

# FEDERAL REGISTER

VOLUME 36 • NUMBER 72

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Pages 7043-7117

Part I

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Agricultural Stabilization and  
Conservation Service  
Atomic Energy Commission  
Civil Aeronautics Board  
Consumer and Marketing Service  
Environmental Protection Agency  
Federal Aviation Administration  
Federal Home Loan Bank Board  
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Just Released

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(Revised as of January 1, 1971)

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[A Cumulative checklist of CFR issuances for 1971 appears in the first issue of the Federal Register each month under Title 1]

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# Presidential Documents

## Title 3—The President

PROCLAMATION 4046

### Pan American Day and Pan American Week, 1971

*By the President of the United States of America*

#### A Proclamation

April 14 marks the eighty-first anniversary of the founding of the world's oldest regional grouping of nations, the inter-American system now called the Organization of American States.

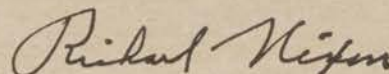
The name of the system has changed over the years, but its objectives have not. It was Simon Bolivar's dream of 150 years ago—that the freedom of the New World would be the hope of the universe—which inspired the creation of the inter-American system. And it is that aspiration which still unites the peoples of the Western Hemisphere in the structure of peace and the pursuit of progress, transcending our diversity of languages and cultures.

The United States, as the oldest republic in the Americas and a founding member of the inter-American system, has long been pledged to lend its full weight to the work of realizing Bolivar's dream. I have renewed that pledge for the Seventies, with special emphasis on equal partnership and full participation for all the New World nations.

The Organization of American States has long outlived the farsighted men who laid the foundations of hemispheric cooperation eight decades ago. It has gained steadily in stature as a force for a better life in the Americas. With our support it can continue to meet the challenges of the present and enlarge the opportunities of the future.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim Wednesday, April 14, 1971, as Pan American Day, and the week beginning April 11 and ending April 17 as Pan American Week; and I call upon the Governors of the fifty States and the Commonwealth of Puerto Rico, the Commissioner of the District of Columbia, and appropriate officials of all other areas under the flag of the United States to issue similar proclamations.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of April, 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.



[FR Doc.71-5240 Filed 4-12-71;3:06 pm]

FEDERAL REGISTER, VOL. 36, NO. 72—WEDNESDAY, APRIL 14, 1971







# Rules and Regulations

## Title 7—AGRICULTURE

### Chapter II—Food and Nutrition Service, Department of Agriculture

#### PART 210—NATIONAL SCHOOL LUNCH PROGRAM

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

Pursuant to section 4 of the National School Lunch Act, as amended, food assistance funds available for the fiscal year ending June 30, 1971, are reapportioned among the States as follows in order to effect a further apportionment of available funds:

State	Total apportionment	Agency	Withheld for private schools
Alabama.....	\$7,409,205	\$7,257,127	\$152,078
Alaska.....	254,970	254,970	-----
Arizona.....	1,990,058	1,990,058	-----
Arkansas.....	4,176,405	4,087,932	88,473
California.....	8,470,620	8,470,620	-----
Colorado.....	2,444,198	2,323,119	121,079
Connecticut.....	1,990,373	1,990,373	-----
Delaware.....	603,270	599,115	4,155
District of Columbia.....	349,875	349,875	-----
Florida.....	8,633,542	8,633,542	-----
Georgia.....	10,018,890	10,018,890	-----
Guam.....	218,678	218,678	-----
Hawaii.....	1,389,982	1,309,161	80,821
Idaho.....	1,034,280	1,007,840	26,440
Illinois.....	6,470,010	6,470,010	-----
Indiana.....	5,322,510	5,322,510	-----
Iowa.....	4,175,978	3,734,780	441,198
Kansas.....	2,622,465	2,622,465	-----
Kentucky.....	6,428,002	6,428,002	-----
Louisiana.....	9,149,985	9,149,985	-----
Maine.....	1,278,292	1,154,772	123,520
Maryland.....	2,972,790	2,898,063	73,827
Massachusetts.....	5,334,638	5,334,638	-----
Michigan.....	5,601,082	5,185,552	415,530
Minnesota.....	5,247,202	4,701,266	545,936
Mississippi.....	6,171,968	6,171,968	-----
Missouri.....	5,592,375	5,592,375	-----
Montana.....	692,572	655,309	37,263
Nebraska.....	1,786,635	1,555,783	230,852
Nevada.....	201,172	200,046	1,126
New Hampshire.....	737,798	737,798	-----
New Jersey.....	3,096,878	2,775,756	321,122
New Mexico.....	1,716,548	1,716,548	-----
New York.....	14,588,708	14,588,708	-----
North Carolina.....	10,640,835	10,640,835	-----
North Dakota.....	1,117,642	1,006,401	111,241
Ohio.....	9,028,552	8,257,874	770,678
Oklahoma.....	3,092,175	3,092,175	-----
Oregon.....	1,998,068	1,998,068	-----
Pennsylvania.....	8,800,650	7,879,571	921,079
Puerto Rico.....	5,975,032	5,975,032	-----
Rhode Island.....	419,400	419,400	-----
South Carolina.....	6,713,932	6,658,484	55,448
South Dakota.....	906,998	906,998	-----
Tennessee.....	6,875,708	6,778,626	97,082
Texas.....	11,504,888	11,165,397	339,491
Utah.....	2,048,872	2,048,872	-----
Vermont.....	407,362	407,362	-----
Virginia.....	6,659,122	6,577,455	81,667
Virgin Islands.....	235,418	235,418	-----
Washington.....	2,889,900	2,830,068	59,832
West Virginia.....	2,739,105	2,688,758	50,347
Wisconsin.....	4,276,597	3,570,179	706,418
Wyoming.....	370,328	370,328	-----
Samos, American.....	127,822	127,822	-----
Total.....	225,000,000	219,150,797	5,849,203

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

Dated: April 7, 1971.

