks are found, treat and refinish the unpainted area in accordance with the instructions of Item 4.c. of Bell Helicopter Company Service Bulletin No. 206A-19 dated December 18, 1970 or later revision.

g. If corrosion or cracks are found, remove and replace the blade before further flight.

h. The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Service Manager, Bell Helicopter Co., Post Office Box 482, Fort Worth, TX 76101.

i. These documents may also be examined at the Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, TX, and at FAA Headquarters, 800 Independence Avenue SW., Washington, DC. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Tex.

Issued in Fort Worth, Tex., on January 26, 1971.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.71-1610 Filed 2-4-71;8:48 am]

CIVIL AERONAUTICS BOARD

[14 CFR Ch. II]

[Docket No. 23055; SPDR-22]

NONAFFINITY CHARTERS

Advance Notice of Proposed Rule Making

JANUARY 29, 1971.

Notice is hereby given that the Civil Aeronautics Board is considering issuing a notice of proposed rule making to establish by special regulation a new category of charter tentatively denominated as "Non-Affinity Charter." The new class of charter is described and discussed in the Explanatory Statement below. This notice is issued pursuant to the authority of sections 204(a) and 1001 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 788; 49 U.S.C. 1324, 1481.

Interested persons may participate in the rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before May 1, 1971, will be considered before taking action on the proposal. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, DC upon receipt thereof.

[SEAL] HARRY J. ZINK,
Secretary.

EXPLANATORY STATEMENT

On July 30, 1970, the Member Carriers of the National Air Carrier Association (NACA) filed in Docket 22409, a petition for rule making which, inter alia, essentially calls for elimination of the affinity requirements for pro rata charters in Parts 208 and 295 of the Board's economic regulations. On October 28, 1970, the Board heard oral argument on the proposal, as well as proposals for revision and extension of the charter regulations set forth in EDR-183/PSDR-24, dated May 8, 1970.

By ER-659 and related regulations issued concurrently, the Board is adopting

certain of the EDR–183 proposals for effectiveness for the forthcoming 1971 summer season, and is deferring action on the remaining proposals. This advance notice concerns the NACA carriers' proposal referred to above.

In their petition, the NACA carriers assert that the affinity concept embodied in Parts 208 and 295 is inherently discriminatory, unduly restrictive, and almost impossible to define or enforce; that it has deprived thousands of potential travelers of the benefits of low cost charter transportation; and that it is not believed essential to the preservation of the charter concept and the distinction between group and individual travel. The NACA carriers therefore propose that Parts 208 and 295 be revised to permit any group of 40 or more individuals to charter an aircraft or a portion thereof, subject to the following restrictions: (1) The group must have been formed at least 6 months prior to departure, and (2) the group may not be brought together by means of mass media advertising. In addition, the proposal would permit any organization to charter, so long as (1) the participants on the organizations' charter flights have been members for at least 6 months prior to departure, and (2) the organization does not in any mass media solicitation of membership hold out specific charter transportation as an inducement. The NACA carriers believe that these rules are sufficient to provide sharp distinction between charter and individually ticketed transportation, and that there is no danger that the liberalized charter regulations proposed would impair scheduled services or divert large numbers of passengers from individually ticketed services.

In their answer to the petition, as augmented at oral argument, the trunkline carriers[1] contend that the affinity concept may not, and should not, be abandoned; that its abolition would be catastrophic for the scheduled carriers; and that the restrictions proposed would not mitigate the catastrophe.

The Board is of the opinion that consideration should be given to the establishment of a class of nonaffinity charter, in addition to inclusive tour charters under Part 378. The infirmities of the affinity charter concept are well known. The concept raises questions of discrimination against persons who are not members of affinity groups, and against persons who are members of small affinity groups unable to mount as extensive and attractive charter programs as large groups. In addition the concept has posed difficult enforcement problems. It is possible that these enforcement problems could be brought under control by clearer and more restrictive charter regulations aimed at greater adherence to the affinity concept. However, comment received in EDR–183 tends to show that adoption of such regulations, while reducing enforcement problems, may also serve to increase discrimination and inhibit the opportunities of many members of the traveling public to avail themselves of low cost charter transportation.

It also appears that the affinity concept is in essence but a means to maintain the distinction between charter and individually ticketed services. This concept is not itself a statutory requirement. It may be that this objective can be realized through other more appropriate means without departing from statutory requirements.

This brings us to the NACA carriers' proposal. While we tentatively favor the objectives of this proposal, it provides no means to identify the charter participants as a group and is otherwise too lacking in specificity to justify the institution of public rule making proceedings. Furthermore, the proposal would apply only to supplemental air carriers. In this respect, it is inconsistent with our objective of securing uniform charter regulations applicable to all types of carriers. In addition, the proposal would eliminate affinity charters entirely. Although any long-term solution of the pro rata charter problem may well involve elimination of the affinity concept entirely, we believe it preferable at this juncture not to eliminate affinity charters even though the Board adopts the nonaffinity charter concept in some form. For these reasons the NACA carriers' proposal in the form submitted will not be submitted for public comment in rule making proceedings, and the petition is denied to this extent.

However, we are considering issuing a Notice of Proposed Rule Making to establish by Special Regulation a new class of charter tentatively denominated as "Non-Affinity Charter" which would be applicable to all direct air carriers and foreign air carriers, as an alternative to affinity charters under Parts 207, 208, 212, and 214 of the economic regulations and to inclusive tour charters under Part 378. And we are tentatively of the view that this new type of charter, if authorized, should be available to any group of 50 or more provided that the following conditions are met:

(1) Six months prior to scheduled departure the carrier must file with the Board a charter contract setting forth the date(s) of the flight(s), the price, origin, and destination, and the names, addresses, and telephone numbers of the charter participants. The carrier may also file a standby list which is no larger than three times the size of the main list, and must file a statement that it has received a deposit of 25 percent of the total charter price from the main list participants. In the event a main list participant cancels, this deposit will ordinarily be refundable only if a replacement participant is obtained.

(2) The charter participants must be on the main list or from the standby list. At least 80 percent must be from the main list, with the remainder filling in from the standby list. No one may participate who is not either on the main or standby list.

(3) Within 7 days after flight departure, the carrier must file with the Board a manifest containing the names, addresses, and telephone numbers of the charter participants.

(4) Intermingling of charter participants would be subject to the same rules as provided in ER–659.[2]

(5) Solicitation materials shall separately state the cost of ground arrangements, if any, the cost of air transportation, the service charges, and the total cost of the entire trip.[3]

(6) There will be no fixed limit on service charges, but they must be broken out separately and prorated equally among the participants.

(7) There will be no commissions.

(8) There will be no mass media advertising.

(9) Split charters would be permitted, and nonaffinity charters could be combined with other types of passenger charters.[4]

The above proposal is designed to preserve the distinction between charter and individually ticketed services, and would preclude any substantial impairment of scheduled services. The distinction would be preserved by the 6-month requirement, together with the participant list and payment requirement.

The rule against commissions is predicated on the view that intermediaries who will form the groups and make the arrangements for nonaffinity charter flights are essentially agents for the group and not the carrier and should receive compensation from the group as service charges, and not in the form of commissions from the carriers. Comments are particularly invited as to the limitations and safeguards which should be imposed on the intermediaries and the extent, if any, as to which they should be allowed to serve as indirect air carriers.

Ordinarily, of course, the Board in rule making proceedings issues a notice containing proposed rules in regulatory format and issues final rules after receiving comments. In this case, we are issuing an advance notice containing rules in outline form which we are considering proposing in a notice of rule making. We have chosen this additional preliminary step in view of the fact that these rules would involve a marked departure from the concept which has governed pro rata charters from their inception. Under these circumstances we desire to have the benefit of the views of interested persons before formulating precise rules.

[FR Doc.71–1561 Filed 2–4–71;8:45 am]

[1] American, Braniff, Continental, Delta, Eastern, National, Northwest, Pan American, Trans Caribbean, TWA, United, and Western.

[2] I.e, in the case of a charter contract calling for four or more round trips, one-way passengers shall not be carried, there shall be no intermingling of passengers and each planeload group, or less than planeload group, shall move together as a unit in both directions, except under emergency circumstances. (See §§ 208.32(f) and 208.36.)

[3] Cf. ER–659, § 208.214.

[4] See ER–659, p. 17 et. seq.

ENVIRONMENTAL PROTECTION AGENCY

[18 CFR Part 615]

STATE CERTIFICATION OF ACTIVITIES REQUIRING FEDERAL LICENSE OR PERMIT

Notice of Proposed Rule Making

Notice is hereby given that the Administrator, Environmental Protection Agency, pursuant to the authority in section 103, 84 Stat. 91, proposes the addition of a new Part 615 to Title 18, Chapter V of the Code of Federal Regulations, as set forth below.

The Federal Water Pollution Control Act vests certain authorities in the Secretary of the Interior. On December 2, 1970, those authorities were transferred to the Administrator, Environmental Protection Agency, by Reorganization Plan No. 3 of 1970.

Section 21(b) of the Federal Water Pollution Control Act, 33 U.S.C.A. 1171 (b), requires any applicant for a Federal license or permit to conduct any activity, including, but not limited to, the construction or operation of facilities which may result in any discharge into the navigable waters of the United States to obtain a certification from the State in which the discharge originates, or, if appropriate, from the interstate agency having jurisdiction or, under certain circumstances, from the Administrator, that there is reasonable assurance that such activity will be conducted in a manner which will not violate applicable water quality standards. In any case where actual construction of a facility from which a discharge is made has been lawfully commenced before April 3, 1970, no certification is required for the issuance of a license or permit after April 3, 1[illegible] except that any such license or permit shall terminate on April 3, 1973, unless a certification is submitted to the licensing or permitting agency prior to April 3, 1973. Where any license or permit application was pending on April 3, 1970, and such license or permit is issued before April 3, 1971, no certification is required for 1 year following the issuance of such license or permit, except that any such license or permit shall terminate at the end of 1 year unless a certification is submitted to the licensing or permitting agency prior to that time:

The proposed Subpart A would provide definitions of general applicability for the regulations and would provide for the uniform content and form of certification.

The proposed Subpart B would establish procedures for determination by the Administrator whether a discharge which will result from an activity for which certification is required by section 21(b) may affect the quality of the waters of any State other than the State in which the discharge originates.

The proposed Subpart C would establish procedures for obtaining certifications from the Administrator in certain cases where standards have been promulgated by the Administrator, and in cases where no State or interstate agency has authority to certify that there is reasonable assurance that an activity requiring a Federal license or permit and which may result in a discharge into navigable waters will be conducted in a manner which will not violate applicable water quality standards.

The proposed Subpart D would provide for consultation between the Administrator and Federal licensing and permitting agencies with respect to the meaning, content, and application of water quality standards and related matters.

A form suitable for use by certifying agencies is being prepared and will be published in the FEDERAL REGISTER in the immediate future.

Interested persons may submit, in triplicate, written data or arguments in regard to the proposed regulations to the Administrator, Environmental Protection Agency, Washington, D.C. 20460. All relevant material received not later than 30 days after publication of this notice will be considered.

(Secs. 21 (b), (c), Federal Water Pollution Control Act. (Public Law 91-224); sec. 103, 84 Stat. 91, 33 U.S.C.A. 1171(b) (1970); Reorganization Plan No. 3 of 1970)

Subpart A—General

§ 615.1 Definitions.

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

(a) "License or permit" means any license or permit, including leases for livestock grazing or oil, mineral, or other exploitation, granted by an agency of the Federal government to conduct any activity which may result in any discharge into the navigable waters of the United States.

(b) "Licensing or permitting agency" means any agency of the Federal Government to which application is made for a license or permit.

(c) "Administrator" means the Administrator, Environmental Protection Agency.

(d) "Certifying agency" means the person or agency designated by the Governor of a State to certify compliance with applicable water quality standards. If an interstate agency has sole authority to so certify, such interstate agency shall be the certifying agency. Where a Governor's designee and an interstate agency have concurrent authority to certify, the Governor's designee shall be the certifying agency. Where water quality standards have been promulgated by the Administrator pursuant to section 10(c)(2) of the Act, or where no State or interstate agency has authority to certify, the Administrator shall be the certifying agency.

(e) "Act" means the Federal Water Pollution Control Act, 33 U.S.C.A. 1151 et seq.

(f) "Discharge" means any direct or indirect addition of matter to receiving waters.

(g) "Water quality standards" means standards established pursuant to section 10(c) of the Act, and State-adopted water quality standards for navigable waters which are not interstate waters.

§ 615.2 Form of certification.

A certification made by a certifying agency shall include the following:

(a) The name and address of the applicant;

(b) A description of the facility or activity, and of any discharge into navigable waters which may result from the conduct of any activity including, but not limited to, the construction or operation of the facility, including the biological, chemical, thermal, and other characteristics of the discharge, and the location or locations at which such discharge may enter navigable waters;

(c) A description of the function and operation of equipment or facilities to treat wastes or other effluents which may be discharged, including specification of the degree of treatment expected to be attained;

(d) The date or dates on which the activity will begin and end, if known, and the date or dates on which the discharge will take place;

(e) A statement of the probable effects of the discharge on the quality of the receiving water;

(f) An identification of applicable water quality standards;

(g) A statement of the probable effects of the discharge on the quality of waters of a State other than the State in which the discharge occurs or will occur;

(h) A statement that there is reasonable assurance that the activity will be conducted in a manner which will not violate applicable water quality standards;

(i) A statement of the conditions applicable to the discharge, reliance upon which provided the basis for the statement described in paragraph (h) of this section; and

(j) Such other information as the certifying agency may determine is appropriate.

Subpart B—Determination of Effect on Other States

§ 615.11 Notification.

Upon receipt of an application for a license or permit and a certification, the licensing or permitting agency shall immediately notify the Administrator of such application and certification.

§ 615.12 Copies of documents.

Immediately after certification has been granted, an applicant shall provide the Administrator with three copies of (a) the application for a license or permit, (b) the application for certification, and (c) any certification received or notification that certification has been waived. The applicant may provide the Administrator with copies of the applications as soon as the applications are made to the relevant State, interstate, or Federal agencies.

§ 615.13 Review by Administrator and notification.

The Administrator shall review the applications and certification, provided

in accordance with § 615.12, and if the Administrator determines there is reason to believe that a discharge may affect the quality of the waters of any State or States other than the State in which the discharge occurs, the Administrator shall, no later than 30 days of the date of notice of application and certification from the licensing or permitting agency provided in § 615.11, so notify each affected State, the licensing or permitting agency, and the applicant.

§ 615.14 Forwarding to affected State.

The Administrator shall forward to each affected State a copy of the material provided in accordance with § 615.12.

§ 615.15 Hearing on objection of affected State.

When a licensing or permitting agency holds a public hearing on the objection of an affected State, such objection shall be forwarded to the Administrator by the licensing or permitting agency, and the Administrator shall at such hearing submit his evaluation with respect to such objection and his recommendations as to whether and under what conditions the license or permit should be issued.

§ 615.16 Waiver.

If the certification requirement with respect to an application for a license or permit is waived due to the failure or refusal of a State or interstate agency to act on a request for certification within a reasonable time as determined by the licensing or permitting agency (which period shall not exceed 1 year) after receipt of such request, the Administrator shall consider such waiver as a substitute for a certification and, as appropriate, shall conduct the review, provide the notices, and perform the other functions identified in §§ 615.13, 615.14, and 615.15. The notices required by § 615.13 shall be provided not later than 30 days after the date on which the waiver becomes effective.

Subpart C—Certification by the Administrator

§ 615.21 When Administrator certifies.

Certification by the Administrator that the discharge resulting from an activity requiring a license or permit will not violate applicable water quality standards will be required where:

(a) Standards have been promulgated by the Administrator pursuant to section 10(c)(2) of the Act; or

(b) Water quality standards have been established, but no State or interstate agency has authority to give such a certification.

§ 615.22 Applications.

An applicant for certification from the Administrator shall submit to the Administrator a complete description of the discharge involved in the activity for which certification is sought, with a request for certification signed by the applicant. Such description shall include the following:

(a) The name and address of the applicant;

(b) A description of the facility or activity, and of any discharge into navigable waters which may result from the conduct of any activity including, but not limited to, the construction or operation of the facility, including the biological, chemical, thermal, and other characteristics of the discharge, and the location or locations at which such discharge may enter navigable waters;

(c) A description of the function and operation of equipment or facilities to treat wastes or other effluents which may be discharged, including specification of the degree of treatment expected to be attained;

(d) The date or dates on which the activity will begin and end, if known, and the date or dates on which the discharge will take place;

(e) A statement of the probable effects of the discharge on the quality of the receiving water;

(f) An identification of applicable water quality standards, together with a statement as to whether, in the applicant's opinion, discharge resulting from the activity will or will not violate applicable water quality standards; and

(g) A statement of the probable effects of the discharge on the quality of waters of a State other than the State in which the discharge occurs or will occur.

§ 615.23 Notice and hearing.

The Administrator will provide public notice of each request for certification by publication in the FEDERAL REGISTER, and may provide such notice in a newspaper of general circulation in the area in which the activity is proposed to be conducted and by such other means as the Administrator deems appropriate. Interested parties shall be provided an opportunity to comment on such request as the Administrator deems appropriate. All interested and affected parties will be given reasonable opportunity to present evidence and testimony at a public hearing on the question whether to grant or deny certification if the Administrator determines that such a hearing is necessary or appropriate.

§ 615.24 Certification.

If, after considering the complete description, the record of a hearing, if any, held pursuant to § 615.23, and such other information and data as the Administrator deems relevant, the Administrator determines that there is reasonable assurance that the proposed activity will not result in a violation of applicable water quality standards, he shall so certify. If the Administrator determines that no water quality standards are applicable to the waters which might be affected by the proposed activity, he shall so notify the applicant and the licensing or permitting agency in writing and shall provide the licensing or permitting agency with advice, suggestions and recommendations with respect to conditions to be incorporated in any license or permit to achieve compliance with the purposes of this Act. In such case, no certification shall be required.

§ 615.25 Adoption of new water quality standards.

(a) In any case where:

(1) A license or permit was issued without certification due to the absence of applicable water quality standards; and

(2) Water quality standards applicable to the waters into which the licensed or permitted activity may discharge are subsequently established; and

(3) The Administrator is the certifying agency because:

(i) No State or interstate agency has authority to certify; or

(ii) Such new standards were promulgated by the Administrator pursuant to section 10(c)(2) of the Act; and

(4) The Administrator determines that such uncertified activity is violating water quality standards;

then the Administrator shall notify the licensee or permittee of such violation, including his recommendations as to actions necessary for compliance. If the licensee or permittee fails within 6 months of the date of such notice to take action which in the opinion of the Administrator will result in compliance with applicable water quality standards, the Administrator shall notify the licensing or permitting agency that the licensee or permittee has failed, after reasonable notice, to comply with such standards and that suspension of the applicable license or permit is required by section 21(b)(9)(B) of the Act.

(b) Where a license or permit is suspended pursuant to paragraph (a) of this section, and where the licensee or permittee subsequently takes action which in the Administrator's opinion will result in compliance with applicable water quality standards, the Administrator shall then notify the licensing or permitting agency that there is reasonable assurance that the licensed or permitted activity will comply with applicable water quality standards.

§ 615.26 Inspection of facility or activity before operation.

Where any facility or activity has received certification pursuant to § 615.24 in connection with the issuance of a license or permit for construction, and where such facility or activity is not required to obtain an operating license or permit, the Administrator or his representative, prior to the initial operation of such facility or activity, shall be afforded the opportunity to inspect such facility or activity for the purpose of determining if the manner in which such facility or activity will be operated or conducted will violate applicable water quality standards.

§ 615.27 Notification to licensing or permitting agency.

If the Administrator, after an inspection pursuant to § 615.26, determines that operation of the proposed facility or activity will violate applicable water quality standards, he shall so notify the applicant and the licensing or permitting agency, including his recommendations as to remedial measures necessary to bring the operation of the proposed

facility into compliance with such standards.