HOWARD P. DAVIS,  
Acting Administrator.

[FR Doc.71-5052 Filed 4-13-71; 8:45 am]

### Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

#### SUBCHAPTER I—DETERMINATION OF PRICES

##### PART 877—SUGARCANE; PUERTO RICO

###### Fair and Reasonable Prices for 1970-71 Crop

###### Correction

In F.R. Doc. 71-4734 appearing at page 6489 in the issue of Tuesday, April 6, 1971, the following changes should be made in the Statement of Bases and Considerations:

1. The word "baggage" in the seventh line of the third column on page 6491 should read "bagasse".

2. On page 6492 the 12th line of the second complete paragraph in the first column should read "such actions would be detrimental to the".

3. The word "bias" in the formula three lines from the bottom of the first column on page 6492 should read "basis".

4. In the set of equations on page 6492 in the second and third columns the left side of both the upper and lower equation reading "Pol DCF" for the upper and "Brix DCF" for the lower should be reversed so that "Brix DCF" should appear on the left side of the upper equation and "Pol DCF" should appear on the left side of the lower equation.

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

[Amdt. 7]

#### PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

##### Container, Pack, and Container Marking Regulations

###### Correction

In F.R. Doc. 71-4549 appearing on page 5962 in the issue of Thursday, April 1, 1971, the figure "3 $\frac{1}{16}$ " in the 13th line of § 906.340(a) (2) (ii) should read "3 $\frac{1}{16}$ ".

## Title 14—AERONAUTICS AND SPACE

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

[Airspace Docket No. 71-CE-1]

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

##### Alteration of Federal Airway Segments

On February 3, 1971, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (36 F.R. 1910) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter V-159 and V-307.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., June 24, 1971, as hereinafter set forth.

Section 71.123 (36 F.R. 2010) is amended as follows:

1. In V-159 all between "St. Joseph, Mo.;" and "Sioux City, Iowa" is deleted and "INT St. Joseph 328" and Omaha, Nebr., 155° radials; Omaha;" is substituted therefor.

2. In V-307 all after "193° radials;" is deleted and "35 MSL Pawnee City; Omaha, Nebr., including a west alternate via INT Pawnee 003° and Omaha 226° radials." 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 Washington, D.C., on April 7, 1971.

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

[FR Doc.71-5160 Filed 4-13-71; 8:46 am]

[Airspace Docket No. 71-EA-32]

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

##### Alteration of Control Zone

The Federal Aviation Administration is amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to



alter the North Philadelphia, Pa., control zone (36 F.R. 2111).

The control zone is described, in part, by reference to the North Philadelphia radio beacon (RBN). It is planned to decommission the RBN and to cancel the instrument approach procedures predicated on this facility. Additional review of the control zone requirements for North Philadelphia in accordance with the U.S. Standard for Terminal Instrument Procedures indicates that there is no longer a requirement for control zone extensions to the basic 5-mile radius control zone.

Since the foregoing amendment is both clarifying and relaxatory, no notice and public procedure hereon are required and the amendment may be made effective in less than 30 days.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of North Philadelphia, Pa., amends Part 71 of the Federal Aviation Regulations effective 0901 G.m.t. May 27, 1971 as follows:

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

Within a 5-mile radius of the center, 40°04'49" N., 75°00'45" W. of Philadelphia, Pa., excluding the portion subtended by a chord drawn between the points of intersection of the 5-mile radius zone with the Willow Grove, Pa., control zone.

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

Issued in Jamaica, N.Y., on March 23, 1971.

LOUIS J. CARDINALI,  
Acting Director, Eastern Region.

[FR Doc.71-5161 Filed 4-13-71; 8:46 am]

## Title 17—COMMODITY AND SECURITIES EXCHANGES

### Chapter II—Securities and Exchange Commission

[Release No. 33-5134]

#### PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

##### Increase of Maximum Amount of Offerings

The Securities and Exchange Commission has amended Regulation E (17 CFR 230.601 et seq.) to increase the maximum amount of the offering price of securities which may be offered thereunder from \$300,000 to \$500,000. Regulation E exempts from registration under the Securities Act of 1933 securities of small business investment companies registered under the Investment Company Act of 1940, the offering price of which is not in excess of that amount, upon compliance with the terms and condi-

tions of the regulation. Among the terms and conditions of the regulation are requirements that there be filed with the Commission a notification and an offering circular containing certain specified information, and the use of such offering circular in the offering and sale of the securities.

The amendment of the regulation to increase the maximum amount of the offering price of securities which may be offered thereunder has been adopted as a result of Public Law 91-565, amending section 3(b) of the Act (15 U.S.C. 77c(b)), signed into law on December 19, 1970.

#### Commission Action:

To effectuate the increases, the introductory clause of paragraph (a) of § 230.603 of Chapter II of Title 17 of the Code of Federal Regulations is amended to read as follows:

#### § 230.603 Amount of securities exempted.

(a) The aggregate offering price of all the following securities of the issuer shall not exceed \$500,000:

The foregoing action has been taken pursuant to the Securities Act of 1933, particularly sections 3(c) (15 U.S.C. 77(c)) and 19(a) (15 U.S.C. 77s) thereof. Because the amendment of section 3(b) of the Act has received extensive publicity and has been the subject of hearings of Congressional committees, the Commission finds that notice and procedure pursuant to the Administrative Procedure Act is not necessary. The Commission also finds that because the amendment relieves a previously existing restriction it may be made effective immediately upon publication. Accordingly, the amendment shall become effective upon publication (4-14-71).

(Secs. 3(c), 19(a); 48 Stat. 75, 85, 908, 59 Stat. 167; Public Law 91-565, 84 Stat. 1480; 15 U.S.C. 77c(c), 77s(a))

By the Commission, March 26, 1971.

[SEAL] ROSALIE F. SCHNEIDER,  
Recording Secretary.

[FR Doc.71-5146 Filed 4-13-71; 8:45 am]

## Title 20—EMPLOYEES' BENEFITS

### Chapter III—Social Security Administration, Department of Health, Education, and Welfare

[Reg. No. 5, further amended]

#### PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965—)

##### Subpart L—Conditions of Participation; Home Health Agencies

MODIFICATION IN STANDARDS FOR STATE OF NEW JERSEY FOR HOME HEALTH AGENCY PARTICIPATION IN MEDICARE PROGRAM

Subpart L of Part 405 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. That part of the addendum to § 405.1222 which relates to the higher condition of participation for the State of New Jersey is revised to read as follows:

#### § 405.1222 Condition of participation—agency supervision.

##### NEW JERSEY

*Agency Supervision—Condition.* The home health agency designates a physician or registered professional nurse qualified as a public health nurse director or supervisor to supervise the agency's performance in providing home health services in accordance with orders of the physician responsible for the care of the patient and under a plan of treatment established by such physician. In the event that a physician is designated to supervise the agency's services, the nursing service shall be under the direction of a registered professional nurse qualified as a public health nurse director or supervisor. The following are the requirements for qualifying as a public health nurse director or supervisor:

(a) *Director.* (1) A public health nurse director has completed a Master's Degree program accredited by the National League for Nursing with a nursing major in supervision, teaching, consultation or administration and advanced study in a clinical specialty; or completion of a Master's program in public health in an institution accredited by the American Public Health Association; and

(2) Five years of experience in public health nursing, 1 year of which shall have been in a supervisory experience.

(b) *Supervisor.* (1) A public health nurse supervisor has completed a baccalaureate degree program approved by the National League for Nursing for public health nursing preparation or postbaccalaureate study which includes content approved by the National League for Nursing for public health nursing preparation; and

(2) Three years of experience in public health nursing under qualified nursing supervision.

(Secs. 1102, 1863, 1871; 49 Stat. 647, as amended, 79 Stat. 325, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.)

2. *Effective date.* These revisions shall be effective upon publication in the FEDERAL REGISTER (4-14-71).

Dated: March 24, 1971.

ROBERT M. BALL,  
Commissioner of Social Security.

Approved: April 9, 1971.

JOHN G. VENEMAN,  
Acting Secretary of Health,  
Education, and Welfare.

[FR Doc.71-5198 Filed 4-13-71; 8:50 am]

## Title 39—POSTAL SERVICE

### Chapter I—Post Office Department

#### PART 154—CONDITIONS OF DELIVERY

##### PART 158—FORWARDING MAIL

#### Holding Mail for Addressees; Time Limit for Forwarding Mail

In the daily issue of February 23, 1971 (36 F.R. 3372) the Department published



a notice of proposed rulemaking as follows:

(1) It was proposed to reduce the time period for which ordinary mail (except first class specifying a retention period by the sender) will be retained at the office of address, at the addressee's request, from the present 60-day period to 30 days.

(2) It was also proposed to reduce the time period for which mail will be forwarded from 2 years to 1 year.

Interested persons were given 30 days within which to submit written data, views, and arguments concerning the proposed regulations. After consideration of all comments received, the Department has determined to adopt the proposals without change.

Accordingly, the following amendments to the Department's regulations are hereby made, to be effective on May 15, 1971.

In § 154.1 *Delivery to persons*, add new paragraph (i) to read as follows:

§ 154.1 *Delivery to persons.*

(i) *Holding mail at request of addressee.* Ordinary mail, except first class bearing return address of sender specifying a retention period, will be retained at the office of address at the request of the addressee, for a period up to 30 days. Under unusual conditions, mail may be held for a longer period if the postmaster considers it practicable.

Section 158.2 *Time limit of change of address order*, is amended to read as follows:

§ 158.2 *Time limit of change of address order.*

(a) Time limit specified by addressee (not to exceed 1 year): State beginning and ending dates in the change of address order. The original order should be canceled when the addressee returns to his old address or moves to another permanent address within the specified period.

(b) Time limit not specified by addressee: Records of permanent change of address order, other than those subject to paragraph (d) of this section, are held for 1 year from the end of the month of the effective date recorded on Form 3575. The order is not renewable. Mail may continue to be forwarded beyond the 1 year period if the new address is known to the forwarding employee without reference to the change of address records.

(c) Forms 3575 will be retained for administrative purposes for 2 years.

(d) Change from general delivery at city delivery office:

(1) *To permanent local address.* Record of change of address orders without time limit will be kept 6 months.

(2) *To other than permanent local address.* Record of change of address orders without time limit will be kept 30 days.

(5 U.S.C. 301, 39 U.S.C. 501)

DAVID A. NELSON,  
General Counsel.