§ 615.28 Termination of suspension.

Where a licensing or permitting agency, following a public hearing, suspends a license or permit after receiving the Administrator's notice and recommendation pursuant to § 615.27, the applicant may submit evidence to the Administrator that the facility or activity or the operation or conduct thereof has been modified so as not to violate water quality standards. If the Administrator determines that water quality standards will not be violated, he shall so notify the licensing or permitting agency.

Subpart D—Consultations

§ 615.30 Review and advice.

The Administrator may and upon request shall provide licensing and permitting agencies with determinations, definitions and interpretations with respect to the meaning and content of water quality standards where they have been federally approved under section 10 of the Act, and findings with respect to the application of all applicable water quality standards in particular cases and in specific circumstances relative to an activity for which a license or permit is sought. The Administrator shall also advise licensing and permitting agencies as to the status of compliance by dischargers with the conditions and requirements of applicable water quality standards. In cases where an activity for which a license or permit is sought will affect water quality, but for which there are no applicable water quality standards, the Administrator shall advise licensing or permitting agencies with respect to conditions of such license or permit to achieve compliance with the purposes of the Act.

Dated: February 2, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator,
Environmental Protection Agency.

[FR Doc.71-1638 Filed 2-4-71;8:51 am]

[42 CFR Part 481]

EASTERN IDAHO INTRASTATE AIR QUALITY CONTROL REGION

Proposed Designation; Consultation With Appropriate State and Local Authorities

Notice is hereby given of a proposal to designate an Intrastate Air Quality Control Region in the State of Idaho as set forth in the following new § 481.190 which would be added to Part 481 of Title 42, Code of Federal Regulations. It is proposed to make this designation effective upon republication.

Interested persons may submit written data, views, or arguments in triplicate to the Office of the Acting Commissioner, Air Pollution Control Office, Room 17-82, 5600 Fishers Lane, Rockville, MD 20852. All revelant material received not later than 30 days after the publication of this notice will be considered.

Interested authorities of the State of Idaho and appropriate local authorities, both within and without the proposed region, who are affected by or interested in the proposed designation, are hereby given notice of an opportunity to consult with representatives of the Administrator concerning such designation. Such consultation will take place at 1 p.m., on February 17, 1971, in Room 409, Student Union Building, 741 South Seventh Avenue, Idaho State University, Pocatello, ID 83201.

Mr. Doyle J. Borchers is hereby designated as 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, Room 17-82, 5600 Fishers Lane, Rockville, MD 20852.

In Part 481 the following new section is proposed to be added to read as follows:

§ 481.190 Eastern Idaho Intrastate Air Quality Control Region.

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

In the State of Idaho:

Bannock County.	Caribou County.
Bingham County.	Power County.
Bonneville County.	

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: February 2, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.71-1616 Filed 2-4-71;8:49 am]

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

[33 CFR Part 401]

SEAWAY REGULATIONS AND RULES

Notice of Proposed Rule Making

Notice is hereby given that the St. Lawrence Seaway Development Corporation acting jointly with the St. Lawrence Seaway Authority of Canada, pursuant to provisions of its enabling act (33 U.S.C. 981 et seq.), proposes to adopt miscellaneous amendments to the rules in Subpart B of 33 CFR Part 401.

Interested parties may submit written data, views, or arguments in regard to the amendments proposed herein to the St. Lawrence Seaway Development Corporation, Seaway Circle, Massena, NY 13662 (Attention: General Counsel). Comments received not later than 30 days after publication of this notice will be considered. Formal adoption of these amendments by the Corporation is contemplated during the 1971 navigation season of the St. Lawrence Seaway.

I. It is proposed to amend § 401.102-10 by deleting the words "in excess of 40 feet in overall length", and inserting the word "self-propelled" after the word "All". This would require all self-propelled vessels other than pleasure craft of less than 65 feet to be equipped with VHF (very high frequency) radiotelephone equipment. The revised section would read as follows:

§ 401.102-10 Radiotelephone equipment.

All self-propelled vessels, other than pleasure craft of less than 65 feet, must be equipped with VHF (very high frequency) radiotelephone equipment. The radio transmitters must have sufficient power output to enable the vessel to communicate with Authority stations from a distance of 30 miles and must be fitted to operate from the wheelhouse and to communicate on 156.55, 156.6, 156.7, and 156.8 MHz.

II. It is proposed to amend the rules on Radio Communications to provide more readable and workable procedures and to require communications necessary to implement the new positive system of traffic control. Under this proposal, a new section would be added after § 401.103-3 and present §§ 401.103-4 and 401.103-5 would be renumbered and revised, as follows:

§ 401.103-4 VHF Radio coverage and procedure.

(a) Vessels must use the channels of communication in each Control Sector as listed below:

Station		Control sector No. and limits	Call in	Work	Listening watch
Seaway Beauharnois	1	C.I.P. No. 2 to C.I.P. No. 6-7	Ch. 14	Ch. 14	Ch. 14.
Seaway Eisenhower	2	C.I.P. No. 6-7 to C.I.P. No. 10-11	Ch. 12	Ch. 12	Ch. 12.
Seaway Iroquois	3	C.I.P. No. 10-11 to Whaleback Shoal	Ch. 14	Ch. 14	Ch. 14.
WAG Clayton	4	Whaleback Shoal to Tibbetts Point	Ch. 16	Ch. 12	Ch. 16.
Seaway Picton	5	Tibbetts Point to Mid Lake Ontario	Ch. 11	Ch. 11	Ch. 16.
Seaway Oshawa	5	Mid Lake Ontario C.I.P. No. 15	Ch. 11	Ch. 11	Ch. 16.
Seaway Welland	6	C.I.P. No. 15 to C.I.P. No. 16	Ch. 14	Ch. 14	Ch. 14.
Seaway Long Point	7	C.I.P. No. 16 to Long Point	Ch. 11	Ch. 11	Ch. 16.
Seaway Sault	8	C.I.P. No. 17 to C.I.P. No. 18	Ch. 14	Ch. 14	Ch. 16.

(b) Initial calls originating from Seaway Stations to vessels in Sectors 4, 5, 7, and 8 will be on Channel 16, switching to the working channel for conversation.

(c) Vessels arriving at either Call-in-Point 15 or 16 should call "Seaway Welland" on Channel 14. If the vessel is called directly into the canal, it will remain on Channel 14. If the vessel is not to come directly into the canal, it will be sent to anchorage and instructed to guard Channel 16 until called in.

§ 401.103–5 Calling-in.

(a) * * *

C.I.P. and check point	Station to call	Message content
	UPBOUND VESSELS	
* * *	* * *	* * *
C.I.P. 7—Entering Sector 2.	Seaway Eisenhower Ch. 12.	1. Name of Vessel. 2. Location. 3. Destination. 4. Drafts, fore and aft. 5. Cargo. 6. ETA Snell Lock (if pilot required).
C.I.P. 8—(Order of passing through established).	do	1. Name of Vessel. 2. Location.
C.I.P. 8A	do	1. Name of Vessel. 2. Location.
* * *	* * *	* * *
Whaleback Shoal—Entering Sector 4.	WAG Clayton (Call Ch. 16; Work Ch. 12).	1. Name of Vessel. 2. Location. 3. ETA Cape Vincent. 4. Confirmation pilot requirement—Lake Ontario.
Tibbetts Point—Leaving Sector 4.	do	1. Name of Vessel. 2. Location.
Tibbetts Point—Entering Sector 5.	Seaway Picton Channel 11.	1. Name of Vessel. 2. Location. 3. ETA Point Petre. 4. ETA Port Weller. (C.I.P. 15) or Lake Ontario Port. 5. Pilot requirement—Port Port Weller.
* * *	* * *	* * *
Newcaster	Seaway Oshawa Channel 11.	1. Name of Vessel. 2. Location. 3. Updated ETA Port Weller (C.I.P. 15). 4. Confirmation pilot requirement—Port Weller.
* * *	* * *	* * *
Long Point—Leaving Sector 7.	Seaway Long Point Ch. 11.	1. Name of Vessel. 2. Location.
* * *	* * *	* * *
	DOWNBOUND VESSELS	
* * *	* * *	* * *
Long Point—Entering Sector 7.	Seaway Long Point Ch. 11.	1. Name of Vessel. 2. Location. 3. ETA C.I.P. 16.
* * *	* * *	* * *
Point Petre	Seaway Picton Ch. 11.	1. Name of Vessel. 2. Location. 3. Updated ETA Tibbetts Point or Lake Ontario Port. 4. Confirmation pilot requirement—Cape Vincent.
* * *	* * *	* * *
Tibbetts Point Entering Sector 4.	WAG Clayton (Call Ch. 16; Work Ch. 12).	1. Name of Vessel. 2. Location. 3. Destination. 4. Drafts, fore and aft. 5. Cargo.
Whaleback Shoal Leaving Sector 4.	do	1. Name of Vessel. 2. Location.
Whaleback Shoal Entering Sector 3.	Seaway Iroquois Ch. 14.	1. Name of Vessel. 2. Location. 3. Destination. 4. Drafts, fore and aft. 5. Cargo.
C.I.P. 14	do	1. Name of Vessel. 2. Location.
* * *	* * *	* * *
C.I.P. 10—Entering Sector 2.	Seaway Eisenhower Ch. 12.	1. Name of Vessel. 2. Location.
C.I.P. 9	do	1. Name of Vessel. 2. Location. 3. ETA Snell Lock (if pilot required).
* * *	* * *	* * *
St. Lambert to C.I.P. 2—Leaving Sector 1.	Seaway Beauharnois Ch. 14.	1. Name of Vessel. 2. Location. 3. See paragraph (b) of this section.

(b) A downbound vessel in St. Lambert Lock wishing to communicate with Montreal Marine Control will switch to Channel 13 (156.65 MHz) for a Montreal Harbor situation report. After completing the call, the vessel will return to guarding Channel 14 (156.7 MHz) before exiting the lock. When the vessel has cleared the downstream end of the lower approach wall of St. Lambert Lock, the master or pilot will call "Seaway Beauharnois" and request permission to switch to Channel 13 (156.65 MHz). Seaway Beauharnois will concur and advise the vessel of any upbound traffic cleared for Seaway entry but not yet at C.I.P. 2. In the event of expected vessel meeting(s) between the downstream end of the lower approach wall and C.I.P. 2, the downbound vessel will be told to remain on Channel 14 (156.7 MHz) until the meet has been completed. After the meeting, the downbound vessel will call back before going to Channel 13 (156.65 MHz).

* * * * *

(d) Changes in information provided under paragraph (a) of this section shall be reported to the appropriate Seaway Station.

§ 401.103–6 Communication—ports, docks, and anchorages.

* * * * *

(b) Vessels entering or leaving a lake port, shall report to the appropriate Seaway Station as follows:

Toronto and Hamilton—One mile outside of harbor limits.
Other lake ports—When crossing the harbor entrance.

III. It is proposed to amend the rules of Transit Instructions as follows:

§ 401.104–1 [Amended]

1. Section 401.104–1 would be amended by striking the date "December 15" and inserting the date "December 22" in place thereof, and by striking the date "April 15" and inserting the date "April 1" in place thereof. These changes are made to reflect the present agreement as to the duration of the navigation season.

2. Section 401.104–12 would be amended to clarify the restriction on the speed at which a vessel may travel when passing a moored vessel or equipment working in a canal. The revised section would read as follows:

§ 401.104–12 Speed passing moored vessel or working equipment.

A vessel passing a moored vessel or equipment working in a canal shall proceed at such a speed so as not to endanger the vessel or the occupants thereof.

§ 401.104–25 [Amended]

3. The Mooring Table in § 401.104–25 would be amended under Lock 8 of the Welland Canal by striking the letter "S" for the upbound tie-up walls and inserting the letters "P or S" in the place thereof. This would permit an upbound vessel to tie up to either starboard or port side in that lock.

§ 401.104–32 [Amended]

4. Section 401.104–32 would be amended by striking the word "Prescott" and inserting the words "Prescott and Union Park" in place thereof to reflect the present designation of Union Park as an anchorage area.

§ 401.104–34 [Amended]

5. Section 401.104–34 would be amended by striking the words "one thousand, six hundred feet" and inserting the words "two thousand, two hundred feet" to properly state the existing distances for the "Whistle" signs.

6. A new § 401.104–50 would be added to require reporting of certain deficiencies to navigation aids in order to provide more timely information on such problems. The new section would read as follows:

§ 401.104–50 Reporting navigation aid deficiencies.

Any aid to navigation that is extinguished, damaged, out of position, or missing shall be reported to the nearest Seaway Station.

IV. It is proposed to amend the rules on Dangerous Cargo as follows:

1. Section 401.105–7 would be amended to provide an exception to the requirement that a vessel carrying hazardous cargo shall be equipped with nonmetallic fenders. The exception results from a recent study and would apply to a vessel that is carrying Bunker C oil or its equivalent and is equipped with gas free ballast wing tanks. The revised section would read as follows:

§ 401.105–7 Nonmetallic fenders.

An explosive vessel and a hazardous cargo vessel, other than one carrying the equivalent of Bunker C oil in the center tanks and which is equipped with gas free ballast wing tanks, must be equipped with a sufficient number of nonmetallic fenders to prevent any metallic part of the vessel from touching the side of a dock or lock wall.

2. Section 401.105–10 would be amended to require the reporting of flashpoint for hazardous cargo when calling-in and to renumber the references to §§ 401.103–3 and 401.103–4 § 401.103–5. This will provide information which will facilitate the handling of vessels while transiting the locks. The revised section would read as follows:

§ 401.105–10 Calling-in.

An explosive vessel shall report the Seaway Explosives Permit number, and both explosive and hazardous cargo vessels shall report the nature of their cargo and its flashpoint (hazardous cargo), in addition to the other required information, when calling-in as provided by § 401.103–5.

(68 Stat. 93–97, 33 U.S.C. 981–990, as amended)

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION,
[SEAL] D. W. OBERLIN,
Administrator.

[FR Doc.71–1523 Filed 2–4–71;8:45 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

BRASS KEY BLANKS FROM CANADA

Withholding of Appraisement Notice

Information was received on July 18, 1969, that brass key blanks from Canada were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice," which was published in the FEDERAL REGISTER of February 7, 1970, on page 2731. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) of such brass key blanks from Canada is less, or likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

Customs officers are being directed to withhold appraisement of brass key blanks from Canada in accordance with § 153.48, Customs Regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.57, Customs regulations (19 CFR 153.32(b), 153.37) interested parties may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any such written views or arguments, or requests should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice, which is published pursuant to § 153.34(a), Customs Regulations, shall become effective upon publication in the FEDERAL REGISTER (2–5–71). It shall cease to be effective at the expiration of 3 months from the date of such publication, unless previously revoked.

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

Approved: January 29, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71–1652 Filed 2–4–71;8:52 am]

TEMPERED SHEET GLASS FROM JAPAN

Withholding of Appraisement Notice

Information was received on June 20, 1969, that tempered sheet glass from Japan was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). This information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER on September 9, 1969, on page 14177. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) of such tempered sheet glass from Japan is less, or likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

Statement of reasons. One exporter was found to be exporting tempered sheet glass to the United States.

Sales to the United States appear to be made to unrelated parties within the meaning of section 207 of the Act (19 U.S.C. 166).

Insufficient quantities of such or similar merchandise are sold in the Japanese home market to furnish a basis for fair value comparisons.

Accordingly, purchase price was compared with the adjusted third country price of such or similar merchandise sold to Canada.

Purchase price will probably be computed by deducting from the delivered duty-paid price for exportation to the United States the included freight charges, commissions, discounts, marine insurance, packing, and U.S. duty charges applicable.

The adjusted third country price will probably be calculated on the basis of a c.i.f. Vancouver, duty-included price, less freight charges, commissions, discounts, marine insurance, packing and the applicable Canadian duty charges.

The comparisons indicate that purchase price is probably lower than the adjusted third country price of such or similar merchandise sold to Canada.

Customs officers are being directed to withhold appraisement of tempered sheet glass from Japan in accordance with § 153.48, Customs regulations (19 CFR 153.48).

In accordance with §§ 153.32(b) and 153.37, Customs regulations (19 CFR 153.32(b), 153.37), interested parties may present written views or arguments, or requests in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any written views or arguments or requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, DC 20226, in time to be received by his office not later than 14 days from the date of publication of this notice in the FEDERAL REGISTER.

This notice, which is published pursuant to § 153.34(b), Customs regulations, shall become effective upon publication in the FEDERAL REGISTER (2–5–71). It shall cease to be effective at the expiration of 6 months from the date of such publication, unless previously revoked.

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

Approved: January 29, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71–1654 Filed 2–4–71;8:52 am]

Internal Revenue Service

RONALD W. ACKERMAN

Notice of Granting of Relief

Notice is hereby given that Ronald W. Ackerman, 3795 Maid Marion Lane, Memphis, TN 38111, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on April 5, 1960, in the Criminal Court of Shelby County, Tenn., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Ronald W. Ackerman because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Ronald W. Ackerman to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Ronald W. Ackerman's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances re-

garding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Ronald W. Ackerman be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 25th day of January 1971.

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

[FR Doc.71-1642 Filed 2-4-71;8:51 am]

OSWALD A. BROWER

Notice of Granting of Relief

Notice is hereby given that Oswald A. Brower, 303 East Second Street, Cosmopolis, WA 98537, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction during the month of November 1927 (indicted on Feb. 19, 1927), in the Federal District Court in Tacoma, Wash., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Oswald A. Brower because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer, or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Oswald A. Brower to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Oswald A. Brower's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Oswald A. Brower be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reasons of the conviction hereinabove described.

Signed at Washington, D.C., this 28th day of January 1971.

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

[FR Doc.71-1643 Filed 2-4-71;8:51 am]

GERARD HENRY EXLEY, SR.

Notice of Granting of Relief

Notice is hereby given that Gerard Henry Exley, Sr., 428 King Street, East Stroudsburg, PA 18301, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 2, 1961, in Monroe County Court, East Stroudsburg, Pa., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Gerard Henry Exley, Sr. because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Gerard Henry Exley, Sr. to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Gerard Henry Exley, Sr.'s application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Gerard Henry Exley, Sr. be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington D.C., this 25th day of January, 1971.

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

[FR Doc.71-1644 Filed 2-4-71;8:51 am]

EDDIE HARKNESS

Notice of Granting of Relief

Notice is hereby given that Eddie Harkness, 20257 Wyoming, Detroit, MI, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions in 1934, 1938, and 1957, in Detroit Mich., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Eddie Harkness because of such convictions, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C. Appendix), because of such convictions, it would be unlawful for Eddie Harkness to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Eddie Harkness' application and:

(1) I have found that the convictions were made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Eddie Harkness be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 29th day of January 1971.

[SEAL] DEAN J. BARRON,
Acting Commissioner of Internal Revenue.

[FR Doc. 71-1645 Filed 2-4-71;8:51 am]

PAUL G. HEDGE

Notice of Granting of Relief

Notice is hereby given that Mr. Paul G. Hedge, 12276 Meyers, Detroit, MI

48227, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on August 27, 1956, in the Recorder's Court, Detroit, Mich., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Paul G. Hedge because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Paul G. Hedge to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Paul G. Hedge's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Paul G. Hedge be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 25th day of January 1971.

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

[FR Doc.71-1646 Filed 2-4-71;8:51 am]

PAUL WILLIAM PEARSON

Notice of Granting of Relief

Notice is hereby given that Mr. Paul William Pearson, R. Route No. 2, Versailles, OH 45380, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on February 27, 1959, in the U.S. District Court for the Southern District of Ohio, of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Paul William Pearson because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Paul William Pearson to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Paul William Pearson's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Paul William Pearson be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 29th day of January 1971.

[SEAL] DEAN J. BARRON,
Acting Commissioner of Internal Revenue.