[FR Doc. 71-5162 Filed 4-13-71; 8:45 am]

## Title 18—CONSERVATION OF POWER AND WATER RESOURCES

### Chapter I—Federal Power Commission

#### SUBCHAPTER E—REGULATIONS UNDER THE NATURAL GAS ACT

[Docket No. R-410; Order No. 430]

#### PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

##### Certification of Compliance With Federal Safety Standards and Plans for Maintenance and Inspection of Facilities

#### SUBCHAPTER G—APPROVED FORMS, NATURAL GAS ACT

#### PART 260—STATEMENTS AND REPORTS (SCHEDULES)

##### Annual Reports of System Flow Diagrams

APRIL 12, 1971.

By notice issued January 13, 1971, and published in the FEDERAL REGISTER on January 20, 1971 (36 F.R. 943), in Docket No. R-410 pursuant to section 553 of title 5 of the United States Code, sections 7 (c), (d), and (e) and 16 of the Natural Gas Act,<sup>1</sup> and sections 7 and 8 of the Natural Gas Pipeline Safety Act of 1968,<sup>2</sup> the Commission proposed to amend §§ 157.14 and 157.25 of Part 157—Applications for Certificates of Public Convenience and Necessity and for Orders Permitting and Approving Abandonment Under Section 7 of the Natural Gas Act, Subchapter E—Regulations under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations, and § 260.8 of Part 260—Statements and Reports (Schedules), Subchapter G—Approved Forms, Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations, to require applicants for and holders of certificates of public convenience and necessity under sections 7 (c) and (e) of the Natural Gas Act to comply with and conform to the requirements of sections 7 and 8 of the Natural Gas Pipeline Safety Act of 1968 and the regulations thereunder (49 CFR Part 192) and to declare it to be the policy of the Commission that certificates will not normally be granted authorizing the operation of facilities at any pressures higher than the maxima permitted by Federal safety standards.

Responses to the notice of proposed rulemaking have been received from the

<sup>1</sup> 52 Stat. 825, 56 Stat. 83, 15 U.S.C. 717f(e); 56 Stat. 84, 15 U.S.C. 717f(d); 56 Stat. 84, 15 U.S.C. 717f(e); and 52 Stat. 830, 15 U.S.C. 717o.

<sup>2</sup> 82 Stat. 725, 49 U.S.C. 1676 and 82 Stat. 725, 49 U.S.C. 1677.

Public Service Commission of the State of New York, Humble Oil & Refining Co., Mobil Oil Corp., Northern Natural Gas Co., Phillips Petroleum Co., and Shell Oil Co.

This proceeding was instituted to implement the Natural Gas Pipeline Safety Act of 1968 and to conform the Commission's regulations to said Act and the regulations promulgated thereunder. The Natural Gas Pipeline Safety Act of 1968 provides in section 7 that in proceedings under section 7 of the Natural Gas Act applicants shall certify that they will design, install, inspect, test, construct, operate, replace, and maintain the facilities in accordance with Federal safety standards and plans for maintenance and inspection and in section 8 that after the establishment of safety standards persons owning or operating pipeline facilities or transporting natural gas shall comply with such standards.

By order issued in Docket OPS-3 on August 11, 1970, and published in the FEDERAL REGISTER on August 19, 1970 (35 F.R. 13248-13276), and by order issued in Docket OPS-3 on November 10, 1970, and published in the FEDERAL REGISTER on November 17, 1970 (35 F.R. 17659-17661), the Acting Director of the Office of Pipeline Safety, Department of Transportation, promulgated and amended a new Part 192—Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, Chapter I—Hazardous Materials Regulations Board, Department of Transportation, Title 49 of the Code of Federal Regulations, containing the minimum Federal safety standards for the transportation of gas and for pipeline facilities used therefor. These regulations supersede on March 13, 1971, the regulations in Part 190—Interim Minimum Federal Safety Standards for the Transportation of Natural and Other Gas by Pipeline, Chapter I, Title 49 of the Code of Federal Regulations, applicable to design, installation, construction, and initial testing of facilities.

Section 157.14(a) (9) of the regulations under the Natural Gas Act sets forth in subdivision (vi) thereof that "As a matter of general policy, the Commission will not normally grant a certificate authorizing operation of facilities at any pressure higher than the maximum permitted by ASA B31.8 and the burden will be on the applicant to justify any such deviation." The Commission proposed to amend this statement of policy to read, "As a matter of general policy the Commission will not normally grant a certificate authorizing operation of facilities at any pressure higher than the maximum permitted by the Federal safety standards and the burden will be on the applicant to justify any such deviation." The Public Service Commission of the State of New York, in its comments on the proposed amendment, points out that the Commission has no discretion to certificate noncomplying proposals and that section 3(e) of the Natural Gas Pipeline Safety Act of 1968<sup>3</sup> pro-

<sup>3</sup> 82 Stat. 721, 49 U.S.C. 1672(e).



vides a procedure by which a pipeline may secure a waiver of compliance with the standards under the Act. Since waivers of the safety standards are discretionary with the Secretary of Transportation in the first instance, it would appear that noncomplying proposals could be certificated by the Commission only if a waiver had been first obtained from the Secretary of Transportation. Therefore, the statement of policy in subdivision (vi) will be deleted and will not be replaced; however, applicants will be required to indicate whether a waiver has been granted by the Secretary of Transportation.