[FR Doc.71-1647 Filed 2-4-71;8:51 am]

HENRY PRUITT, JR.

Notice of Granting of Relief

Notice is hereby given that Henry Pruitt, Jr., 2339 Hanley Street, Gary, IN, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his convictions on January 10, 1958, in the U.S. District Court, Hammond, Ind., of crimes punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Henry Pruitt, Jr., because of such convictions, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code, as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such convictions, it would be unlawful for Henry Pruitt, Jr., to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Henry Pruitt, Jr.'s, application and:

(1) I have found that the convictions were made upon charges which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the convictions and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered*, That Henry Pruitt, Jr., be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the convictions hereinabove described.

Signed at Washington, D.C., this 27th day of January 1971.

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

[FR Doc.71-1648 Filed 2-4-71;8:51 am]

PAUL CLINTON THOMPSON

Notice of Granting of Relief

Notice is hereby given that Paul Clinton Thompson, Route 1, Box 130, Alexander, AR, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on April 4, 1960, in the U.S. District Court for the Eastern District of Arkansas of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Paul C. Thompson because of such conviction, to ship, transport, or receive interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Paul C. Thompson to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Paul C. Thompson's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144, it is ordered that Paul C. Thompson be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 25th day of January 1971.

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

[FR Doc.71-1649 Filed 2-4-71;8:51 am]

STEVEN ALLEN TRAINOR

Notice of Granting of Relief

Notice is hereby given that Steven Allen Trainor, Route 1, Menomonie, WI 54751, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on March 26, 1969 in the Pepin County Court, Durand, Wis., of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Steven Allen Trainor because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Steven Allen Trainor to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Steven Allen Trainor's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Steven Allen Trainor be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 26th day of January 1971.

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

[FR Doc.71-1650 Filed 2-4-71; 8:51 am]

HARRY EDWARD WARD

Notice of Granting of Relief

Notice is hereby given that Harry Edward Ward, 4143 Branch Road, Flint, MI 48506, has applied for relief from disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms incurred by reason of his conviction on June 19, 1961, in the Genesee County, Michigan, Circuit Court of a crime punishable by imprisonment for a term exceeding 1 year. Unless relief is granted, it will be unlawful for Harry Edward Ward because of such conviction, to ship, transport or receive in interstate or foreign commerce any firearm or ammunition, and he would be ineligible for a license under chapter 44, title 18, United States Code as a firearms or ammunition importer, manufacturer, dealer or collector. In addition, under title VII of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (82 Stat. 236; 18 U.S.C., Appendix), because of such conviction, it would be unlawful for Harry Edward Ward to receive, possess, or transport in commerce or affecting commerce, any firearm.

Notice is hereby given that I have considered Harry Edward Ward's application and:

(1) I have found that the conviction was made upon a charge which did not involve the use of a firearm or other weapon or a violation of chapter 44, title 18, United States Code, or of the National Firearms Act; and

(2) It has been established to my satisfaction that the circumstances regarding the conviction and the applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief would not be contrary to the public interest.

Therefore, pursuant to the authority vested in the Secretary of the Treasury by section 925(c), title 18, United States Code and delegated to me by 26 CFR 178.144: *It is ordered,* That Harry Edward Ward be, and he hereby is, granted relief from any and all disabilities imposed by Federal laws with respect to the acquisition, receipt, transfer, shipment, or possession of firearms and incurred by reason of the conviction hereinabove described.

Signed at Washington, D.C., this 29th day of January 1971.

[SEAL] DEAN J. BARRON,
Acting Commissioner of Internal Revenue.

[FR Doc.71-1651 Filed 2-4-71;8:51 am]

Office of the Secretary

BRASS KEY BLANKS FROM CANADA

Determination of Sales at Less Than Fair Value

JANUARY 29, 1971.

Information was received on July 18, 1969, that brass key blanks from Canada were being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" issued by the Commissioner of Customs is being published concurrently with this notice.

I hereby determine that brass key blanks from Canada are being, or are likely to be, sold at less than fair value within the meaning of section 201(a) of the Act.

Statement of reasons. One manufacturer was found to be exporting brass key blanks to the United States. Sales in the home market were sufficient to afford a basis for comparison.

None of the parties involved in these sales was related within the meaning of section 207 of the Act.

Purchase price was compared to home market price for fair value purposes.

Purchase price was based on the delivered price to purchasers in the United States. Deductions were made for discounts, Customs brokerage charges, freight, insurance and U.S. duty. The Canadian Federal Sales Tax was added in to arrive at a net purchase price.

Home market price was based on both ex-factory and delivered to customer prices in Canada. Applicable discounts were deducted. A deduction for freight and insurance was also made when delivered price was used as a basis for comparison.

Comparison between purchase price and home market price revealed that purchase price was lower than home market price.

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-1653 Filed 2-4-71;8:52 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

CERTAIN STATES AND COMMONWEALTH OF PUERTO RICO

Notice of Intended Designation Under Federal Meat Inspection Act

Paragraph 301(c) of the Federal Meat Inspection Act, as amended (21 U.S.C.

661(c)) required the Secretary of Agriculture to designate promptly after December 15, 1969, any State[1] as one in which the requirements of titles I and IV of said Act shall apply to intrastate operations and transactions, and to persons, firms and corporations engaged therein, with respect to meat products and other articles and animals subject to the Act, if he determined after consultation with the Governor of the State, or his representative, that the State involved had not developed and activated requirements, at least equal to those under titles I and IV, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered, or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State. However, if the Secretary had reason to believe that the State would activate the necessary requirements within an additional year, he could allow the State the additional year in which to activate such requirements. There was reason to believe that the Commonwealth of Puerto Rico, Hawaii, Indiana, Kentucky, Louisiana, Minnesota, Montana, North Carolina, Ohio, Oregon, Texas, and West Virginia would activate such requirements if they were allowed an additional year in which to do so and accordingly the Secretary allowed each of these jurisdictions such additional time.

However, the Secretary has now determined that the Commonwealth of Puerto Rico, Hawaii, Indiana, Kentucky, Louisiana, Minnesota, Montana, North Carolina, Ohio, Oregon, Texas, and West Virginia have not developed and activated the prescribed requirements. Therefore, notice is hereby given that the Secretary will designate said jurisdictions under paragraph 301(c) of the Act as soon as necessary arrangements can be made for determining which establishments in these jurisdictions are eligible for Federal inspection, for providing inspection at the eligible establishments, and for otherwise enforcing the applicable provisions of the Federal Act with respect to intrastate activities in such jurisdictions when the designation is made and becomes effective. As soon as these arrangements are completed, notice of the final designation will be published in the FEDERAL REGISTER. Upon the expiration of 30 days after such publication, the provisions of titles I and IV of said Act shall apply to intrastate operations and transactions and to persons, firms, and corporations engaged therein, in said jurisdictions, to the same extent and in the same manner as if such operations and transactions were conducted in or for "commerce" within the meaning of the Act, except as otherwise provided in subparagraph 301(c)(2) of the Act, and any establishment in the Commonwealth of Puerto Rico, Hawaii, Indiana, Kentucky, Louisiana, Minnesota, Montana, North Carolina, Ohio, Oregon, Texas, and West Virginia which conducts any slaughtering or preparation of carcasses or parts or products thereof as described above must have Federal inspection or cease its operations, unless it qualifies for an exemption under the Act. The exemption provisions of the Act are very limited.

Therefore, the operator of each such establishment who desires to continue such operations after designation of the jurisdiction becomes effective should immediately communicate with the appropriate Regional Director listed below for information concerning the requirements and exemptions under the Act and application for inspection and a survey of the establishment.

For Commonwealth of Puerto Rico—
Dr. M. J. Hatter, Director, 1718 Peachtree Street NW., Room 216, Atlanta, GA 30309 (Telephone: Area Code 404–526–3911).

For Hawaii, Oregon—
Dr. E. M. Christopherson, Director, Room 822, Appraisers Building, 630 Sansome Street, San Francisco, CA 94111 (Telephone: Area Code 415–556–8622).

For Louisiana, Texas—
Dr. W. H. Irvin, Director, Room 376, Merchandise Mart Building, 500 South Ervay Street, Dallas, TX 75201 (Telephone: Area Code 214–749–3747).

For Minnesota, Montana—
Dr. L. H. Burkert, Director, Room 638, Federal Building and U.S. Courthouse, 316 Robert Street, St. Paul, MN 55101 (Telephone: Area Code 612–725–7835).

For Indiana, Ohio—
Dr. L. J. Rafoth, Director, Room 984, 536 South Clark, Chicago, IL 60605 (Telephone: Area Code 312–353–5802).

For Kentucky, North Carolina, West Virginia—
Dr. G. Harner, Director, 310 New Bern Avenue, Federal Bul indiagR,ei l Avenue, Federal Building, Raleigh, NC 27611 (Telephone: Area Code 919–755–4180).

Done at Washington, D.C., on February 2, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71–1639 Filed 2–4–71;8:51 am]

[1] The term "State" is defined by the Act, for purposes of paragraph 301(c), to mean any State, the Commonwealth of Puerto Rico, or any organized Territory of the United States.

Office of the Secretary

TENNESSEE

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961) and section 232 of the Disaster Relief Act of 1970 (Public Law 91–606) it has been determined that in the following counties in the State of Tennessee natural disasters have caused a general need for agricultural credit:

TENNESSEE

Fayette.	McNairy.
Henderson.	Shelby.
Henry.	Tipton.
Humphreys.	

Emergency loans will not be made in the above-named counties under this designation after June 30, 1971, except subsequent loans to qualified borrowers who receive initial loans under this designation on or before that date.

Done at Washington, D.C., this 29th day of January 1971.

J. PHIL CAMPBELL,
Acting Secretary.

[FR Doc.71–1602 Filed 2–4–71;8:48 am]

TEXAS

Designation of Areas for Emergency Loans

For the purpose of making emergency loans pursuant to section 321 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961) and section 232 of the Disaster Relief Act of 1970 (Public Law 91–606) it has been determined that in the following counties in the State of Texas, natural disasters have caused a general need for agricultural credit:

TEXAS

Cochran.	Yoakum.
Victoria.	

Emergency loans will not be made in the above-named counties under this designation after June 30, 1971, except subsequent loans to qualified borrowers who receive initial loans under this designation on or before that date.

Done at Washington, D.C., this 29th day of January 1971.

J. PHIL CAMPBELL,
Acting Secretary.

[FR Doc.71–1603 Filed 2–4–71;8:48 am]

DEPARTMENT OF COMMERCE

Bureau of Domestic Commerce

ARMED FORCES INSTITUTE OF PATHOLOGY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following notice of decision published in Volume 36, No. 7 of the FEDERAL REGISTER (Tuesday, Jan. 12, 1971) pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) is hereby amended to read Docket No. 70–00815–33–46040 instead of 71–00815–33–46040.

Docket No. 70–00815–33–46040. Applicant: Armed Forces Institute of Pathology, Washington, DC 20305. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens A.G., West Germany.

Intended use of article: The article will be used for research on ocular and other body tissues that have been especially prepared and sectioned for ultrastructural studies. In addition, cell suspensions, tissue fragments, cytoplasmic organelles, chromosomes, bacteria, viruses, and fungi will constitute the material under investigation. The Ophthalmic Pathology Branch conducts a comprehensive training program for physicians in ophthalmic pathology, including

the use of all modern methods of tissue examination.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU–4B electron microscope which was formerly manufactured by the Radio Corp. of America and which is presently being supplied by the Forgflo Corp. The Model EMU–4B has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We find that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU–4B is not of equivalent scientific value to the foreign article for such purposes as article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[FR Doc.71–1589 Filed 2–4–71;8:47 am]

BATTELLE-NORTHWEST

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00719–75–14200. Applicant: Battelle-Northwest, Post Office Box 999, Richland, WA 99352. Article: Quantimet 720 image analyzing system for analyzing photomicrographs. Manufacturer: Metals Research, Ltd., United Kingdom.

Intended use of article: The article will be used in nuclear research programs studying unirradiated and irradiated metals and ceramics for nuclear applications, principally mixed uranium and plutonium oxide fuels, stainless steel cladding and structural materials, and absorber materials being studied for LMFBR and FFTF applications.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capability to interface with the applicant's computer. We are advised by the National Bureau of Standards (NBS) in its memorandum dated October 13, 1970, that the capability to be interfaced with the applicant's computer is a pertinent characteristic to the purposes for which the foreign article is intended to be used. NBS further advises that it knows of no scientifically equivalent domestic instrument which provides the pertinent characteristic of the foreign article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[FR Doc.71–1590 Filed 2–4–71;8:47 am]

BETH ISRAEL HOSPITAL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 71–00023–33–46040. Applicant: Beth Israel Hospital, 330 Brookline Avenue, Boston, MA 02215. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic NVD, The Netherlands.

Intended use of article: The article will be used in scientific investigations including cytochemical localization of several hydrolytic enzymes in smooth muscle cells; cytochemical study of lysosomal enzymes in platelets during aggregation; ionic movements in the turtle bladder preparation, including the effects of enzymatic poisons; studies of experimental injury to the gastrointestinal mucosa; and composition of tubular casts encountered in experimental renal failure.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 220 to 550,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU–4B which was formerly manufactured by the Radio Corp. of America and which is presently being supplied by the Forgflo Corp. The Model EMU–4B, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU–4B that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU–4B requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated November 13, 1970, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 220 to 550,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs a low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU–4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[FR Doc.71–1591 Filed 2–4–71;8:47 am]

CLEMSON UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the

Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 71–00019–65–46040. Applicant: Clemson University, Clemson, SC 29631. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used in research programs concerning studies of the surface structure of pure metal films on their catalytic activity; the fine structure of cells and tissues which are components of the neuroendocrine system of invertebrates; ecological studies of mixed bacteriophage populations in natural ecosystems; a study of the plastic deformation of intermetallic compounds as applied to metallic dental materials; and studies of ceramics, textiles and crystal growth.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 220 to 550,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU–4B which was formerly manufactured by the Radio Corp. of America and which is presently being supplied by the Forgflo Corp. The Model EMU–4B, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU–4B that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU–4B requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated November 13, 1970, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 220 to 550,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs a low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU–4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[FR Doc.71–1592 Filed 2–4–71;8:47 am]

DUKE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Deparment of Commerce, Washington, D.C.

Docket No. 70–00818–01–77030. Applicant: Duke University, Durham, NC 27706. Article: HFX nuclear induction/Fourier Transform spectrometer system. Manufacturer: Bruker Scientific Inc., West Germany.

Intended use of article: The article will be used for graduate level education in the chemistry department conducted by members of the faculty of that department together with their graduate students. Typical examples of the intended use include structural determinations on newly synthesized compounds and the measurement of important physiochemical parameters of new and already known compounds.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, could have been made available to the applicant institution without excessive delay.

Reasons: The foreign article is of the category that is customarily produced on order. Section 602.1(f)(2) of the above-cited regulations provide:

Produced on order. An instrument, apparatus or accessory shall be considered to be produced on order if a domestic manufacturer lists it in a current catalog and is able and willing to produce the instrument, apparatus or accessory within the United States and have it available without unreasonable delay to the applicant. In determining whether a U.S. manufacturer is able and willing to produce such instrument, apparatus, or accessory and have it so available, the Administrator shall take into account the normal commercial practices applicable to the production and delivery of instruments, apparatus, or accessories of the same general category.

The matter of availability without unreasonable delay is associated with the issue of excessive delivery time which is explained in § 602.1(g) of the regulations as follows:

Excessive delivery time. Duty-free entry of the article shall be considered justified without regard to whether there is being manufactured in the United States an instrument, apparatus or accessory of equivalent scientific value for the purposes described in response to Question 7, if the delay in obtaining such domestic instrument, apparatus or accessory (as indicated in the difference between the delivery times quoted respectively by domestic manufacturer and foreign manufacturer) will seriously impair the accomplishment of the purposes. In determining whether the difference in delivery times is excessive, the Administrator shall take into account the relevancy of the applicant's program to other research programs with respect to timing, the applicant's need to have such instrument, apparatus or accessory available at the scheduled time for the course(s) in which the article is intended to be used, and other relevant circumstances.

We are advised by the National Bureau of Standards (NBS) in its memorandum dated November 4, 1970, that the Model XL–100 nuclear magnetic resonance (nmr) spectrometer manufactured by Varian Associates (Varian) is the only domestically manufactured scientifically equivalent instrument. However, the cited memorandum states in pertinent part, "The delivery time quoted by Varian was 180 to 210 days. The normal delivery time for an available domestic nmr spectrometer in the United States is 90 to 120 days." We find that the difference between the normal 90 to 120 days delivery time and the 180 to 210 days quoted by the domestic company to be excessive within the purview of the intended uses of the foreign article.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[FR Doc.71–1593 Filed 2–4–71;8:47 am]

MICHIGAN STATE UNIVERSITY ET AL.

Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C. 20230.

Decision: Applications denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles, for such purposes as the foreign articles are intended to be used, are not being manufactured in the United States.

Reasons: Section 602.5(e) of the regulations provides in pertinent part:

The applicant shall on or before the 20th day following the date of such notice [of

denial without prejudice to resubmission], inform the Administrator whether it intends to resubmit another application for the same article to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Administrator in writing prior to the expiration of the 90-day period. * * * If the applicant fails within the applicable time periods specified above, to either (1) inform the Administrator whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (2) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Administrator on the application within the context of the paragraph (d) of this section.

The meaning of the section is that should an applicant either fail to notify the Administrator of its intent to resubmit another application for the same article to which the denial without prejudice relates within the 20-day period, or fails to resubmit a new application within the 90-day period, the prior denial without prejudice to resubmission will have the effect of a final denial of the application.

None of the applicants to which this consolidated decision relates has satisfied the requirements set forth above; therefore, the prior denials without prejudice have the effect of a final decision denying their respective applications.

Section 602.5(e) further provides:

* * * the Administrator shall submit a summary of the prior denial without prejudice to resubmission to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant.

Each of the prior denials without prejudice to resubmission to which this consolidated decision relates was based on the failure of the respective applicants to submit the required documentation, including a completely executed application form, in sufficient detail to allow the issue of "scientific equivalency" to be determined by the Administrator.

Docket No. 70–00002–88–23600. Applicant: Michigan State University, Glaciological Institute, East Lansing, MI 48823. Article: Ice drill for measuring depth of glacier. Date of denial without prejudice to resubmission: January 29, 1970.

Docket No. 70–00006–05–01200. Applicant: University of Hawaii, Department of Linguistics, 1733 Donaggho Road, Kuykendell Hall 326, Honolulu, HI 96822. Article: Pitchmeter. Date of denial without prejudice to resubmission: February 9, 1970.

Docket No. 70–00007–33–11000. Applicant: St. Elizabeth Hospital, National Institute of Mental Health, William A. White Building, Washington, DC 20032. Article: Gas chromatograph-mass spectrometer, Model LKB 9000. Date of denial without prejudice to resubmission: February 10, 1970.

Docket No. 70–00011–65–46040. Applicant: Cornell University, Materials Science and Engineering, Ithaca, NY 14850. Article: Electron microscope JEM–200. Date of denial without prejudice to resubmission: September 4, 1969.

Docket No. 70–00013–00–61800. Applicant: Science Center of Pinellas County, Inc., 7701 22d Avenue North, St. Petersburg, FL 33710. Article: Hemispherical assembly for planetarium. Date of denial without prejudice to resubmission: February 17, 1970.

Docket No. 70–00014–00–61800. Applicant: Lindenhurst Public School, 141 School Street, Lindenhurst, NY 11757. Article: Hemispherical assembly for planetarium. Date of denial without prejudice to resubmission: February 18, 1970.

Docket No. 70–00017–00–77045. Applicant: Yale University, Bureau of Purchases, 20 Ashmun Street, New Haven, CT 06520. Article: Quartz plate. Date of denial without prejudice to resubmission: February 17, 1970.