The Public Service Commission suggests that the proposed amendment of § 157.14(a) (9) should be given the status of an independent regulation and submits that it should not be merely an adjunct to an exhibit which need not be filed with applications for budget-type certificates or other certificates within the contemplation of section 157.7 of the regulations.<sup>4</sup> Section 157.7 excuses the filing of exhibits required by § 157.14(a) or any other information and data required by Part 157 only when such information and data are not required to disclose fully the nature and extent of the proposed undertaking. Since the Commission is required to have an applicant's certification that a proposal will comply with established Federal safety standards, the certificate of compliance will be required to be filed with all applications, including budget-type and other abbreviated applications for certificates. Therefore, it is unnecessary to adopt the suggestion of the Public Service Commission because the certification will be required in all applications unless a waiver has been obtained from the Secretary of Transportation.

Mobil Oil Corp. suggests that the instant proceeding be terminated with respect to gathering facilities and cites section 1(b) of the Natural Gas Act.<sup>5</sup> Shell Oil Company suggests that the proposed amendment to section 157.25 of the regulations should be revised to clarify the Commission's intention to limit the certification of compliance to those certificate applications filed in cases in which the applicant will have gathering lines in areas subject to Federal safety standards.<sup>6</sup> Humble Oil & Refining Co. suggests that § 157.24(a) of the regulations should be amended to require a producer applicant to state in its certificate application whether any of the facilities for the proposed sale or transportation are subject to the Natural Gas Pipeline Safety Act of 1968. Although the extent of Commission jurisdiction over gathering facilities is not without controversy, the Commission does have a standard<sup>7</sup> by which it determines when an independent producer's gathering function is really an act of transporting

gas in interstate commerce subject to the Commission's jurisdiction.<sup>8</sup> Therefore, Mobil's suggestion will not be adopted. In order to avoid misunderstandings which may result from independent producers' failure to file certificates of compliance, the proposed amendment to § 157.25 is revised to require applicants whose gathering facilities lie outside the areas where Federal safety standards are applicable to so state in Exhibit C in lieu of filing the certificate of compliance and to indicate whether a waiver has been granted by the Secretary of Transportation.

Except as noted above, the proposed amendments are adopted without change. The Office of Management and Budget has approved the amendment of § 260.8(b).

#### The Commission finds:

(1) The notice and opportunity to participate in this proceeding through the submission in writing of data, views, comments, and suggestions in the manner described above are consistent and in accordance with the procedural requirements prescribed in 5 U.S.C. 553.

(2) The amendments hereinafter set forth are necessary and appropriate in carrying out the provisions of the Natural Gas Act and the Natural Gas Pipeline Safety Act of 1968.

(3) Since the revisions made herein do not represent substantial departures from the amendments as proposed or impose additional burdens on persons subject to these regulations, further notice prior to adoption is unnecessary.

The Commission, acting pursuant to authority granted pursuant to the Natural Gas Act, as amended, particularly sections 7(c), 7(d), 7(e), and 16 thereof (52 Stat. 825, 56 Stat. 83, 15 U.S.C. 717f(c); 56 Stat. 84, 15 U.S.C. 717f(d); 56 Stat. 84, 717f(e); 52 Stat. 830, 15 U.S.C. 717o), and the Natural Gas Pipeline Safety Act of 1968, particularly sections 3(e), 7, and 8 thereof (82 Stat. 721, 49 U.S.C. 1672(e); 82 Stat. 725, 49 U.S.C. 1676; 82 Stat. 725, 49 U.S.C. 1677), and in accordance with 5 U.S.C. 553, orders:

(A) Part 157, Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations is amended to read as follows:

1. Subdivision (vi) in § 157(a) (9) is revised to read as follows:

#### § 157.14 Exhibits.

(a) \* \* \*

(9) Exhibit G-II-Flow diagram data. \* \* \*

(vi) The maximum allowable operating pressure of each proposed facility for which a certificate is requested, as permitted by the Department of Transportation's safety standards. The applicant shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain the facilities for which a certificate is requested in accordance

with Federal safety standards and plans for maintenance and inspection or shall certify that it has been granted a waiver of the requirements of the safety standards by the Department of Transportation in accordance with the provisions of section 3(e) of the Natural Gas Pipeline Safety Act of 1968. Pertinent details concerning the waiver shall be set forth.

(Secs. 7(c), (d), and (e) and 16 of the Natural Gas Act (52 Stat. 825, 56 Stat. 83, 15 U.S.C. 717f(c); 56 Stat. 84, 15 U.S.C. 717f(d); 56 Stat. 84, 717f(e); 52 Stat. 830, 15 U.S.C. 717(o) and secs. 3(e), 7, and 8 of the Natural Gas Pipeline Safety Act of 1968 (82 Stat. 721, 49 U.S.C. 1672(e); 82 Stat. 725, 49 U.S.C. 1676; 82 Stat. 725, 49 U.S.C. 1677))

2. Section 157.25 is amended by adding a new paragraph entitled "Exhibit C. Certification required by the Natural Gas Pipeline Safety Act of 1968" which reads as follows:

#### § 157.25 Necessary exhibits.

*Exhibit C. Certification required by the Natural Gas Pipeline Safety Act of 1968.* The applicant shall certify that it will design, install, inspect, test, construct, operate, replace, and maintain any gathering facilities used in the proposed sale or transportation for which a certificate is requested in accordance with Federal safety standards and plans for maintenance and inspection or shall certify that it has been granted a waiver of the requirements of the safety standards by the Department of Transportation in accordance with the provisions of section 3(e) of the Natural Gas Pipeline Safety Act of 1968. Pertinent details concerning the waiver shall be set forth. The Federal standards are not applicable to gathering facilities outside the following areas:

(a) An area within the limits of any incorporated or unincorporated city, town, or village;

(b) Any designated residential or commercial area such as a subdivision, business or shopping center, or community development.