Docket No. 70–00023–99–78050. Applicant: Cornell University, Department of Food Science, 12 Stocking Hall, Ithaca, NY 14850. Article: Dual beam, Model 402. Date of denial without prejudice to resubmission: February 17, 1970.

Docket No. 70–00025–33–46040. Applicant: The Forsyth Dental Center, 140 The Fenway, Boston, MA 02115. Article: Electron microscope, JEM–100B and JEM–AS. Date of denial without prejudice to resubmission: February 18, 1970.

Docket No. 70–00027–33–46500. Applicant: Veterans Administration Hospital, 1400 VFW Parkway, West Roxbury, MA 02132. Article: Ultramicrotome, LKB 8800A. Denial without prejudice to resubmission: February 24, 1970.

Docket No. 70–00036–33–46500. Applicant: University of California, San Francisco Medical Center, 1438 South 10th Street, Richmond, CA 94804. Article: Ultramicrotome, LKB 8800A with microscope. Date of denial without prejudice to resubmission: January 30, 1970.

Docket No. 70–00038–33–46500. Applicant: Yale University School of Medicine, 333 Cedar Street, New Haven, CT 06510. Article: Ultramicrotome, LKB 8800. Date of denial without prejudice to resubmission: January 28, 1970.

Docket No. 70–00042–33–46040. Applicant: Louisiana State University Medical Center, 1542 Tulane Avenue, New Orleans, LA 70112. Article: Electron Microscope, EM–300. Date of denial without prejudice to resubmission: February 18, 1970.

Docket No. 70–00062–88–46070. Applicant: Louisiana State University, Department of Geology, Baton Rouge, LA 70803. Article: Scanning electron microscope, JSM–2. Date of denial without prejudice to resubmission: May 20, 1970.

Docket No. 70–00065–88–75000. Applicant: New York State Museum and Science Service, Geological Survey, Room 973, State Education Building Annex, Albany, NY 12224. Article: Soiltest equipment. Date of denial without prejudice to resubmission: February 25, 1970.

Docket No. 70–00086–33–46040. Applicant: Veterans Administration Hospital, 1400 VFW Parkway, West Roxbury, MA 02132. Article: Electron microscope Model EM–300. Date of denial without prejudice to resubmission: February 25, 1970.

Docket No. 70–00096–01–77030. Applicant: DePauw University, Chemistry Department, Box 37, Greencastle, IN 46135. Article: NMR spectrometer, Model R–20. Date of denial without prejudice to resubmission: July 29, 1970.

Docket No. 70–00114–00–61800. Applicant: Middletown City Schools, 1515 Girard Avenue, Middletown, OH 45042. Article: Hemispherical assembly. Date of denial without prejudice to resubmission: March 4, 1970.

Docket No. 70–00115–00–61800. Applicant: Tulare County Department of Education, Educational Resources Center, 202 County Civic Center, Room 1, Visalia, CA 93277. Article: Hemispherical Assembly, Type 16. Date of denial without prejudice to resubmission: March 4, 1970.

Docket No. 70–00121–00–61800. Applicant: Huntington Union Free School District No. 3, 300 Broadway, Box 1500, Huntington, NY 11743. Article: Hemispherical assembly, Type 14. Date of denial without prejudice to resubmission: March 5, 1970.

Docket No. 70–00125–33–43400. Applicant: State University of New York, Upstate Medical Center, 766 Irving Avenue, Syracuse, NY 13210. Article: Micromanipulator. Date of denial without prejudice to resubmission: March 9, 1970.

Docket No. 70–00137–90–17800. Applicant: University of Hawaii, Food Science and Technology Department, 1920 Edmondson Road, Honolulu, HI 96822. Article: Silent cutter, Model SCP–2. Date of denial without prejudice to resubmission: March 13, 1970.

Docket No. 70–00140–33–60000. Applicant: Boston University, School of Medicine, 15 Stoughton Street, Boston, MA 02118. Article: Helium glow photometer. Date of denial without prejudice to resubmission: March 20, 1970.

Docket No. 70–00146–33–01110. Applicant: Children's Hospital Medical Center, Director of Purchases, 300 Longwood Avenue, Boston, MA 02115. Article: Amino acid analyzer, Model JLC–5AH. Date of denial without prejudice to resubmission: November 20, 1969.

Docket No. 70–00149–33–11000. Applicant: National Communicable Disease Center, 255 East Paces Ferry Road NE., Atlanta, GA 30305. Article: Gas Chromatograph-mass spectrometer, Model 9000. Date of denial without prejudice to resubmission: May 26, 1970.

Docket No. 70–00156–33–46500. Applicant: Washington University School of Medicine, 499 South Euclid, St. Louis, MO 63110. Article: Ultramicrotome, LKB 4800A. Date of denial without prejudice to resubmission: May 15, 1970.

Docket No. 70–00165–33–46500. Applicant: Jersey City State College, Department of Biology, 2039 Kennedy Boulevard, Jersey City, NJ 07305. Article: Ultramicrotome, LKB 8800A. Date of denial without prejudice to resubmission: March 18, 1970.

Docket No. 70–00171–63–46500. Applicant: Herbert H. Lehman College, Bedford Park Boulevard West, Bronx, NY 10468. Article: Ultramicrotome, LKB 8800. Date of denial without prejudice to resubmission: May 15, 1970.

Docket No. 70–00181–33–46070. Applicant: The University of Texas at Austin, Department of Engineering Mechanics, Box 7306 University Station, Austin, TX 78712. Article: Scanning electron microscope, JSM–2. Date of denial without prejudice to resubmission: August 20, 1970.

Docket No. 70–00183–33–46500. Applicant: Armed Forces Institute of Pathology, American Registry of Pathology, Washington, DC 20305. Article: Ultramicrotome, "Om U2". Date of denial without prejudice to resubmission: May 15, 1970.

Docket No. 70–00184–65–28200. Applicant: University of Rochester Medical Center, Purchasing Department, Rochester, NY 14620. Article: electron spin spectrometer, JES–3BX. Date of denial without prejudice to resubmission: March 24, 1970.

Docket No. 70–00186–33–43400. Applicant: University of Hawaii, Department of Physiology, 2538 The Mall, Snyder Hall 407, Honolulu, HI 96822. Article: Six micromanipulators, two magnetic stands and two pillar stands. Date of denial without prejudice to resubmission: March 25, 1970.

Docket No. 70–00191–65–74600. Applicant: Duke University Medical Center, 117 South Buchanan Boulevard, Durham, NC 27706. Article: Signal averager. Date of denial without prejudice to resubmission: January 27, 1970.

Docket No. 70–00197–33–00530. Applicant: University of Minnesota, Minneapolis, MN 55455. Article: Linear accelerator, treatment couch and accessories. Date of denial without prejudice to resubmission: March 27, 1970.

Docket No. 70–00201–01–77040. Applicant: Yale University, Purchasing Division, 20 Ashmun Street, New Haven, CT 06520. Article: Mass spectrometer RMU–6. Date of denial without prejudice to resubmission: April 9, 1970.

Docket No. 70–00218–65–74600. Applicant: Hines Veterans Administration Hospital, Supply Division, Hines, IL 60141. Article: Signal averaging computer. Date of denial without prejudice to resubmission: February 18, 1970.

Docket No. 70–00226–33–46070. Applicant: University of California, Lawrence Radiation Laboratory, East End of Hearst Avenue, Berkeley, CA 94720. Article: Scanning electron microscope, JSM–U3. Date of denial without prejudice to resubmission: May 12, 1970.

Docket No. 70–00239–16–61800. Applicant: Richmond Public Schools, Department of Special Services, 2907 North Boulevard, Richmond, VA 23230. Article: Planetariums and auxiliary projectors, Model Eros. Date of denial without prejudice to resubmission: April 14, 1970.

Docket No. 70–00249–33–46040. Applicant: Institute for Medical Research, Copewood Street, Camden, NJ 08103. Article: Electron microscope, Elmiskop 101. Date of denial without prejudice to resubmission: March 3, 1970.

Docket No. 70–00253–33–07700. Applicant: The University of Texas at Austin, Department of Zoology, Box 7306, University Station, Austin, TX 78712. Article: Oscillographic camera. Date of denial without prejudice to resubmission: April 17, 1970.

Docket No. 70–00200–01–70700. Applicant: University of Wisconsin, Room 211, Chemical Engineering Department, 750 University Avenue, Madison, WI 53706. Article: Ultraviolet recorder. Date of denial without prejudice to resubmission: April 13, 1970.

Docket No. 70–00215–33–46500. Applicant: Indiana State University, 217 North Sixth Street, Terre Haute, IN 47809. Article: Ultramicrotome, "Om U2". Date of denial without prejudice to resubmission: April 6, 1970.

Docket No. 70–00228–33–43400. Applicant: Washington University, Department of Biology, Lindell and Skinker, St. Louis, MO 63130. Article: Miniature micromanipulator, Model MM–3. Date of denial without prejudice to resubmission: April 17, 1970.

Docket No. 70–00233–00–61800. Applicant: Greenwood School District No. 50, Post Office Box 248, Magnolia Street, Greenwood, SC 29646. Article: Hemispherical assembly, Type 16. Date of denial without prejudice to resubmission: April 9, 1970.

Docket No. 70–00257–16–61800. Applicant: Suffolk County Community College, 533 College Road, Selden, NY 11901. Article: Planetariums and auxiliary projectors, Model Eros. Date of denial without prejudice to resubmission: April 21, 1970.

Docket No. 70–00256–91–46500. Applicant: Southern Illinois University, Department of Botany, Carbondale, IL 62901. Article: Ultramicrotome, "OM U2". Date of denial without prejudice to resubmission: April 17, 1970.

Docket No. 70–00259–33–46070. Applicant: U.S. Department of Agriculture, U.S.D.A., ARS, Southern Administration Division, Post Office Box 53326, New Orleans, LA 70150. Article: Scanning electron microscope, stereoscan. Date of denial without prejudice to resubmission: June 19, 1970.

Docket No. 70–00290–65–07730. Applicant: University of Connecticut, Institute of Materials Science, Storrs, CT 06268. Article: Focusing X-ray diffraction camera. Date of denial without prejudice to resubmission: April 27, 1970.

Docket No. 70–00293–33–43400. Applicant: University of Arizona College of Medicine, Department of Physiology, College of Medicine, Tucson, AZ 85721. Article: Micromanipulators, MP2 and MM3. Date of denial without prejudice to resubmission: April 27, 1970.

Docket No. 70–00299–33–46020. Applicant: University of Louisville, School of Medicine, 511 South Floyd Street, Louisville, KY 40202. Article: Stereomicroscope. Date of denial without prejudice to resubmission: April 28, 1970.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[FR Doc.71–1594 Filed 2–4–71;8:47 am]

OHIO STATE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 71–00069–33–46040. Applicant: The Ohio State University, Department of Pharmacology, 190 North Oval Drive, Columbus, OH 43210. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronics NVD, The Netherlands.

Intended use of article: The article will be used as a research tool in the elucidation of the mechanism of action of drugs at the subcellular level. Studies include observations of the cellular fine structure changes that are induced by drug interaction that is known to have produced a specific recorded pharmacological response and an attempt to localize drug accumulation at the fine structure and macromolecular level by autoradiographic and immunochemical methods.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 250 to 550,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU–4B, which was formerly manufactured by the Radio Corp. of America and which is presently being supplied by the Forgflo Corp. The Model EMU–4B, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU–4B that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU–4B requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated November 20, 1970, that the applicant requires the capability of taking

high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that beaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 250 to 550,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU–4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[FR Doc.71–1595 Filed 2–4–71;8:47 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00821–33–77040. Applicant: University of California, Los Angeles, School of Medicine, Center for the Health Science, 405 Hilgard Avenue, Los Angeles, CA 90024. Article: Mass spectrometer, Model MS–902. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom.

Intended use of article: The article will be used for structural studies of products and intermediates in chemical reactions, products, and intermediates of enzymic reactions, and of natural products. These include sterols, steroids and terpenes; hormones; amino acids and polypeptides (sequencing); oligo- and poly-saccharides; lipids of all classes, particularly those found in brain under normal and abnormal metabolites in body fluids, tissues and cells particularly in metabolic disorders associated with mental retardation and abnormal functions of the central nervous system.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a guaranteed resolution of 70,000, at a 10 percent valley definition. The most closely comparable domestic instrument is the Model 21–110B mass spectrometer that is manufactured by the Consolidated Electrodynamics Corp. (CEC). The CEC Model 21–110B provides a guaranteed resolution of 40,000 at a 10 percent valley definition. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum of October 30, 1970, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. For this reason, we find that the CEC Model 21–110B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article for the purposes for which such article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[FR Doc.71–1596 Filed 2–4–71;8:47 am]

UNIVERSITY OF CALIFORNIA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70–00822–33–46040. Applicant: University of California at Davis, School of Medicine, Department of Pathology, Davis, CA 95616. Article: Electron microscope, Model EM 9S. Manufacturer: Carl Zeiss, West Germany.

Intended use of article: The article will be used to study the general ultrastructure of normal and abnormal specimens of human mammary tissue. Considerable emphasis will be placed on relatively low magnification medium resolution microscopy of the mammary tissue in order to determine the pathological, physiological, and morphological characteristics.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 0 to 60,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU–4B which was formerly manufactured by the Radio Corp. of America and which is presently being supplied by the Forgflo Corp. The Model EMU–4B, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU–4B that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU–4B requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 23, 1970, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 0 to 60,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs a low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU–4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[FR Doc.71–1597 Filed 2–4–71;8:47 am]

UNIVERSITY OF SOUTHWESTERN LOUISIANA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 71-00084-33-46040. Applicant: University of Southwestern Louisiana, Lafayette, LA 70501. Article: Electron microscope, Model EM 6B, and camera. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom.

Intended use of article: The article will be used for student training in electron microscopy and for microbiological research. One project concerns the electron microscopic and autoradiographic study of fungal hyphal tip growth and hyphal tip fusion. Emphasis will be placed on ultrastructural changes in hyphal wall and cell membrane during tip fusion.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 200 to 250,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU-4B which was formerly manufactured by the Radio Corp. of America and which is presently being supplied by the Forgflo Corp. The Model EMU-4B, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU-4B that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU-4B requires a break in the vacuum of the column. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated November 20, 1970, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

HEW further advises that breaking the vacuum in the column induces the danger of contamination which would very likely lead to the failure of the experiment. Therefore, the capability of moving from 200 to 250,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs a low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU-4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[FR Doc.71-1598 Filed 2-4-71;8:47 am]

UNIVERSITY OF WASHINGTON

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Scientific Instrument Evaluation Division, Department of Commerce, Washington, D.C.

Docket No. 70-00155-60-46040. Applicant: University of Washington, College of Forest Resources, Seattle, WA 98105. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electron Instruments, Inc., The Netherlands.

Intended use of article: The article will be used for the following scheduled and projected investigations:

1. Cytological comparison of Pseudotsuga menziesii cambia forming compression wood with those forming normal wood;

2. Cytological comparison of Pseudotsuga menziesii cambial tissue grown in vitro with normal Douglas fir cambia.

3. Study of the crystalline structure of cellulose microfibrils in Pseudotsuga menziesii xylem cell walls;

4. Examination of machined and fractured wood surfaces;

5. Investigation of the interaction of adhesives and synthetic polymers with wood and cellulose fibers.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a continuous magnification from 220 to 550,000 magnifications, without changing the polepiece. The most closely comparable domestic instrument is the Model EMU-4B which was formerly manufactured by the Radio Corp. of America and which is presently being supplied by the Forgflo Corp. The Model EMU-4B, with its standard polepiece, has a specified range from 1,400 to 240,000 magnifications. For survey and scanning, the lower end of this range can be reduced to 200 magnifications or less. But the continued reduction of magnification induces an increasingly greater distortion. The domestic manufacturer suggests in its literature on the Model EMU-4B that for highest quality, low magnification electron micrographs in the magnification range between 500 and 70,000 magnifications, an optional low magnification polepiece should be used. Changing the polepiece on the Model EMU-4B requires a break in the vacuum of the column. We are advised by the National Bureau of Standards (NBS) in its memorandum dated November 17, 1970, that the applicant requires the capability of taking high-quality micrographs at low magnifications in order to achieve the purposes for which the article is intended to be used.

NBS further advises that breaking the vacuum in the column in order to change the magnification would tend to prevent the applicant from using the electron microscope fully for his purposes. Therefore, the capability of moving from 220 to 550,000 magnifications without changing polepieces, while at the same time providing high-quality micrographs at low magnifications, is considered to be a pertinent characteristic. For these reasons, we find that the Model EMU-4B is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

CHARLEY M. DENTON,
Bureau of Domestic Commerce.

[FR Doc.71-1599 Filed 2-4-71;8:47 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-196; NADA No. 11-264V]

CHAS. PFIZER & CO., INC.

Ataraxoid Tablets; Notice of Withdrawal of Approval of New Animal Drug Application

A notice of opportunity for a hearing proposing to withdraw approval of the NADA (new animal drug application) for Ataraxoid Tablets was published in the FEDERAL REGISTER of July 21, 1970 (35 F.R. 11651).

Chas. Pfizer & Co., Inc., 235 East 42d Street, New York, NY 10017, holder of NADA No. 11-264V covering said drug, did not file within the 30-day period provided a written appearance of election regarding whether or not they wished to avail themselves of the opportunity for a hearing. This is construed as an election by the firm not to avail themselves of the opportunity for a hearing.

Based on the grounds set forth in and the response to the notice, the Commissioner of Food and Drugs concludes that approval of the new animal drug application should be withdrawn. Therefore,

pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of new animal drug application No. 11–264V, including all amendments and supplements thereto, is hereby withdrawn effective on the date of signature of this document.

Dated: January 26, 1971.

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

[FR Doc.71–1577 Filed 2–4–71;8:46 am]

Office of the Secretary

PUBLIC PARTICIPATION IN RULE MAKING

Statement of Policy

Notice is hereby given of a statement of policy on public participation in rule making issued by the Secretary. As a matter of policy, the Department will use notice of proposed rule making procedures in certain cases where not required by law. The Secretary's statement reads as follows:

Generally, before rules and regulations are issued by Government agencies, the Administrative Procedure Act (APA) provides that notice of the proposed rule making must be published in the FEDERAL REGISTER and interested persons must be given an opportunity to participate in the rule making through submission of data, views, or arguments.

The APA exempts from this requirement matters relating to public property, loans, grants, benefits, or contracts. Legislation has been introduced to repeal this exemption. The Administrative Conference of the United States has recommended, however, that Government agencies require public participation in accordance with the APA provisions when formulating rules in the five exempt categories listed above, without waiting for the statute to be amended.

Our implementation of the Conference's recommendation should result in greater participation by the public in the formulation of this Department's rules and regulations. The public benefit from such participation should outweigh any administrative inconvenience or delay which may result from use of the APA procedures in the five exempt categories.

Effective immediately, all agencies and offices of the Department which issue rules and regulations relating to public property, loans, grants, benefits, or contracts are directed to utilize the public participation procedures of the APA, 5 U.S.C. 553. Although the APA permits exceptions from these procedures when an agency for good cause finds that such procedures would be impracticable, unnecessary or contrary to the public interest, such exceptions should be used sparingly, as for example in emergences and in instances where public participation would be useless or wasteful because proposed amendments to regulations cover minor technical matters.

Dated: January 28, 1971.

RODNEY H. BRADY,
Assistant Secretary for Administration.

[FR Doc.71–1604 Filed 2–4–71;8:48 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50–361, 50–362]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS AND ELECTRIC CO.

Notice of Receipt of Application for Construction Permit and Facility License; Time for Submission of Views on Antitrust Matter

The Southern California Edison Co., 601 West Fifth Street, Los Angeles, CA 90053, and the San Diego Gas and Electric Co., 101 Ash Street, San Diego, CA 92112, pursuant to the Atomic Energy Act of 1954, as amended, have filed an application, dated May 28, 1970, for authorization to construct two pressurized water nuclear reactors, designated as the San Onofre Nuclear Generating Station Units 2 and 3, on the applicants' site located at Camp Pendleton, San Diego County, CA.

The site is located on the west coast of Southern California, approximately 62 miles southeast of Los Angeles, approximately 51 miles northwest of San Diego, and is within the U.S. Marine Corps Base, Camp Pendleton.

Southern California Edison Co. (SCE) and San Diego Gas and Electric Co. (San Diego) are joint applicants for the construction permit for the San Onofre Nuclear Generating Station Units 2 and 3. The ownership for the two units will be shared in the proportion of 80 percent by SCE and 20 percent by San Diego. SCE, as project manager for the utilities, will have responsibility for the technical adequacy of the design and construction of the San Onofre plant.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after January 15, 1971.

The proposed nuclear powerplants which will be located adjacent to San Onofre Nuclear Generating Station, Unit 1, will consist of two pressurized water nuclear reactors, each of which is designed for initial operation at approximately 3,390 thermal megawatts with a net electrical output of approximately 1,140 megawatts.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Dated at Bethesda, Md., this 13th day of January 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director, Division of Reactor Licensing.

[FR Doc.71–648 Filed 1–14–71;8:51 am]

[Docket No. 50–346]

TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO.

Schedule for Hearing

In the matter of the Toledo Edison Co. and the Cleveland Electric Illuminating Co. (Davis-Besse Nuclear Power Station).

The hearing in the captioned matter will be continued on Monday, February 8, 1971, at 10 a.m., local time, in the Conference Room of the Trinity Methodist Church, Adams and Second Street, Port Clinton, OH.

Dated: February 2, 1971.

ATOMIC SAFETY AND LICENSING BOARD,
WALTER T. SKALLERUP, Jr.,
Chairman.

[FR Doc.71–1624 Filed 2–4–71;8:50 am]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 22578, 22579; Order 71–2–6]

ALLEGHENY AIRLINES, INC.

Order Regarding Applications

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of February 1971.

On September 21, 1970, Allegheny Airlines, Inc. (Allegheny), filed an application requesting amendment of its certificate of public convenience and necessity for route 97 to permit nonstop service between Toledo, Ohio, and Grand Rapids, Mich.[1] Allegheny concurrently filed an exemption application requesting the same authority.

In support of its exemption application, Allegheny asserts, interalia, that the Toledo-Grand Rapids market presently receives no direct air service; and that grant of the requested authority will enable Allegheny to provide new service benefits to Grand Rapids and strengthen its existing Toledo service to the east. Allegheny proposes to extend one existing Convair 580 round trip presently operated between Baltimore and Toledo via Pittsburgh, beyond Toledo to Grand Rapids, and to institute an additional Pittsburgh-Toledo-Grand Rapids round trip. The carrier asserts that its Grand Rapids-east services will result in a subsidy need reduction of $148,714 for the first full year of operation and provide additional route strengthening benefits to Allegheny.

Answers in support of Allegheny's exemption application were filed by the county of Allegheny, Pa., and the Grand Rapids parties.[2] United Air Lines, Inc. (United), filed an answer in opposition to Allegheny's exemption request to which Allegheny subsequently filed a reply.

In the circumstances herein presented, we do not believe that the Board's exemption procedure is the appropriate vehicle by which to proceed. Allegheny's exemption application falls within the

[1] Grand Rapids is a terminal point on segment 8 and Toledo is an intermediate point on segments 11 and 12. Allegheny's most direct routing between the two points requires a stop at the junction point Cincinnati, a highly circuitous routing.

[2] The city of Grand Rapids, the Greater Grand Rapids Chamber of Commerce and the county of Kent.

class of cases which Subpart M of the Board's rules of practice was specifically designed to accommodate, and for reasons set forth in Order 70–10–127, dated October 28, 1970, the instant application should have been filed under Subpart M procedures.[3]

Upon consideration of the pleadings and all the relevant facts, we have concluded that Allegheny's application would have been permitted to go forward had it been filed under Subpart M procedures. Allegheny's proposed service holds promise of resulting in a subsidy need reduction for the first full year of operations without substantial adverse impact on any other air carrier. In these circumstances, we will not require Allegheny to refile under Subpart M, but instead, its exemption and related certificate applications will be treated, in effect, as a Subpart M application, thus avoiding further delay and needless proliferation of filings.[4]

Accordingly, we intend to go forward with Allegheny's certificate application, Docket 22578. Allegheny will be given 10 days from the service date of this order to file in Docket 22578, copies of its exemption application presently on file in Docket 22579. Allegheny will also be expected to supplement its application by supplying a second-year financial forecast in accordance with the requirements of Rule 1304. All interested persons will be given 25 days to answer pursuant to Rules 1306 and 1307.

Based on our analysis of the pleadings, it is our tentative intention to grant the application if no adverse answer requiring a hearing is filed, and otherwise to direct that the application be heard on an expedited basis.

Accordingly, it is ordered, That:

1. Allegheny's application for an exemption, Docket 22579, be and it hereby is denied;

2. Within 10 days of the date of this order, Allegheny may file in Docket 22578 copies of the exemption application presently on file in Docket 22579, together with a supplement to its application setting forth a second-year forecast for Allegheny's proposal, such application and supplement to comply fully with Rule 1307(a) of the Board's rules of practice;

3. Within 25 days after the filing by Allegheny of its supplemented application, any interested persons may file with the Board an answer to said application pursuant to Rules 1306 and 1307 of the Board's rules of practice;

4. If answers opposing the application and requesting a hearing are filed pursuant to paragraph 3 above, and the Board determines that a hearing is required, Allegheny's application will be considered by the Board under the expedited procedures of Subpart M of its rules of practice, Rules 1308–1315.

5. In the event no such answers are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

6. A copy of this order shall be served upon the following, who are hereby made parties to the proceeding: All carriers certificated to serve Toledo, Ohio; Grand Rapids, Mich.; Pittsburgh, Pa.; the cities of Pittsburgh, Pa.; Grand Rapids, Mich.; and Toledo, Ohio; the county of Allegheny, Pa.; the county of Kent, Mich.; and the Chamber of Commerce of Grand Rapids.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–1631 Filed 2–4–71;8:50 am]

[Docket No. 23041]

CAYMAN AIRWAYS, LTD.

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on February 16, 1971, at 10 a.m., e.s.t., in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Greer M. Murphy.

Notice is given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement before February 12, 1971.

Dated at Washington, D.C., February 2, 1971.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[FR Doc.71–1628 Filed 2–4–71;8:50 am]

[Docket Nos. 22859, 23052; Order 71–1–139]

EASTERN AIR LINES, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of January 1971.

By tariff revisions variously bearing posting and issue dates of December 22, 1970, and December 28, 1970, and marked for effectiveness on February 1, 1971, Eastern Air Lines, Inc. (Eastern), proposes to increase its general commodity rates, and most specific commodity rates as follows:

(A) All general commodity rates except eastbound and northbound would be increased by 6 percent,

(B) Eastbound and northbound general commodity rates would be increased by 10 percent.

(C) Specific commodity rates (except on printed matter, floral and nursery products, and seafood), would be increased by the same dollar amount as the general commodity rates applicable between the same points, but not to exceed 10 percent, and

(D) The minimum weight for premium point-to-point specific commodity rates would be increased to 200 pounds.

Complaints requesting suspension and investigation have been filed by the Aquarium Supply Co., a division of Sternco Industries and by United Pet Dealers, Inc. The complaints variously assert, inter alia, that Eastern has not adequately justified its proposal, that the proposal will further compound inequalities in rates for live animals recognized by the Board, that increasing the minimum weight to 200 pounds for specific commodity rates on dogs and cats is excessive since the average shipment of such commodities is under 100 pounds, that the proposal will result in traffic being diverted from Eastern, and that if permitted to become effective Eastern's proposed rates would cause irreparable harm to the pet industry.

In justification of its proposal and in answer to the complaints, Eastern points to operating losses of more than $2 million annually in its all-cargo operation since its introduction in 1968. The carrier further points out that for the 12 months ending June 30, 1970, operating losses in its all-cargo operation were approximately $3 million, representing a 50-percent increase in loss over the comparable period for 1968. According to Eastern, its proposed rates will result in a 6.6-percent increase in its freight revenues or approximately $2.2 million based on total domestic freight revenue for the year ending September 30, 1970. Eastern claims, however, that the expected increases will not be enough to put its freight operation on a profitable basis.

In its answer to complaints filed January 7, 1971, Eastern stated that it would file further tariff revisions which will result in no increases over the current levels in rates applicable to exception rated traffic and to traffic under premium specific commodity rates.[1]

The Board, by Orders 70–12–143 and 71–1–63, recently permitted American Airlines, Inc. (American), and Braniff Airways, Inc. (Braniff), to put into effect, pending investigation, percentage increases in general commodity rates that are the same as those in the instant proposal. The Board, however, suspended American's and Braniff's proposals to the extent that such general commodity rates would be used to determine rates and minimum charges in conjunction with premium rates, chiefly applicable to live animals.

Consistent with the foregoing orders and after consideration of the complaints and other matters, the Board has determined to permit Eastern's proposed rates to become effective except as the proposed general commodity rates apply to the determination of exception rates and except for the specific commodity rates that are premium rates, and higher than

[3] In the cited order the Board stated: "Applicants can expect neither more expeditious nor more favorable action by departing from the procedures specifically designed by the Board for use in particular classes of cases."

[4] In light of the responsive pleadings to date, no provision will be made for the filing of statements requesting dismissal pursuant to Rule 1305(c).

[1] The Board, however, received no timely tariff filing to cancel such proposed increases.

the applicable general commodity rate. The Board finds that the proposed increases in the basic general commodity rates do not appear unreasonably large and should not adversely affect most shippers to a significant degree. With regard to the remaining specific commodity rates we believe, as we stated in Order 70–12–143, that adjustments to such rates aimed at improving the economics of air transportation lie to a substantial degree within the discretion of the carriers. Furthermore, the proposed tariff revisions are already under investigation in Docket 22859, Domestic Air Freight Rate Investigation, and the premium rates and similar specific commodity rates are under investigation in Docket 21474, In the Matter of Air Freight Rates on Live Animals and Birds.

Eastern has not come forth with any cost data justifying increased rates for transporting premium-rated commodities whether moving under exception ratings or specific commodity rates in excess of the general commodity rates. Neither has the carrier attempted to justify the differences in rate levels between those premium rates and the general commodity rates. In these circumstances the Board will suspend the application of the increased rates on premium traffic and those specific commodity rate increases that essentially represent premium rates.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the rates and charges described in Appendix A attached hereto,[2] and rules, regulations, or practices affecting such rates and charges, are, or will be, unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful rates and charges, and rules, regulations, or practices affecting such rates and charges;

2. Pending hearing and decision by the Board, the rates and charges described in Appendix A hereto[2] are suspended and their use deferred to and including May 1, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The complaints filed by the Aquarium Supply Co., Division of Sternco Industries in Docket 22980 and by the United Pet Dealers, Inc., in Docket 22976 are dismissed except to the extent granted herein; and

4. A copy of this order shall be filed with the tariffs and served upon Eastern Air Lines, Inc., Aquarium Supply Co., Division of Sternco Industries, and the United Pet Dealers, Inc., which are hereby made parties to Docket 23052.

This order will be published in the FEDERAL REGISTER.

[2] Filed as part of the original document.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71–1632 Filed 2–4–71;8:50 am]

[Docket No. 22106; Order 71–1–134]

EVANSVILLE-INDIANAPOLIS PROCEEDING

Order Setting Application for Hearing

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of January 1971.

By Order 70–10–127, dated October 28, 1970, the Board set the application of Allegheny Airlines, Inc. (Allegheny), in Docket 22106, requesting Evansville-Indianapolis nonstop authority without subsidy-eligibility, for further proceedings pursuant to the provisions of Subpart M.

Eastern Air Lines, Inc. (Eastern), filed an answer in opposition to Allegheny's application, and Allegheny filed a reply to Eastern's answer.

Upon consideration of the pleadings and the relevant facts, the Board has determined that there is a sufficient basis for setting Allegheny's application, Docket 22106, for hearing.

Accordingly, it is ordered, That the application of Allegheny Airlines, Inc., Docket 22106, be and it hereby is set for hearing before an examiner of the Board at a time and place to be hereafter designated.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc. 71–1633 Filed 2–4–71;8:50 am]

[Docket No. 22830]

GOLDEN WEST AIRLINES, INC., ET AL.

Notice of Proposed Approval

Application of Golden West Airlines, Inc., Commerce Reinsurance Co., and Airways Leasing, Inc., for approval under or exemption from section 408 of the Federal Aviation Act of 1958, Docket 22830.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the order set forth below under delegated authority. Interested persons are hereby afforded a period of 15 days from the date of service within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., February 1, 1971.

[SEAL] A. M. ANDREWS,
Director,
Bureau of Operating Rights.

ORDER OF APPROVAL

Issued under delegated authority.

Application of Golden West Airlines, Inc., Commerce Reinsurance Co. and Airways Leasing, Inc. for approval under or exemption from section 408 of the Federal Aviation Act of 1958.

By joint application filed November 30, 1970, Golden West Airlines, Inc. (GWA), Commerce Reinsurance Co. (Commerce) and Airways Leasing, Inc. (Leasing) request approval without hearing under or exemption from section 408 of the Federal Aviation Act of 1958, as amended (the Act), with respect to the sale by GWA of certain aircraft surplus to its requirements.

GWA is authorized by the Federal Aviation Administration to conduct air taxi operations and is registered with the Board in accordance with § 298.50 of the economic regulations. Commerce and Leasing are engaged in the purchase, sale and/or leasing of aircraft and are considered persons engaged in a phase of aeronautics within the meaning of the Act. Both of these companies are subsidiaries of Westgate-California Corp. which allegedly controls Air California, an intrastate air carrier.

The terms of the purchase agreements provide that (a) Leasing will buy five aircraft,[1] on which there are no outstanding liens, for $1,556,823; and (b) that Commerce will purchase nine aircraft[2] for $2,738,650 assume liens on the aircraft of $1,507,178. The cash price of the nine aircraft payable to GWA therefore is $1,231,472. The agreements provide that if Leasing or Commerce sell any of the aircraft for less than the purchase price, GWA will reimburse the two companies for the difference.

In support of the request for approval of the transaction GWA states that, as a result of the consolidation of five air taxi operations, it was left with a large and varied fleet of aircraft, most of which were encumbered by debt obligations. GWA needs 11 Twin Otters and five Grumman amphibians to perform its services and the transactions herein would dispose of aircraft surplus to its needs. The disposition of these aircraft will have several important benefits for GWA such as enabling it to concentrate on the service it is providing to the public, improving its cash flow, reducing its total indebtedness and improving its prospects for further financing, if necessary. GWA recognizes that it has assumed an unknown obligation to the extent that Commerce and Leasing are unable to sell the aircraft at their purchase price. GWA does not believe this is likely and in any event will have had the use of the money during the interim. GWA submits that effectuation of the agreements is clearly in the public interest; that it does not affect the control of GWA in any way; that there are no conditions of sale which might adversely influence the management of GWA and that there are no elements of monopoly or restraint of competition presented by the transaction.

By letter filed December 14, 1970, Western Air Lines, Inc., advised the Board that it would take no position on the application on the belief and understanding that action on the application would in no way affect the issues raised in the enforcement complaint in Pacific Southwest Airlines v. United States Holding Company, et al., Docket 22465 and that the Board should make this clear if it decides to approve the instant application.

Pacific Southwest Airlines (PSA) on December 14, 1970, filed an answer[3] in opposition to approval of the instant transactions

[1] Comprised of two Beechcraft 99's, one Cessman 402 and two DeHavilland Twin Otters.

[2] One Tradewinds, two Beechcraft 99's, six and Twin Otters.

[3] The applicants subsequently filed a reply to the answer.

or any other transaction between any of the parties named in Docket 22465 and GWA until final resolution of the control issues raised in that Docket.[4] PSA submits that the transactions reinforce its basic conclusion, as expressed in the complaint filed in Docket 22465, that Smith and Westgate through subsidiaries and related persons unlawfully control GWA and Air California. In this regard PSA points out that under the purchase agreements, GWA has incurred a contingent liability of unknown dimensions by agreeing to reimburse Commerce and Leasing for any difference between the purchase cost and the price at which the aircraft are actually sold. In addition, PSA contends that Smith and Westgate should be the applicants in this case and not their subsidiaries; that Board approval of these purchase agreements could be construed as indirect approval of the control of GWA by Westgate which had previously abandoned its direct request for such approval in Docket 22371; [5] and that only a full Board enforcement investigation can untangle the web of corporate conglomeration involving the applicants and their affiliated and subsidiary companies.

Other than the foregoing, no comments or requests for a hearing have been received.

It is concluded that GWA is an air carrier and both Commerce and Leasing are persons engaged in a phase of aeronautics; that the acquisition of more than one-half of GWA's fleet of aircraft by Commerce and Leasing is subject to section 408(a)(2) of the Act; and that the requested exemption from section 408 pursuant to section 416 cannot be granted since Commerce and Leasing are not air carriers.

On consideration of the foregoing and other facts of record it has been concluded that the application should be approved. There is nothing in the application or the purchase agreements to indicate that either Commerce or Leasing, as a part of these transactions are presently acquiring a control interest in GWA.[6] Insofar as GWA is subject to a contingent liability as noted heretofore, a condition will be imposed requiring that GWA report the acquisition by Commerce or Leasing or any of their affiliated persons or corporations of any stock or debt interest in GWA as a result of this contingent liability.[7] For present purposes it does not appear that the transactions of themselves conclusively demonstrate that GWA and Air California are under the common control of Smith and Westgate. PSA has filed similar allegations in its complaint in Docket 22465 and it is concluded that that proceeding is the proper forum for determination of those issues. Thus, it is concluded that the transactions do not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, do not result in creating a monopoly and do not tend to restrain competition. Furthermore, no person disclosing a substantial interest in this proceeding is currently requesting a hearing and it is concluded that the public interest does not require a hearing. GWA, as an air taxi operator, is not required by any certificate of public convenience and necessity to operate any required level or frequency of service and the determination of the number of aircraft it needs to perform its services is not a decision with which the Board is disposed to interfere.[8] Therefore it is not found that the transactions will be inconsistent with the public interest or that the conditions of section 408 will be unfulfilled.

Notice of intent to dispose of the application without a hearing has been published in the FEDERAL REGISTER and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the provisions of section 408(b) of the Act.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13, it is found that the foregoing transactions should be approved under section 408(b) of the Act, without a hearing.

Accordingly, it is ordered, That:

1. The purchase of the aircraft, as described herein, by Commerce and Leasing be and it hereby is approved;

2. The approval granted herein is not to be considered a determination in any manner of the issues raised by PSA in its complaint in Docket 22465;

3. GWA will report to the Board's Bureau of Operating Rights any acquisition, by Commerce or Leasing or by any other person or corporation with which they are affiliated, of any stock, or other interest in GWA arising as a result of these transactions;

4. Jurisdiction in this proceeding will be retained for the purpose of taking such further action as may be required in the public interest; and

5. Except to the extent granted herein all outstanding requests be and they hereby are denied.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 15 days after the date of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-1627 Filed 2-4-71;8:50 am]

[Docket No. 23042]

INEX ADRIA AIRWAYS

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference on the above-entitled application is assigned to be held on February 12, 1971, at 10 a.m., e.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Richard M. Hartsock.

Dated at Washington, D.C., February 2, 1971.

[SEAL] THOMAS L. WRENN,
Chief Examiner.

[FR Doc.71-1629 Filed 2-4-71;8:50 am]

[Docket No. 22628; Order 71-2-3]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fares

Issued under delegated authority February 1, 1971.