Applicants whose gathering facilities lie outside the areas where Federal safety standards are applicable shall so state in Exhibit C in lieu of submitting the required certification.

(Secs. 7(c), (d), and (e) and 16 of the Natural Gas Act (52 Stat. 825, 56 Stat. 83, 15 U.S.C. 717f(c); 56 Stat. 84, 15 U.S.C. 717f(d); 56 Stat. 84, 717f(e); 52 Stat. 830, 15 U.S.C. 717o) and Sections 3(e), 7, and 8 of the Natural Gas Pipeline Safety Act of 1968 (82 Stat. 721, 49 U.S.C. 1672(e); 82 Stat. 725, 49 U.S.C. 1676; 82 Stat. 725, 49 U.S.C. 1677))

(B) Part 260, Subchapter G, Chapter I, Title 18 of the Code of Federal Regulations is amended by revising subparagraph (4) in § 260.8(b) to read as follows:

#### § 260.8 System flow diagrams.

(b) \* \* \*

(4) Maximum permissible operating pressure for each pipeline at discharge side of each compressor station or other critical point, determined by the Department of Transportation's safety standards.

(Sec. 16 of the Natural Gas Act, 52 Stat. 830, 15 U.S.C. 717o and sec. 8 of the Natural Gas

<sup>4</sup> 18 CFR 157.7(a).

<sup>5</sup> 52 Stat. 821, 15 U.S.C. 717(b).

<sup>6</sup> 82 Stat. 720, 49 U.S.C. 1671.

<sup>7</sup> Ben Bolt Gathering Company et al.,

Docket No. G-20032 et al., 26 FPC 825, 827; aff'd 323 F. 2d 610.

<sup>8</sup> See Skelly Oil Company et al., Docket No. G-18638, et al., 28 FPC 401, 414; aff'd in pertinent part and remanded in part sub nom. Public Service Commission of the State of New York v. F.P.C. 329 F. 2d 242; cert. denied 377 U.S. 963.



Pipeline Safety Act of 1968, 82 Stat. 725, 49 U.S.C. 1677)

(C) The amendments ordered herein shall be effective 30 days following the date of publication in the FEDERAL REGISTER.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,  
Acting Secretary.

[FR Doc.71-5235 Filed 4-13-71;8:50 am]

## Title 43—PUBLIC LANDS: INTERIOR

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

#### SUBCHAPTER C—MINERALS MANAGEMENT (3000)

[Circular No. 2283]

### PART 3500—LEASING OF MINERALS, OTHER THAN OIL AND GAS, GENERAL

#### Subpart 3503—Fees, Rentals, and Royalties

##### RENTALS, COAL AND PHOSPHATE LEASES

Section 7 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 207), provides that the rental for coal leases shall be not less than 25 cents per acre for the first year, not less than 50 cents for the second, third, fourth, and fifth years, and \$1 per acre for each year thereafter during the continuance of the lease. Section 10 of that Act (30 U.S.C. 212) provides that the rental for phosphate leases shall be not less than 25 cents per acre for the first year, 50 cents per acre for the second and third years, and \$1 per acre for each year thereafter. Prior to the reorganization and revision of the Department's regulations in 43 CFR, Subtitle B, Chapter II, published in the FEDERAL REGISTER on June 13, 1970, the regulations relating to coal and phosphate leases contained no specific reference to rental rates. Consequently, prior to June 13, 1970, rental provisions in leases were established directly under the statute which set no specific rental rates but merely required that they be not less than certain amounts.

Although the notice announcing the reorganized and renumbered regulations on June 13, 1970, stated that it was the Department's intent to make no substantive changes in the regulations, an error in the provisions set forth in the new 43 CFR 3503.3-1(b) appeared to impose a maximum rental figure for both coal and phosphate leases. Thus the recodification of Chapter II on its face seemed to make a substantive change in existing rental requirements by omitting the words "not less than" before reciting the minimum figures. This paragraph also inadvertently failed to note the statutory distinction between the minimum rentals for the fourth and fifth

years of coal and phosphate leases. The statutory minimum for a coal lease is 50 cents per acre for the fourth and fifth years while the minimum is \$1 for a phosphate lease.

The amendments set forth below will correct the error and thus conform the text of the Department's present regulations to the regulations existing prior to June 13, 1970. Although it is the general policy of the Department to publish changes in regulations as proposed rule-making, that procedure is not being followed in this case because the change being made simply corrects an error in the June 13, 1970, revision and makes no actual change in the practices being followed by the Department pursuant to the Mineral Leasing Act.

1. Section 3503.3-1(b) of Subpart 3503, Chapter II, Title 43 of the Code of Federal Regulations is amended as follows:

#### § 3503.3-1 General statement on rentals.

(b) *Leases*—(1) *Coal*. Annual rental per acre or fraction thereof for coal leases shall be not less than 25 cents for the first year, not less than 50 cents for the second, third, fourth, and fifth years, and not less than \$1 for each and every year thereafter during the continuance of the lease. The rental paid for any year shall be credited against the royalties for that year.

(2) *Phosphate*. Annual rental for phosphate leases shall be not less than 25 cents per acre or fraction thereof for the first year, not less than 50 cents for the second and third years, and not less than \$1 for each and every year thereafter during the continuance of the lease. The rental paid for any year shall be credited against the royalties for that year.