By Order 71-1-67, dated January 14, 1971, action was deferred on a resolution adopted by Joint Conference 1-2-3 of the International Air Transport Association (IATA) and incorporated in agreements adopted at meetings in Geneva subsequent to the recessed Honolulu Worldwide Passenger Fare Conference. This resolution, for round-the-world application, encompasses an amendment to rules governing the construction of passenger fares which has previously been approved by the Board for application in certain other areas of the world.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period, and the tentative conclusions in Order 71-1-67 will herein be made final.

Accordingly, it is ordered, That:

Agreement CAB 22050, R-20, be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-1634 Filed 2-4-71;8:50 am]

[Dockets Nos. 21866; 22784; Order 71-1-142]

NORTHWEST AIRLINES, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of January 1971.

By tariff revisions [1] marked to become effective February 1, 1971, Northwest Airlines, Inc. (Northwest), proposes to increase fares in 16 markets involving the Chicago, New York, and Washington hubs. The proposed coach fares reflect increases of 93 cents to $1.85. First-class and discount fares are adjusted to maintain present relationships. The markets involve distances of 489 miles or less.

In support of its filing, Northwest alleges that the costs of operations into hub cities are peculiar to such cities and are not typical of the industry as a whole due to airway and airport congestion. Northwest alleges that delays at Chicago, New York, and Washington resulted in costs totaling $4.6 million in 1969, up 17.8 percent over 1968, and that the delays at those 3 hubs accounted for 49 percent of its total system delays. Northwest alleges that the delays are not carrier controlled, and that its proposed increases would produce $2.8 million additional revenue (based on 1969 traffic) or about 60 percent of the costs attributable to airway and airport delays at the three hubs.

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[4] The issues include, inter alia, the relationships between C. Arnholt Smith, Westgate-California Corp., Air California and GWA. Commerce and Leasing are subsidiaries of Westgate-California Corp.

[5] Westgate-California Corp., Acquisition of Golden West Airlines, Inc., Order 70-12-22, Dec. 4, 1970.

[6] The approval of the application herein is predicated upon the statement of the applicants that the transactions in no way affect the control of GWA, and that the aircraft are surplus to GWA's needs.

[7] These reports do not relieve any person acquiring a controlling interest in GWA, as a result of the ripening of the contingent liability of GWA or otherwise, from receiving prior Board approval or exemption under section 408.

[8] Cf. Loftleidir, H.F. and Seaboard World Airlines, Inc., Order 70-5-111, May 21, 1970.

[1] Revisions to Airline Tariff Publishers, Inc., Agent Tariff CAB No. 136.

No complaints were filed.

The proposals here to increase certain coach fares come within the scope of the Domestic Passenger-Fare Investigation now actively in process and the lawfulness of these fares will be determined in that proceeding. It is anticipated that a decision on the fare level and directly related issues will be reached by about April 1, 1971. The issue now before us is whether to permit to become effective or suspend these proposed fares pending a final determination of their lawfulness in that investigation.

Northwest's filing regarding congestion-related increases involves only 16 markets out of its entire domestic system and purports to be justified on facts and circumstances peculiar to operations at and between these particular points. As such, these fares do not involve an evaluation of basic costs of service, including load factors, now underway in the passenger-fare investigation to the same degree as the earlier tariff proposals to increase all or most coach fares which were suspended pending investigation.

In nine of the markets,[2] the Board has previously permitted the major carriers in those markets fare increases to compensate for demonstrated additional costs associated with airport and airway congestion. We believe it reasonable to conclude that costs attributable to congestion are common to all carriers operating in a market and would similarly affect all carriers' ability to achieve profitable operations in markets affected by congestion. Accordingly, we will permit Northwest's proposed increases in these nine markets to become effective.

The Board has decided to suspend the remaining fare increases proposed by Northwest in the absence of a showing of losses sustained as a result of airport and airway congestion. As we have previously indicated, we distinguish between a "terminal" versus a "market" approach and believe that trunkline carriers should be permitted increases only when it is reasonably demonstrated that particular markets have characteristics which, but for severe congestion, could be expected to result in profitable operations. To do otherwise could lead to a general erosion of the concept of a fare override solely to compensate for atypical operating conditions, and lead to fare increases of a general nature inconsistent with our action in Order 70-9-123.

Upon consideration of the tariff filing, the justification thereto, and all other relevant matters, the Board finds that the proposed military fare increases which stem from higher basic fares as we are herein suspending, may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. We further conclude that these fares should be suspended, together with the other fare increases indicated above, pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation is instituted to determine whether the YM class fares and provisions described in Appendix A attached hereto,[3] and rules, regulations, or practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, and practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto[3] are suspended and their use deferred to and including May 1, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The investigation of the military fares ordered herein is hereby consolidated into Docket 22784; and

4. A copy of this order will be filed with the aforesaid tariff and served upon Northwest Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[4]

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-1635 Filed 2-4-71;8:50 am]

[Docket No. 23054; Order 71-1-145]

SOUTHERN AIRWAYS, INC.

Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of January 1971.

By tariff revisions effective February 1, 1971, Southern Airways, Inc. (Southern), proposes to increase fares by $1.85 in 10 Atlanta high-density, short-haul markets. Southern also proposes a $2.78 increase in the New York-Washington market previously approved for American Airlines by Order 70-11-134. In addition, effective February 15, 1971, Southern proposes to establish adult standby fares in 43 long-haul markets.[1] These fares are set at a level of 66⅔ percent of the applicable standard class fare, and are valid only on flights making two or more intermediate stops. The fares apply at all times and standby passengers may not be disembarked en route.

In justification of its Atlanta hub increases, Southern alleges that the Atlanta airport is one of the most congested facilities in the country, resulting in higher cost levels than Southern incurred on the remainder of its system. Southern also provided data showing substantial increases in scheduled block times in its congested markets, and showing block times in a number of the Atlanta markets in excess of those times in noncongested markets of similar distance. Southern estimates that the proposed increases will result in additional revenues of $376,772 in 1971.

In support of its proposed standby fares, Southern alleges that the fares are identical in all major respects with similar adult standby fares presently in effect for American, Continental, TWA, United, and Frontier except for the fact that Southern's standby fares are valid only on flights making two or more intermediate stops, while the other carriers' fares are valid on flights making one or more intermediate stops. Southern estimates that the revenues derived from this proposal will total $531.617 in 1971, assuming Southern will achieve participation in the 43 markets at varying rates from 0.01 percent up to 1.5 percent. Southern also alleges that it has an immediate and critical need for the increased revenues which it estimates would be generated.

Delta, Eastern, National, and Northwest have filed complaints against Southern's proposed adult standby fares requesting that the fares be suspended and investigated. The complainants allege that Southern's proposed "Adult Standby" fares or rules will divert substantial passenger revenues from trunk carriers operating in markets where these fares are proposed by injecting Southern into markets it was not certificated to serve. In addition, the complainants allege that passengers will experience little difficulty in obtaining standby accommodations on most Southern flights because of Southern's current low load factors; such passengers will "bump" down-line confirmed passengers; and finally passengers will abuse the intent of the tariff through protective bookings causing dilution of present Southern passenger revenues.

In answer to the complaints and in further justification of its proposal, Southern states that the issues now being raised are the same as voiced by parties adverse to Frontier Airlines, Inc. (Frontier), adult standby fares proposed in 1965, and which were approved by the Board. Southern submits the Board's finding as applied to the Frontier proposal is equally applicable to Southern's.

Southern also alleges that the three complainants' concern over diversion from their nonstop services is ill-founded because the principal reason a passenger uses air transportation today is to travel as quickly and expeditiously as possible between two points, and that seldom will a passenger elect to use multistop and/or connecting service when nonstop service

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[2] Chicago-Cleveland, Chicago-Detroit, Chicago-Milwaukee, Chicago-Madison, Chicago-Pittsburgh, New York-Washington, New York-Pittsburgh, New York-Philadelphia, Washington-Philadelphia.

[3] Filed as part of the original document.

[4] Concurring and dissenting statements of Vice Chairman Gillilland and member Minetti filed as part of the original document.

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB Nos. 136 and 142.

is available at the preferred time of departure. Southern believes, however, there is a substantial untapped market of persons desiring to go between two points, but who, because of economic factors, are precluded from doing so.

Southern's proposal to increase certain regular fares comes within the scope of the Domestic Passenger-Fare Investigation now actively in process, and the lawfulness of these fares will be determined in that proceeding. It is anticipated that a decision on the fare level and directly related issues will be reached by about April 1, 1971. The issue now before us is whether to permit to become effective or suspend those proposed fares pending a final determination of their lawfulness in that investigation.

Southern's fare filing involves only 11 markets out of its entire system and purports to be justified on facts and circumstances peculiar to operations at and between these particular points. As such, this filing does not involve an evaluation of basic costs of service, including load factors, now underway in the passenger-fare investigation to the same degree as earlier tariff proposals to increase all or most fares which were suspended pending investigation.[2]

In view of the continuing deterioration of Southern's financial position, the limited nature of this proposal, and the acknowledged fact that airport and airway congestion at Atlanta is among the worst in the country, we believe a valid basis exists to permit the increases proposed by Southern. We believe that the carrier has adequately demonstrated that its costs in the Atlanta markets are higher than costs over noncongested segments of comparable distance.

With regard to the adult standby fares, it appears that the proposal is more likely to cause a diversion of traffic and revenues from the other carriers in these markets than to generate new business, and on this ground the proposed fares may be unlawful and should be investigated. Moreover, in view of Southern's limited participation in the markets in which it desires to establish these fares, the other carriers now serving these markets would bear the risk of Southern's experiment.[3] In these circumstances, we find it necessary to suspend the proposal pending investigation of its lawfulness.

Upon consideration of the tariff filing, the complaints and answer thereto, and all relevant matters, the Board finds that the proposed adult standby fares may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. We further conclude that these fares should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof:

It is ordered, That:

1. An investigation be instituted to determine whether the SU class (Adult Standby) fares described in Appendix A hereto,[4] and rules, regulations, and practices affecting such fares, are or will be unjust, unreasonable, unjustly discriminatory, unduly perferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares, and rules, regulations, or practices affecting such fares;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto[4] are suspended and their use deferred to and including May 15, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the periods of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaints of Delta Air Lines, Inc., in Docket 22999, Eastern Air Lines, Inc., in Docket 23036, National Airlines, Inc., in Docket 22998, and Northwest Airlines, Inc., in Docket 23002 are hereby dismissed;

4. The investigation of adult standby fares ordered herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

5. A copy of this order be filed with the aforesaid tariffs and be served upon Delta Air Lines, Inc., Eastern Air Lines, Inc., National Air Lines, Inc., Northwest Air Lines, Inc., and Southern Airways, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-1636 Filed 2-4-71;8:50 am]

[Docket No. 22901]

TRANS-MEDITERRANEAN AIRWAYS, S.A.L.

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on March 2, 1971, at 10 a.m., e.s.t., in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on February 1, 1971, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., February 1, 1971.

[SEAL] HARRY H. SCHNEIDER,
Hearing Examiner.

[FR Doc.71-1630 Filed 2-4-71;8:50 am]

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[2] Order 70-9-123.

[3] Southern's fares and rules of applicability are very similar to adult standby fares of Frontier which the Board permitted to become effective. However, Frontier operated through service, albeit multistop service, in each of the 20 markets originally involved and Frontier had a significant participation in most of the markets, a dominant share in several of them.

[4] Filed as part of the original document.

[5] Dissenting statements of members Minetti and Murphy filed as part of the original document.

FEDERAL MARITIME COMMISSION

AMERICAN MAIL LINE, LTD., AND JOHNSON LINE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. W. R. Purnell, District Manager, American Mail Line, Ltd., 601 California Street, Suite 610, San Francisco, CA 94108.

Agreement No. 9927 is a transshipment agreement between the two carriers listed above, whereby cargo lifted by American Mail Line in Oregon, Washington, and Alaska under its through bills of lading is delivered in Malaysia and the Republic of Singapore by Johnson Line after transshipment in Hong Kong or ports in Japan.

Dated: February 2, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-1619 Filed 2-4-71;8:49 am]

AMERICAN MAIL LINE, LTD., AND JOHNSON LINE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. W. R. Purnell, District Manager, American Mail Line, Ltd., 601 California Street, Suite 610, San Francisco, CA 94108.

Agreement No. 9928 is a transhipment agreement between the two carriers listed above, whereby cargo lifted in Malaysia and the Republic of Singapore by Johnson Line under its through bills of lading is delivered by American Mail Line in Oregon, Washington, and Alaska after transshipment in Hong Kong or ports in Japan.

Dated: February 2, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-1620 Filed 2-4-71;8:49 am]

CARIBBEAN CRUISE ASSOCIATION

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202, or may inspect the agreement at the offices of the District Managers, New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, 1405 I Street NW., Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed for approval by:

Mr. William J. Armstrong, Secretary, Caribbean Cruise Association, 17 Battery Place, Suite 631, New York, NY 10004.

Agreement No. 9823-2, filed on behalf of the Member Lines of the Caribbean Cruise Association, modifies Articles 4A and 4C which are concerned with Passage Fares and Rates of Commission by adding language intended to clarify the application of the 21-day notice provision contained in each of these two Articles.

Dated: February 2, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-1618 Filed 2-4-71;8:49 am]

NORTH ATLANTIC MEDITERRANEAN FREIGHT CONFERENCE

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Elliott B. Nixon, Esq., Burlingham Underwood Wright White & Lord, 25 Broadway, New York, NY 10004.

Agreement No. 9548-2 modifies the Conference's self-policing provisions to include the mandatory provisions required by the Commission's General Order 7 as revised on October 27, 1970.

Dated: February 2, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-1621 Filed 2-4-71;8:49 am]

FEDERAL RESERVE SYSTEM

FIRST NATIONAL BANCORPORATION, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by The First National Bancorporation, Inc., which is a bank holding company located in Denver, Colo., for prior approval by the Board of Governors of the acquisition by applicant of 80 percent or more of the voting shares of The National State Bank of Boulder, Boulder, Colo.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Kansas City.

By order of the Board of Governors, January 29, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-1585 Filed 2-4-71;8:46 am]

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

CLINCHFIELD COAL CO. AND VALLEY CAMP COAL CO.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 m.g/m.^{3}) have been received as follows:

(1) ICP Docket No. 10422, Clinchfield Coal Co., Campbranch No. 1 Mine, USMB ID No. 44 00280 0, near Carrie, Dickenson County, Va., Section ID No. 001 (5 Lt. W. Mains), Section ID No. 003 (7 Lt. W. Mains), Section ID No. 004 (West Mains).

(2) ICP Docket No. 10425, Clinchfield Coal Co., Moss No. 2 Mine, USBM ID No. 44 00281 0, Dante, Russell County, Va., Section ID No. 001 (3 Lt. 3 South), Section ID No. 002 (4 Lt. 3 South), Section ID No. 003 (5 Lt. 3 South), Section ID No. 004 (7 Lt. 3 North), Section ID No. 005 (7 Rt. 3 North), Section ID No. 008 (8 Lt. 3 North).

(3) ICP Docket No. 10427, Clinchfield Coal Co., Splashdam Mine, USBM ID No. 44 00269 0, Haysi, Dickenson County, Va., Section ID No. 001 (Lt. Main Hdgs.), Section ID No. 2 (Rt. Main Hdgs.), Section ID No. 003 (1 lt. off Mains).

(4) ICP Docket No. 10428, Clinchfield Coal Co., Hagy No. 1 Mine, USBM ID No. 44 01514 0, Dante, Russell County, Va., Section ID No. 001 (1 Rt.), Section ID No. 002 (1 Lt. Mains), Section ID No. 003 (1 Rt. Mains).

(5) ICP Docket No. 10429, Clinchfield Coal Co., Smith Gap Mine, USBM ID No. 44 00270 0, Dante, Russell County, Va., Section ID No. 002 (2 Rt. 1 South).

(6) ICP Docket No. 10446, the Valley Camp Coal Co., Mine No. 3, USBM ID No. 46 01482 0, Triadelphia, Ohio County, W. Va., Section ID No. 014 (2 Left off P North), Section ID No. 011 (10 North off 2 East), Section ID No. 001 (Main East).

(7) ICP Docket No. 11723, Clinchfield Coal Co., Moss 3 Portal A, USBM ID No. 44 01642 0, Duty, Dickenson County, Va., Section ID No. 001 (A Mains), Section ID No 002 (14 Rt.), Section ID No. 003 (5¼ Lt. 9 Rt.), Section ID No. 006 (1 Right).

(8) ICP Docket No. 11724, Clinchfield Coal Co., Moss Portal D USBM ID No. 44 01644 0, Duty Dickenson County, Va. Section ID No. 007 (C Mains), Section ID No. 008 (10 Right), Section ID No. 009 (1½ A Right).

(9) ICP Docket No. 11725, Clinchfield Coal Co., Moss 3 Portal D USBM ID No. 44 01644 0, Duty, Dickenson County, Va., Section ID No. 011 (10 East), Section ID No. 012 (11 East), Section ID No. 013 (14 East), Section ID No. 014 (3 South), Section ID No. 015 (1 Rt. 3 South).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

JANUARY 29, 1971.

[FR Doc.71-1605 Filed 2-4-71;8:48 am]

NORTH AMERICAN COAL CORP. ET AL.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.^{3}) have been received as follows:

(1) ICP Docket No. 10108, the North American Coal Corp., Conemaugh No. 1 Mine, USBM ID No. 36 00928 0, Seward, Indiana County, Pa., Section ID No. 003 (New Mains), Section ID No. 004 (New Mains).

(2) ICP Docket No. 10445, the Valley Camp Coal Co., Mine No. 1, USBM ID No. 46 01483 0, Short Creek, Ohio County, W. Va., Section ID No. 013 (East Mains), Section ID No. 001 (2 North Off West Mains), Section ID No. 002 (2 Right Off 2 North).

(3) ICP Docket No. 10843, Eastern Coal Corp., Stone Mine, USBM ID No. 15 02096 0, Stone, Pike County, Ky., Section ID No. 002 (Section 16), Section ID No. 011 (Section 34).

(4) ICP Docket No. 11108, Freeman Coal Mining Corp., Orient No. 3 Mine, USBM ID No. 11 00600 0, Waltonville, Jefferson County, Ill., Section ID No. 001 (27 North West North), Section ID No. 015 (8 North East North), Section ID No. 017 (Main North), Section ID No. 018 (10 North East North), Section ID No. 019 (9 North East North), Section ID No. 012 (Main South West North), Section ID No. 013 (7 North East North), Section ID No. 014 (26 North West North), Section ID No. 016 (8 West Main South West North).

(5) ICP Docket No. 10649, Westmoreland Coal Co., Prescott No. 1 Mine, USBM ID No. 44 00303 0, Osaka, Wise County, Va., Section ID No. 001 (3 Main East Headings), Section ID No. 003 (2 Main North Headings).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

FEBRUARY 1, 1971.

[FR Doc.71-1606 Filed 2-4-71;8:48 am]

OLD BEN COAL CORP. ET AL.

Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (3.0 mg./m.^{3}) have been received as follows:

(1) ICP Docket No. 10217, Old Ben Coal Corp., Mine No. 24, USBM ID No. 11 00589 0, Benton, Franklin County, Ill., Section ID No. 011 (28th, 29th, 30th North Panel Off 9th West South), Section ID No. 016 (10th, 11th, 12th, North Panel Off 9th East South).

(2) ICP Docket No. 10218, Old Ben Coal Corp., Mine No. 21, USBM ID No. 11 00588 0, Sesser, Franklin County, Ill., Section ID No. 002 (1st through 8th East South Entries), Section ID No. 006 (1st through 7th West North Entry Pillars), Section ID No. 009 (42d, 43d, 44th North Panel Off 8th East North).