(3) *Potassium and sodium*. Rental for potassium and sodium leases is 25 cents per acre or fraction thereof for the first calendar year or fraction thereof. Rental for succeeding years is payable on or before January 1, the beginning of the calendar year. Annual rental per acre or fraction thereof is 50 cents for the second, third, fourth, and fifth years, and \$1 for the sixth and each succeeding year during the continuance of the lease. The rental for any year will be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

(4) *Sulphur*. Sulphur leases shall provide for payment, in advance, of an annual rental of 50 cents for each acre or part thereof covered by the lease, beginning with the date of the lease, such rental for any year to be credited against the first royalties as they accrue under the lease during the year for which the rental was paid.

2. In § 3503.3-1(b) subparagraph (1) (iv) and (v) are redesignated as subparagraphs (5) and (6), respectively.

HOLLIS M. DOLE,  
Acting Secretary of the Interior.

APRIL 8, 1971.

[FR Doc.71-5181 Filed 4-13-71;8:48 am]

#### APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5040]

[Utah 11851, 12002]

### UTAH

#### Partial Revocation of Reclamation Withdrawals

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

1. The department orders of April 1, 1941, and November 19, 1940, withdrawing lands for the Gooseberry Project, and Provo River Project, respectively, are hereby revoked so far as they affect the following described lands:

(Gooseberry Project)

SALT LAKE MERIDIAN

- T. 12 S., R. 5 E.,  
Sec. 36, lots 1, 2, 4, 5, W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ ,  
N $\frac{1}{2}$ SW $\frac{1}{4}$ .
- T. 13 S., R. 5 E.,  
Sec. 1, lots 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ ;  
Sec. 12, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 14, N $\frac{1}{2}$ ;  
Sec. 26, W $\frac{1}{2}$ SW $\frac{1}{4}$ .
- T. 13 S., R. 6 E.,  
Sec. 9, lots 1 to 7 inclusive, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
N $\frac{1}{2}$ NW $\frac{1}{4}$ .
- T. 14 S., R. 6 E.,  
Secs. 6, 7, 8, 9.

(Provo River Project)

UINTAH MERIDIAN

- T. 2 N., R. 9 W.,  
Secs. 3 and 9.
- T. 3 N., R. 9 W.,  
Sec. 34, S $\frac{1}{2}$ .

SALT LAKE MERIDIAN

- T. 3 S., R. 8 E.,  
Sec. 1, lots 1, 2, 3, S $\frac{1}{2}$ N $\frac{1}{2}$ ;  
Sec. 2, S $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ .

The areas described aggregate 6,567.02 acres in Sanpete, Duchesne, and Summit Counties.

2. The described lands are within and part of the Manti-LaSal, Wasatch, and Ashley National Forests. A portion of the lands are also withdrawn by Powersite Classification No. 312 of March 2, 1939, and Powersite Classification No. 128 of February 4, 1926. The land described as Lot 1, sec. 1, T. 3 S., R. 8 E., SLM, is withdrawn by Public Land Order No. 1579 of January 30, 1958, for a national forest recreation area. At 10 a.m. on May 13, 1971, the lands, other than the land withdrawn by Public Land Order No. 1579, shall be open to such forms of disposition as may by law be made of national forest lands, except that the lands withdrawn by Powersite Classifications No. 312 and No. 128, shall be open only to operation of the U.S. mining laws, and to leasing under the mineral leasing laws.

APRIL 7, 1971.

HARRISON LOESCH,  
Assistant Secretary of the Interior.

[FR Doc.71-5178 Filed 4-13-71;8:48 am]



[Public Land Order 5041]

[Utah 0143635]

## UTAH

**Powersite Cancellation No. 292;  
Partial Cancellation of Powersite  
Classification No. 377**

By virtue of the authority contained in section 24 of the Act of June 10, 1920, 41 Stat. 1075, as amended, 16 U.S.C. section 818 (1964), and pursuant to the determination of the Federal Power Commission in DA-180-Utah, it is ordered as follows:

1. The departmental order of April 10, 1946, creating Powersite Classification No. 377, is hereby canceled so far as it affects the following described land:

## SALT LAKE MERIDIAN

T. 26 S., R. 22 E.,  
Sec. 6, SE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
Sec. 8, lot 3.

The areas described aggregate 60.44 acres in Grand County.

The land is located in Spanish Valley within 1 mile of Moab, Utah. The topography is steep with some vertical cliffs. The vegetative cover is sparse black brush and pinon-juniper types.

2. The land described as lot 3, sec. 8, is embraced in a reclamation withdrawal for the Pack Creek Project. Therefore, this land will not be open to appropriation under the public land laws generally, including the U.S. mining laws, but has been and continues to be open to the filing of applications and offers under the mineral leasing laws.

3. The land described as the SE $\frac{1}{4}$  NW $\frac{1}{4}$ , sec. 6, at 10 a.m. on May 13, 1971, shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on May 13, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. This land has been and will continue to be open to location and entry under the U.S. mining laws, and to the filing of applications and offers under the mineral leasing laws.

Inquiries concerning the land should be addressed to the Manager, Land Office, Bureau of Land Management, Salt Lake City, Utah 84111.

HARRISON LOESCH,  
Assistant Secretary of the Interior.

APRIL 7, 1971.

[FR Doc. 71-5168 Filed 4-13-71; 8:47 am]

[Public Land Order 5042]

[Riverside 3494]

## CALIFORNIA

**Partial Revocation of National Forest  
Administrative Site Withdrawal**

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

1. The departmental order of December 15, 1906, withdrawing national forest

lands as administrative sites, is hereby revoked so far as it affects the following described lands:

## INYO NATIONAL FOREST

## MOUNT DIABLO MERIDIAN

## Ranger Station No. 38 (June Lake)

T. 2 S., R. 26 E.,  
Sec. 14, lots 1 and 2, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$   
NW $\frac{1}{4}$ .

The areas described aggregate 155.29 acres of private and national forest land in Mono County.