(3) ICP Docket No. 10220, Clinchfield Coal Co., Open Fork No. 2 Mine, USBM ID No. 44 00267 0, Herald, Dickenson County, Va., Section ID No. 002 (5 Lt. 1 North), Section ID No. 004 (2 Lt. 2 North), Section ID No. 005 (1 Lt. 2 North).

(4) ICP Docket No. 10420, Clinchfield Coal Co., Chaney Creek No. 2 Mine, USBM ID No. 44 00279 0, Clinchfield, Russell County, Va., Section ID No. 001 (7 Rt.), Section ID No. 002 (North Mains), Section ID No. 003 (8 Rt.), Section ID No. 004 (9 Rt.).

(5) ICP Docket No. 10421, Clinchfield Coal Co., Lambert Fork Mine, USBM ID No. 44 00241 0, near Duty, Buchanan County, Va., Section ID No. 001 (4 Rt. 3 East), Section ID No. 002 (Lt. South Mains), Section ID No. 003 (2 Rt. 3 East), Section ID No. 004 (1 Rt. 3 East), Section ID No. 005 (Rt. South Mains).

(6) ICP Docket No. 10426, Clinchfield Coal Co., Hurricane Creek Mine, USBM ID No. 44 01773 0, Clinchfield, Russel County, Va., Section ID No. 001 (Hurricane Creek Mains).

(7) ICP Docket No. 10647, Westmoreland Coal Co., Wentz No. 1 Mine, USBM ID No. 44 00302 0, Stonega, Wise County, Va., Section ID No. 001 (2 Main North, No. 1 Right), Section ID No. 003 (No. 2 Main East Headings), Section ID No. 006 (No. 3 Main East

Headings, No. 3 Right), Section ID No. 008 (No. 2 Main East Headings, 10 Right).

In accordance with the provisions of section 202(b)(4) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be completed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Suite 800, 1730 K Street NW., Washington, DC 20006.

GEORGE A. HORNBECK,
Chairman,
Interim Compliance Panel.

FEBRUARY 2, 1971.

[FR Doc.71-1607 Filed 2-4-71;8:48 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4.3-1 for Disaster No. 783]

MANAGER, DISASTER BRANCH OFFICE, CORPUS CHRISTI, TEX.

Delegation of Authority Relating to Financial Assistance Functions

1. Pursuant to the authority delegated to the Disaster Coordinator, Hurricane Celia Disaster Area, by Delegation of Authority No. 4.3, 36 F.R. 1296, the following authority is hereby redelegated to the position as indicated herein:

A. *Manager, Corpus Christi Disaster Branch Office.* 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 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) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan; to approve disaster guaranteed loans up to $350,000, and to decline disaster guaranteed loans in any amount.

2. To execute loan authorizations for Central, regional, and district office approved loans and disaster loans approved under delegated authority, said execution to read as follows:

(*Name*), *Administrator,*
By ----------
Manager,
Disaster Branch Office.

3. To cancel, reinstate, modify, and amend authorizations for disaster loans approved under delegated authority.

4. To disburse unsecured disaster loans.

5. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: January 11, 1971.

W. BRYAN SHOEMAKER,
Disaster Coordinator,
Hurricane Celia Disaster Area.

[FR Doc.71-1580 Filed 2-4-71;8:46 am]

[Delegation of Authority No. 4.3-1 for Disaster No. 783]

MANAGER, DISASTER BRANCH OFFICE, ARANSAS PASS, TEX.

Delegation of Authority Relating to Financial Assistance Functions

1. Pursuant to the authority delegated to the Disaster Coordinator, Hurricane Celia Disaster Area, by Delegation of Authority No. 4.3, 36 F.R. 1296, the following authority is hereby redelegated to the position as indicated herein:

A. *Manager, Aransas Pass Disaster Branch Office.* 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 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) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan; to approve disaster guaranteed loans up to $350,000, and to decline disaster guaranteed loans in any amount.

2. To execute loan authorizations for Central, regional, and district office approved loans and disaster loans approved under delegated authority, said execution to read as follows:

(*Name*), *Administrator,*
By ----------
Manager,
Disaster Branch Office.

3. To cancel, reinstate, modify, and amend authorizations for disaster loans approved under delegated authority.

4. To disburse unsecured disaster loans.

5. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: January 11, 1971.

W. BRYAN SHOEMAKER,
Disaster Coordinator,
Hurricane Celia Disaster Area.

[FR Doc.71-1582 Filed 2-4-71;8:46 am]

[Delegation of Authority No. 4.3-1 for Disaster No. 783]

MANAGER, DISASTER BRANCH OFFICE, ROBSTOWN, TEX.

Delegation of Authority Relating to Financial Assistance Functions

1. Pursuant to the authority delegated to the Disaster Coordinator, Hurricane Celia Disaster Area, by Delegation of Authority No. 4.3, 36 F.R. 1296, the following authority is hereby redelegated to the position as indicated herein:

A. *Manager, Robstown Disaster Branch Office.* 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 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) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan; to approve disaster guaranteed loans up to $350,000, and to decline disaster guaranteed loans in any amount.

2. To execute loan authorizations for Central, regional, and district office approved loans and disaster loans approved under delegated authority, said execution to read as follows:

(*Name*), *Administrator,*
By ----------
Manager,
Disaster Branch Office.

3. To cancel, reinstate, modify, and amend authorizations for disaster loans approved under delegated authority.

4. To disburse unsecured disaster loans.

5. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: January 11, 1971.

W. BRYAN SHOEMAKER,
Disaster Coordinator,
Hurricane Celia Disaster Area.

[FR Doc.71-1583 Filed 2-4-71;8:46 am]

[Delegation of Authority No. 4.3-1 for Disaster No. 783]

MANAGER, DISASTER BRANCH OFFICE, SINTON, TEX.

Delegation of Authority Relating to Financial Assistance Functions

1. Pursuant to the authority delegated to the Disaster Coordinator, Hurricane Celia Disaster Area, by Delegation of Authority No. 4.3, 36 F.R. 1296, the following authority is hereby redelegated to the position as indicated herein:

A. *Manager, Sinton Disaster Branch Office.* 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 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) $350,000 on disaster business loans except to the extent of refinancing of a previous SBA disaster loan; to approve disaster guaranteed loans up to $350,000, and to decline disaster guaranteed loans in any amount.

2. To execute loan authorizations for Central, regional, and district office approved loans and disaster loans approved under delegated authority, said execution to read as follows:

(Name), Administrator,
By ----------
Manager,
Disaster Branch Office.

3. To cancel, reinstate, modify, and amend authorizations for disaster loans approved under delegated authority.

4. To disburse unsecured disaster loans.

5. To extend the disbursement period on disaster loan authorizations or undisbursed portions of disaster loans.

II. The authority delegated herein may not be redelegated.

III. All authority delegated herein to a specific position may be exercised by an SBA employee designated as acting in that position.

Effective date: January 11, 1971.

W. BRYAN SHOEMAKER,
Disaster Coordinator,
Hurricane Celia Disaster Area.

[FR Doc.71-1581 Filed 2-4-71;8:46 am]

[License 03/03-5065]

PROGRESS VENTURE CAPITAL CORP.

Notice of Application for License as Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Progress Venture Capital Corp. (applicant) with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations governing small business investment companies (13 CFR Part 107; 33 F.R. 326).

The officers and directors of the applicant are as follows:

Reverend Leon H. Sullivan, 6825 Milton Street, Philadelphia, PA 19119, Chairman of the Board.

Ira J. K. Wells, Jr., 1126 East Cliveden Street, Philadelphia, PA 19119, President and Director.

Carl L. Hairston, 1956 Georgian Road, Philadelphia, PA 19138, Vice President and Director.

Alfonso C. Jackson, 2526 West York Street, Philadelphia, PA 19132, Secretary and Director.

William V. Downes, 407 Hartford Drive, Cinnaminson, NJ 08077, Treasurer and Director.

Alphonso Whitfield, Jr., 37 South Syracuse Drive, Cherry Hill, NJ 08034, General Manager.

The applicant, a Delaware corporation and having its principal place of business located at 1501 North Broad Street, Philadelphia, PA 19122, will begin operations with $300,000 of paid-in capital and paid-in surplus, consisting of 18,150 shares of Class A common stock, having voting rights, and 11,850 shares of Class B common stock, having no voting rights.

Zion Investment Associates, Inc., a real estate and financial investment company, located at 1501 North Broad Street, Philadelphia, PA 19122, and owned by approximately 5,500 individuals, is the owner of 3,150 shares (18 percent) of applicant's Class A common stock.

The remainder of applicant's Class A common stock (15,000 shares, constituting 82 percent) is owned by Zion Non-Profit Charitable Trust, located at 1501 North Broad Street, Philadelphia, PA 19122, and established for the purpose of training, developing, and assisting minority entrepreneurs.

Applicant's Class B common stock is owned by 19 stockholders, including six major banks and banking institutions, nine large industrial companies, two insurance companies, and two oil companies, all located or having offices in the vicinity of Philadelphia, Pa.

Applicant will not concentrate its investments in any particular industry. According to the company's stated investment policy, its investments will be made solely for the purpose of providing assistance which will contribute to a well-balanced national economy by facilitating the acquisition or maintenance of ownership of small business concerns by individuals whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA regulations.

Any interested person may, not later than 10 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed MESBIC. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Philadelphia, Pa.

A. H. SINGER,
Associate Administrator for Investment.

JANUARY 27, 1971.

[FR Doc.71-1710 Filed 2-4-71;9:55 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATIONS FOR RELIEF

FEBRUARY 2, 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.

LONG-AND-SHORT HAUL

FSA No. 42122—*Chlorine to Middletown, Pa.* Filed by O. W. South, Jr., agent (No. A6223), for interested rail carriers. Rates on chlorine, in tank carloads, as described in the application, from Acme, N.C., to Middletown, Pa.

Grounds for relief—Market competition.

Tariff—Supplement 105 to Southern Freight Association, agent, tariff ICC S-804.

FSA No. 42123—*Liquid caustic soda to Enka, N.C.* Filed by O. W. South, Jr., agent (No. A6224), for and on behalf of Southern Railway Co. Rates on sodium (soda), caustic (sodium hydroxide), in tank carloads, as described in the application, from Evans City, Ala., to Enka, N.C.

Grounds for relief—Rate relationship.

Tariff—Supplement 20 to Southern Freight Association, agent, tariff ICC S-938.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-1656 Filed 2-4-71; 8:52 am]

[Notice 241]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 2, 1971.

The following are notices of filing of applications for temporary authority under section 210(a) of the nterstate 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 13087 (Sub-No. 32 TA), filed January 29, 1971. Applicant: STOCKBERGER TRANSFER & STORAGE, INC., 524 Second Street SW., Mason City, IA 50401. Applicant's representative: William L. Fairbank, 900 Hubell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals*, other than in bulk, from the plantsite and warehouse facility of Monsanto Co. near Muscatine, Iowa, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, and those points in Wisconsin on and south of a line beginning at La Crosse, Wis., thence running east over Interstate Highway 90 from La Crosse to Mauston, thence over Wisconsin Highway 82 to junction with U.S. Highway 51, and thence over Wisconsin Highway 23 to Sheboygan, for 150 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, MO 63166. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, IA 50309.

No. MC 14702 (Sub-No. 33 TA), filed January 29, 1971. Applicant: OHIO FAST FREIGHT, INC., Post Office Box 808, 300 Liberty Road, Warren, OH 44482. Applicant's representative: Paul Beery, Columbus, OH. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum, aluminum products, building materials, alloys, refractories, glass containers, glass bottles, glass jars, and sodium silicate* (except commodities in bulk), from Lemoyne, Ohio, to points in Indiana, those in Michigan on and south of Michigan Highway 46, and Chicago, Ill., commercial zone; (2) *Aluminum, aluminum products, building materials, glass containers, glass bottles, and glass jars* (except commodities in bulk), from points in Indiana, those in Michigan on and south of Michigan Highway 46, and the Chicago commercial zone to Lemoyne, Ohio. Applicant would tack the authority requested herein with its authority set forth in certificate MC 14702 and MC 14702 (Sub. 16) at Lemoyne, Ohio, that is attached hereto. By tacking it can serve between the States requested herein and the Eastern States it presently may serve such as Pennsylvania, New Jersey, Virginia, West Virginia, Maryland, a portion of New York, and the District of Columbia, for 180 days. Supporting shippers: Armstrong Cork Co., Lancaster, PA 17604; Fabral Corp., 3449 Hempland Road, Lancaster, PA 17601; Alcan Aluminum Corp., 100 Erieview Plaza, Cleveland, OH; Howmet Corp., Lancaster, PA 17604; C–E Minerals, 443 South Gulph Road, King of Prussia, PA 19406; Keene Corp., U.S. Route No. 1, Princeton, NJ 08540; Harvey Aluminum, Adrian, MI. Send protests to: G. J. Baccel, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Building, Cleveland, OH 44199.

No. MC 100449 (Sub-No. 18 TA) filed January 29, 1971. Applicant: MALLINGER TRUCK LINE, INC., Otho, IA 50569. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural chemicals*, other than in bulk, from the plantsite and warehouse facility of Monsanto Co. near Muscatine, Iowa, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, and those points in Wisconsin on and south of a line beginning at La Crosse, Wis., thence running east over Interstate Highway 90 from La Crosse to Mauston, thence over Wisconsin Highway 82 to junction with U.S. Highway 51, and thence over Wisconsin Highway 23 to Sheboygan, for 150 days. Supporting shipper: Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, MO 63166. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 677 Federal Building, Des Moines, IA 50309.

No. MC 113535 (Sub-No. 17 TA), filed January 29, 1971. Applicant: A & W TRUCKING CO., INC., Box 370, Rural Route 2, Mosinee, WI 54455. Applicant's representative: John Altenburg, Route 5, Box 900, Mosinee, WI 54455. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. and 766, from Dubuque, Iowa, to points in Wisconsin (except Milwaukee, Wis.), for 180 days. Supporting shipper: Dubuque Packing Co., Dubuque, IA 52001. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 206, Madison, WI 53703.

No. MC 119777 (Sub-No. 200 TA), filed January 27, 1971. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, KY 42431. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal stampings, castings, parts, attachments, and accessories* used in the assembly and/or manufacture of laundry equipment; (1) from Madisonville, Ky., to Marietta, Ga., Lufkin, Tex., Bakersfield, Calif., Pleasantville, N.J., Milwaukee, Wis., and Chattanooga, Tenn.; and (2) from Chattanooga, Tenn., to Madisonville, Ky. Restriction: restricted to traffic originating at or destined to the plantsites or other facilities, of Huebsch Originators, American Laundry & Machine Industries, Division of McGraw Edison at Madisonville, Ky., Lufkin, Tex., Bakersfield, Calif., Pleasantville, N.J., Milwaukee, Wis., and Chattanooga, Tenn., and the plantsite of Damar, Inc., Marietta, Ga., for 180 days. Supporting shipper: Karl Heyse, Plant Manager, Huebsch Originators, American Laundry & Machine Industries, Division of McGraw Edison, Madisonville, KY. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, KY 40202.

No. MC 133240 (Sub-No. 13 TA), filed January 29, 1971. Applicant: CAROLINA TRUCKING CO., INC., 530 Duncan Avenue, Jersey City, NJ 07306. 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: *Such commodities*, as are dealt in or used by discount or department stores, between the facilities of Unishops, Inc., their divisions and subsidiaries located in Jersey City, N.J., on the one hand, and, on the other, Richmond, Va., for 150 days. Supporting shipper: Saul Goldstein T/M, Unishops, Inc., 21 Gaven Point Avenue, Jersey City, NJ 07305. Send protests to: District Supervisor Robert E. Johnston, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 133937 (Sub-No. 6 TA), filed January 29, 1971. Applicant: CAROLINA CARTAGE COMPANY, INC., Airport Road, Box 1075, 651 Keith Drive, Greenville, SC 29607. Applicant's representative: Henry P. Willimon (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, having a prior or subsequent movement by air, between points in South Carolina and the Charlotte, N.C., Airport, for 180 days. Supporting shippers: There are approximately 14 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

No. MC 135256 TA, filed January 27, 1971. Applicant: JOHN ALLEN BRUSH, doing business as DATA TRANSPORT, 18 Stuyvesant Street, Huntington, NY 11743. Applicant's representative: Toaz, Buck, Myers, Brower, Bernst & Meservey, 381 New York Avenue, Huntington, NY 11743. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, and documents*, from Abraham & Straus, Brooklyn store, Fulton Street at Hoyt Street, Brooklyn, NY, to Abraham & Straus, Woodbridge Store, near intersection of Routes 1 and 9, Woodbridge Center, Woodbridge, NJ (Woodbridge Township, Middlesex County) for 180 days. Supporting shipper: Abra-

ham & Straus, Fulton Street, Brooklyn, N.Y. 11201. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, NY 10007.

No. MC 135260 TA, filed January 29, 1971. Applicant: GENERAL TRANSFER, INC., doing business as GENERAL TRANSFER & STORAGE, Hiway 8 at 70th Street, La Mesa, CA 92041. 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 Los Angeles, Orange, Riverside, San Bernadino, and San Diego Counties, Calif., 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 shipper: Red Ball Internation (a division of American Red Ball Transit Co., Inc.) 200 Illinois Building, Indianapolis, IN 46204. Send protests to: Philip Yallowitz, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 135261 TA, filed January 29, 1971. Applicant: ROBERT C. MORRIS, doing business as MORRIS MOVING & STORAGE, 211 Barwise, Wichita Falls, TX 76307. 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 Wichita, Clay, Archer, Baylor, Foard, Hardeman, Knox, Montague, Throckmorton, Willbarger, Young, Cameron, Willacy, Hidalgo, Starr, Zapata, Jim Hogg, Brooks, and Kenedy Counties, Tex., and points in Cotton, Jefferson, and Tillman Counties, Okla., 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: Columbia Export Packers, Inc., 19000 South Vermont Avenue, Torrance, CA 90502; Smyth Worldwide Movers, Inc., 11616 Aurora Avenue North, Seattle WA 98133; Davidson Forwarding Co. 3180 V Street NE., Washington, DC 20018. Send protests to: H. C. Morrison, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 135262 TA, filed January 29, 1971. Applicant: VERNON E. RADATZ, Box No. 16, Rural Route No. 1, Byron, IL. 61010. Applicant's representative: William C. Jackson, 611 Illinois National Bank Building, 228 South Main Street, Rockford, IL 61101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed for livestock*, from Janesville, Wis., to Stillman Valley, Ill. The most direct route between Janesville, Wis., and Stillman Valley, Ill., for 180 days. Supporting shipper: Griffith Lumber Co., Stillman Valley, IL 61084. Send protests to: Andrew J. Montgomery, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, Room 1086, 219 South Dearborn Street, Chicago, IL 60604.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-1657 Filed 2-4-71;8:52 am]

[Notice 642]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 2, 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-72514. By order of January 18, 1971, the Motor Carrier Board approved the transfer to R. H. Gibson, doing business as Gibson Motor Freight, Tahoka, Tex., of a portion of certificate of registration No. MC-112651 (Sub-No. 4) issued to Roy W. Gibson, doing business as Gibson Motor Freight, O'Donnell, Tex. (and leased to transferee herein) covering the transportation of general commodities, between specified points in Texas. Harold Green, Post Office Box 416, Tahoka TX 79373, attorney for applicants.

No. MC-FC-72576. By order of January 27, 1971, the Motor Carrier Board approved the transfer to Edward Boeve, doing business as Boeve Truck Service, Steen, Minn., of the operating rights in certificate No. MC-95330 issued December 14, 1966, to John Boeve, Steen, Minn., authorizing the transportation of livestock and grain from Steen, Minn., and points in Minnesota and Iowa within 15 miles of Steen, Minn., other than incorporated cities or towns, to Sioux Falls, S. Dak., from Steen, Minn., and points in Minnesota within 15 miles of Steen, Minn., other than incorporated cities or towns, to Rock Springs, Iowa; agricultural implements and machinery and other related agricultural commodities from Sioux Falls, S. Dak., to Steen, Minn., and points in Minnesota and Iowa within 15 miles of Steen, Minn., other than incorporated cities and towns, from Rock Rapids, Iowa, to Steen, Minn., and points in Minnesota within 15 miles of Steen, Minn., other than incorporated cities or towns; water, in bulk, in tank vehicles from Rock Springs, Iowa, to Steen, Minn., and points in Minnesota and South Dakota within 15 miles of Steen, Minn.; and emigrant movables between Steen, Minn., and points in Minnesota within 15 miles of Steen, Minn., except incorporated cities or towns, on the one hand, and, on the other, points in Iowa and South Dakota within 200 miles of Steen, Minn. Walter A. Tofteland, 109 North Cedar, Luverne, MN 56156, attorney for applicants.

No. MC-FC-72584. By order of January 27, 1971, the Motor Carrier Board approved the transfer to Hoffman Transfer Co., a corporation, Denver, Colo., of certificate of registration No. MC-57232 (Sub-No. 1) issued April 17, 1970, to Charles F. Reynolds and H. Lee Bryant, a partnership, doing business as Hoffman Transfer Co., Denver, Colo., evidencing a right to engage in transportation in interstate commerce as described in that portion of Certificate of Public Convenience and Necessity, PUC No. 453, as was embraced in predecessor's certificate of registration, extended by Decision No. 46271, dated August 9, 1956, and transferred by Decisions Nos. 68069 and 72650, dated August 24, 1966, and March 11, 1969, respectively, by the Public Utilities Commission of the State of Colorado. Robert S. Stauffer, 3539 Boaton Road, Cheyenne, WY 82001, attorney for applicants.

No. MC-FC-72594. By order of January 27, 1971, the Motor Carrier Board approved the transfer to Curtis Trucking Inc., Greenville, Pa., of the operating rights in certificate No. MC-117086, issued July 14, 1958, to Howard L. Curtis, doing business as Howard L. Curtis Trucking, Greenville, Pa., authorizing the transportation of paper tubing and other specified commodities from specified points in Pennsylvania to points in Ohio, Indiana, New York, West Virginia, and Kentucky and box-board paper on return. Archie O. Wallace, 47 Clinton Street, Greenville, PA 16125, attorney for applicants.

No. MC-FC-72618. By order of January 27, 1971, the Motor Carrier Board approved the transfer to Domenic Cristinzio, Inc., Philadelphia, Pa., of the operating rights in certificate No. MC-84135 issued June 29, 1961, to Murray S. Close, Jr., doing business as M. Close Moving & Storage, Philadelphia, Pa., authorizing the transportation of household goods as defined by the Commission, between Philadelphia, Pa., on the one hand, and, on the other, points in New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and the District of Columbia. Michael J. Rutenberg, 1320 Two Penn Center Plaza, Philadelphia,

PA 19102, attorney for transferee. Raymond A. Thistle, Jr., Four Penn Center Plaza, Philadelphia, PA, attorney for transferor.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.77-1658 Filed 2-4-71;8:52 am]

FEDERAL POWER COMMISSION

[Docket No. RI71-645 etc.]

UNION PACIFIC RAILROAD CO. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates [1]

JANUARY 27, 1971.

The respondents named herein have filed proposed increased rates and charges of currently effective rate schedules for sales of natural gas under Commission jurisdiction, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column, and thereafter until made effective as prescribed by the Natural Gas Act.

(C) Until otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington, D.C. 20426, in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before March 19, 1971.

By the Commission.

[SEAL] GORDON M. GRANT,
Secretary.

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI68-326	Union Pacific Railroad Co. et al.	4	6	Colorado Interstate Gas Co. (Patrick Draw, Table Rock, Wamsutter, and Point of Rocks Fields, Sweetwater County, Wyo.).	$6,095	12-31-70	12-31-70	[28] Accepted	[2] 17.00	[1] 17.1700	RI68-326.
	do	5	5	do	5,119	12-31-70	12-31-70	[28] Accepted	[2] 17.00	[1] 17.2550	RI68-326.
	do	6	4	do	1,865	12-31-70	12-31-70	[28] Accepted	[2] 16.00	[1] 16.24	RI68-326.
	do	7	3	do	16,007	12-31-70	12-31-70	[28] Accepted	[2] 15.50	[1] 15.7325	RI68-326.
RI68-334	do	9	2	do	432	12-31-70	12-31-70	[28] Accepted	16.00	[1] 16.24	RI68-334.
RI69-27	do	10	3	do	1,896	12-31-70	12-31-70	[28] Accepted	[1] 18.20	[1] [3] 18.4730	RI69-27.
RI68-334	do	11	2	do	2,017	12-31-70	12-31-70	[28] Accepted	17.00	[1] 17.2550	RI68-334.
RI68-326	do	[4] 12	4	do	737	12-31-70	12-31-70	[28] Accepted	[2] 17.00	[1] 17.1700	RI68-326.
RI70-943	do	13	4	Mountain Fuel Supply Co. (Nitchie Gulch Field, Sweetwater County, Wyo.).	108	12-31-70	12-31-70	[28] Accepted	[28] 16.00	[1] [29] 16.24	RI70-943.
RI71-645	Chevron Oil Co.	1	9	El Paso Natural Gas Co. (Ratherford Field, Aneth Area, San Juan County, Utah).	688	12-28-70	1-28-71	6-28-71	[29] 17.70	[28] 22.00	
	do	17	14	El Paso Natural Gas Co. (Eumont Field, Lea County, N. Mex.) (Permian Basin).	1,203	12-28-70	1-28-71	6-28-71	[6] 17.3908	[6] 17.9023	RI70-1340.
	do	18	12	El Paso Natural Gas Co. (Pecos Valley, Fusselman Field, Pecos County, Tex. (Permian Basin).	866	12-28-70	1-28-71	6-28-71	17.0	17.8019	RI70-1340.
	do	23	13	El Paso Natural Gas Co. (Langlie-Mattix Field, Lea County, N. Mex.) (Permian Basin).	184	12-28-70	12-28-70	6-28-71	[1] 16.880	[1] 17.9023	RI69-684.
	do	24	23	El Paso Natural Gas Co. (Various Fields,[5] Lea County, N. Mex.) (Permian Basin).	37,698	12-28-70	1-28-71	6-28-71	[6] 16.88	[6] 17.9023	RI69-684.
	do		[4] 24	do	1,535	12-28-70	1-28-71	6-28-71	[7] 15.86	[7] 16.8793	RI69-684.
	do	26	7	Transwestern Pipeline Co. (Atoka Field, Eddy County, N. Mex.) (Permian Basin).	56,427	12-28-70	1-28-71	6-28-71	18.0	21.1011	RI69-748.
	do	27	7	Transwestern Pipeline Co. (Lovett Unit No. 1, Kermit and South Kermit Fields, Winkler County, Tex.) (Permian Basin).	26,590	12-28-70	1-28-71	6-28-71	18.0	21.0919	RI69-748.
	do	28	7	Transwestern Pipeline Co. (Lovett Unit No. 2) (Kermit and South Kermit Fields, Winkler County, Tex.) (Permian Basin).	10,049	12-28-70	1-28-71	6-28-71	18.0	21.0919	RI69-748.
	do	29	7	do	371,028	12-28-70	1-28-71	6-28-71	18.0	21.0919	RI69-748.
RI68-618	U.S. Natural Resources, Inc.	4	5	Colorado Interstate Gas Co. (Desert Springs, Sweetwater County, Wyo.).	300	1-4-71	1-4-71	[28] Accepted	[1] [10] 18.25	[12] 18.5237	RI68-618.
	do	4	5	do	395	1-4-71	1-4-71	[28] Accepted	[1] [11] 18.186	[11] [13] 18.4586	RI68-618.

APPENDIX A—Continued

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.
RI71-646..	Atlantic Richfield Co.	577	[17] 4	Transcontinental Gas Pipe Line Corp. (Thomaston et al. Fields, De Witt and Victoria Counties, Tex., RR. District No. 2).	----------	1- 4-71	2- 4-71	[24] [25] Accepted	----------	----------	
	-----do-----		5	-----do-----	87,407	1- 4-71	2- 4-71	7- 4-71	[14] [15] [16] 13.0481	[18] 21.0	
	-----do-----	578	[17] 3	Transcontinental Gas Pipe Line Corp. (Clayton et al. Fields, Live Oak County, Tex., RR. District No. 2).	----------	1- 4-71	2- 4-71	[24] Accepted	----------	----------	
	-----do-----		4	-----do-----	205,083	1- 4-71	2- 4-71	7- 4-71	[14] [15] [16] 13.0481	[18] 21.0	
	-----do-----	494	[17] 13	Transcontinental Gas Pipe Line Corp. (Ray Field, Bee County, Tex., RR. District No. 2).	----------	1- 4-71	2- 4-71	[24] [25] Accepted	----------	----------	
	-----do-----		14	-----do-----	11,195	1- 4-71	2- 4-71	7- 4-71	[14] [15] [16] 13.0481	[18] 21.0	
	-----do-----	495	[17] 13	Transcontinental Gas Pipe Line Corp. (Mineral Field, Bee County, Tex., RR. District No. 2).	----------	1- 4-71	2- 4-71	[24] [25] Accepted	----------	----------	
	-----do-----	495	14	-----do-----	1,075	1- 4-71	2- 4-71	7- 4-71	[14] [15] [16] 13.0481	[18] 21.0	
	-----do-----	504	16	Transcontinental Gas Pipe Line Corp. (West Tuleta Field, Bee County, Tex., RR. District No. 2).	----------	1- 4-71	2- 4-71	[24] [25] Accepted	----------	----------	
	-----do-----		17	-----do-----	134,334	1- 4-71	2- 4-71	7- 4-71	[14] [15] [16] 13.0481	[18] 21.0	
	Atlantic Richfield Co. et al.	41	16	Transcontinental Gas Pipe Line Corp. (Greta Field, Refugio County, Tex., RR. District No. 2).	----------	1- 4-71	2- 4-71	[24] [25] Accepted	----------	----------	
	-----do-----		17	-----do-----	429,869	1- 4-71	2- 4-71	7- 4-71	[14] [15] [16] 13.0481	[18] 21.0	
	Atlantic Richfield Co.	5	11	Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (Mustang Island Field, Nueces County, Tex., RR. District No. 4).	481,124	1- 4-71	2- 4-71	7- 4-71	15.6585	24.25	RI68-90.
	-----do-----	6	12	Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (North Minnie Bock Field, Nueces County, Tex., RR. District No. 4).	244,761	1- 4-71	2- 4-71	7- 4-71	[19] 14.83612	24.25	RI70-700.
	-----do-----	330	12	Tennessee Gas Pipeline Co., a division of Tenneco, Inc. (Mustang Island Field, Nueces County, Tex., RR. District No. 4).	56,547	1- 4-71	2- 4-17	7- 4-71	15.0555	24.25	RI70-700.
	Atlantic Richfield Co. et al.	491	8	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (San Salvador Field, Hidalgo County, Tex., RR. District No. 4).	20,141	1- 4-71	2- 4-71	7- 4-71	15.0534	24.25	RI70-698.
	-----do-----	545	18	Transcontinental Gas Pipe Line Corp. (Longhorn et al. Fields, DuVal County, Tex., RR. District No. 4).	----------	1- 4-71	2- 4-71	[24] [25] Accepted	----------	----------	
	-----do-----		19	-----do-----	57,139	1- 4-71	2- 4-71	7- 4-71	[14] [15] [16] 13.0481	[18] 21.0	
	-----do-----	42	18	Transcontinental Gas Pipe Line Corp. (Arneckeville et al. Fields, De Witt et al. Counties, Tex. RR. District No. 2).	----------	1- 4-71	2- 4-71	[24] [25] Accepted	----------	----------	
	-----do-----		19	-----do-----	146,603	1- 4-71	2- 4-71	7- 4-71	[14] [15] [16] 13.0481	[18] 21.0	
RI71-647..	Chevron Oil Co-----	32	4	Lone Star Gas Co. (East Durant Field, Bryan County, Okla., Other Area).	539	12-28-71	1-28-71	6-28-71	17.9	19.0	RI68-712.
RI71-648..	Kerr-McGee Corp. et al.	15	[21] 7	Southern Natural Gas Co. (Spider Field, De Soto Parish, Northern Louisiana).	23,116	12-31-71	1-31-71	5-31-71	[22] [24] 14.4855	[22] [25] 17.3750	
RI71-649..	Edwin L. Cox et al.	47	3	Lone Star Gas Co. (Northwest Marlowe Field, Stephens County, Okla., Other Area).	8,558	1- 4-71	2- 4-71	7- 4-71	[23] 16.81	[23] 19.01	RI68-130.
RI71-650..	Wichita Resources, Inc.	(26)	(26)	El Paso Natural Gas Co. (North Branch Field, Sutton County, Tex.) (RR. District 7-C) (Permian Basin).	60,225	12-30-70	1-30-71	6-30-71	16.5	22.0	
RI71-651..	A. R. Eppenauer---	(27)	(27)	El Paso Natural Gas Co. (Jalmaf Field, Lea County) (New Mexico, Permian Basin).	1,469	12-31-70	2- 1-71	7- 1-71	14.44	17.5	

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.

[1] Includes double severance tax reimbursement with 50 percent applicable to gas delivered on and after Jan. 1, 1971, and the remainder levied for recoupment of such paid during prior years.

[2] Not used.

[3] Includes 2.2 cents per Mcf maximum B.t.u. adjustment limited by order issued Mar. 19, 1968, in Docket No. CI67-1238.

[4] Formerly: St. Helens Petroleum Corp. FPC Gas Rate Schedule No. 1.

[5] Subject to compression charge of 0.4467 cent per Mcf if delivery pressure falls below 600 p.s.i.g.

[6] Subject to reduction of 0.4467 cent per Mcf for gas delivered at pressure below 600 p.s.i.g. or that lower pressure sufficient to deliver in Buyer's pipeline.

[7] Subject to 0.5-cent compression charge.

[8] Supplement No. 24 applies to acreage in Warren's Monument Plant, Lea County, N. Mex.

[9] Previously reported as 18.15 cents per Mcf inclusive of 2.15 cents B.t.u. adjustment.

[10] Includes 2.25 cents per Mcf upward B.t.u. adjustment.

[11] Includes 2.186 cents per Mcf upward B.t.u. adjustment.

[12] Applicable to Government No. 1-2 (T. 21 N., R. 98 W., 6th P.M., section 2).

[13] Applicable to well Unit No. 1 (T. 21 N., R. 98 W., 6th P.M., section 12).

[14] For gas which does not require compression or for gas compressed by buyer. (Less 2 cents per Mcf.)

[15] For gas compressed by buyer, the facilities for which seller may elect to take over. (Less 1 cent per Mcf.)

[16] For gas requiring compression, the facilities for which seller elects to maintain and operate.

[17] Amendment, dated either Dec. 14, 1970, Dec. 15, 1970, or Dec. 17, 1970, provides, among other things, for renegotiated rates of 19 cents for gas from reservoirs discovered prior to Sept. 28, 1960, 21 cents for all gas from reservoirs discovered from Sept. 28, 1960, to June 17, 1970, and 25 cents for gas from reservoirs discovered on or after June 17, 1970, also extends contract term to Apr. 1 1981.

[18] For gas discovered between Sept. 28, 1960, and June 17, 1970, 19 cents for gas discovered prior to Sept. 28, 1960, and 25 cents for gas discovered on or after June 17, 1970.

[19] Subject to a 0.21931-cent dehydration charge for all gas dehydrated by buyer.

[20] Not used.

[21] Includes letter from buyer dated Dec. 3, 1970, advising seller of its contractual entitlement to proposed rate pursuant to Favored-Nations provisions of contract.

[22] Includes 1.125-cent tax reimbursement.

[23] Includes 0.01-cent tax reimbursement.

[24] Accepted, to become effective Feb. 4, 1971, consistent with the provisions of section 154.93(b-1).

[25] Accepted, for filing only insofar as they pertain to reserves specified therein.

[26] Pertains to contract dated Dec. 23, 1970. Sale covered by small producer certificate in CS71-13.

[27] Pertains to contract dated May 24, 1954. Sale covered by small producer certificate in CS67-83.

[28] Accepted for filing, subject to refund in the indicated suspension proceeding as of the date set forth in the "Effective Date Unless Suspended" column.

The proposed increases of Union Pacific Railroad Co. et al. (Union), and U.S. Natural Resources, Inc., include a double amount of the contractually due reimbursement of the Wyoming severance tax, thus providing for reimbursement of taxes applicable to future production as well as reimbursement for taxes applicable to past production, back to January 1, 1968. After tax reimbursement applicable to past production has been recovered, the producers shall file a rate decrease reducing the proposed rate so as to provide for tax reimbursement for future production only. The applicants will also be required to refund any reimbursement relating to the Wyoming tax collected in this proceeding in the event the tax is for any reason held invalid upon judicial review. The proposed increases are accepted for filing as of the date of filing subject to the existing suspension proceedings. Union's buyer may withhold payment of the tax reimbursement in accordance with Union's request.

The amendments filed by Atlantic Richfield Co., in addition to providing for the proposed increased rates also provides for future escalations to any higher area ceiling or settlement rate prescribed by the Commission. The provisions relating to the area rate do not conform with § 154.93(b-1) of the Commission's regulations. Accordingly, the agreements are accepted for filing upon expiration of statutory notice subject to the condition that the provisions relating to the area rate will only apply upon the Commission's approval of a just and reasonable rate, or settlement rate, in an applicable area rate proceeding, for gas of comparable quality and vintage. Atlantic is also advised that the acceptance of such amendments does not constitute any authorization to abandon any acreage covered by the original contracts which is not covered by these agreements.

U.S. Natural Resources, Inc.; Atlantic Richfield Co.; Kerr McGee Corp.; Edwin L. Cox and Wichita Resources, Inc., request effective dates for which adequate notice has not been given and Atlantic requests waiver of notice. Good cause has not been shown for granting any of these requests and they are denied.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's statement of general policy No. 61-1, as amended (18 CFR 2.56).

[FR Doc.71-1435 Filed 2-4-71;8:45 am]

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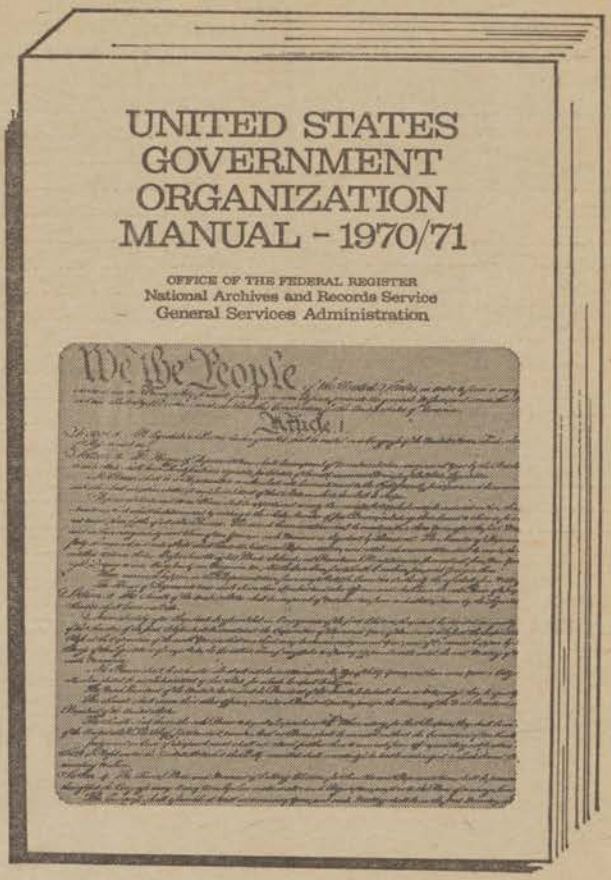

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