2. The lands described as the NW $\frac{1}{4}$  NE $\frac{1}{4}$  and NE $\frac{1}{4}$ NW $\frac{1}{4}$  are patented. The unpatented lands described as lots 1 and 2, shall immediately be made available for consummation of a pending Forest Service exchange.

HARRISON LOESCH,  
Assistant Secretary of the Interior.

APRIL 7, 1971.

[FR Doc. 71-5179 Filed 4-13-71; 8:48 am]

## Title 46—SHIPPING

Chapter II—Maritime Administration,  
Department of Commerce

## SUBCHAPTER G—EMERGENCY OPERATIONS

[General Order 75, 2d Rev., Amdt. 22]

## PART 308—WAR RISK INSURANCE

## Miscellaneous Amendments

Part 308 is hereby amended to reflect the following changes:

Amend § 308.6 *Period of interim binders and renewal procedure*, § 308.106 *Standard form of war risk hull insurance interim binder and optional disbursements insurance endorsement*, § 308.206 *Standard form of war risk protection and indemnity insurance interim binder*, and § 308.305 *Standard form of Second Seamen's war risk insurance interim binder*, by changing the expiration dates contained therein to read "midnight, September 7, 1971, G.m.t."

(Sec. 204, 49 Stat. 1987, as amended; 46 U.S.C. 1114)

Dated: April 9, 1971.

By order of the Assistant Secretary of  
Commerce for Maritime Affairs.

JAMES S. DAWSON, Jr.,  
Secretary.

[FR Doc. 71-5199 Filed 4-13-71; 8:50 am]

## Title 49—TRANSPORTATION

Chapter V—National Highway Traffic  
Safety Administration, Department  
of Transportation

[Dockets Nos. 70-6, 70-8, 70-15]

MISCELLANEOUS AMENDMENTS TO  
CHAPTER

This notice adopts a new Part 568 in Title 49, Code of Federal Regulations, to require the furnishing of information relevant to a vehicle's conformity to mo-

tor vehicle safety standards, and makes complementary changes in the certification regulations in Part 567 of that title and in Part 571. It also amends the certification regulations with respect to the manufacturer whose name must appear on the label for trailers and with respect to the information that must appear on the label for all vehicles. Notices of proposed rulemaking on these subjects were published on March 17, 1970 (35 F.R. 4639), May 1, 1970 (35 F.R. 6969), and June 13, 1970 (35 F.R. 9293). The comments received in response to these notices, and the statements made at the public meeting on vehicles manufactured in two or more stages (September 18, 1970; 35 F.R. 13139) have been considered in this issuance of a final rule.

I. In adopting the new Part 568, *Vehicles Manufactured in Two or More Stages*, in a form similar to that proposed in the March 17 notice, the Administration has determined that there is a need to regulate the relationships between manufacturers of multi-stage vehicles to the extent those relationships affect the conformity of the final vehicle to the motor vehicle safety standards, and that the regulation will meet this need with a minimum disruption of established industry practices. Comments received from persons who would occupy the positions of intermediate and final-stage manufacturers were substantially in favor of the proposal.

The definitions by which the regulation establishes the categories of "incomplete vehicle," "completed vehicle," and the three categories of vehicle manufacturers provide a framework within which each may categorize himself and his products. Of necessity, the definitions are broad and may not clearly define individual situations. The primary distinction between the incomplete vehicle and the completed vehicle is whether the vehicle can perform its intended function without further manufacturing operations other than the addition of readily attachable components or minor finishing operations. The comments indicated there may sometimes be a close question as to whether or not a missing component is "readily attachable." How the question is answered may determine the vehicle's status as a "completed vehicle," or an "incomplete vehicle" and the corresponding status of the manufacturers involved. It has not been found feasible or desirable at this time to regulate the numerous variations in relationships that may develop. In the usual case, it will be possible for the affected manufacturers to reach agreement between themselves as to their respective obligations.

The largest number of comments were directed at the section (§ 568.4) establishing requirements for incomplete vehicle manufacturers. That section provides, first, that an incomplete vehicle manufacturer must furnish a document with the vehicle to contain the information specified by the section. The document may be attached to the vehicle in such a manner that it will not be inadvertently detached, or it may be sent directly to a subsequent manufacturer or a purchaser for purposes other than re-



sale. Several comments requested that the information be placed on a permanent label, although the commenters disagreed as to the amount of information to be so placed. Some chassis-cab manufacturers wanted to retain the chassis-cab label, perhaps with the addition of weight ratings, while several body assemblers wanted to have a label containing all the information specified in the regulation. Apart from the greater amount of information required, which could make a label inconveniently large, there will often be a need for the final-stage manufacturer to retain copies of the document in his files. A detachable document would meet this need much better than a label affixed to the vehicle. Despite complaints from some final-stage manufacturers that detachable documents are too easily lost, there was ample indication at the public meeting that other final-stage manufacturers do not experience such problems. It is the Administration's position that the transmittal of the required documents can be reasonably assured by secure attachment and prominent identification, and that no further regulation of the transmittal process is necessary.

The listing of ratings for the gross vehicle weight and the gross axle weight was not objected to except with respect to multipurpose passenger vehicles. It was suggested that "vehicle capacity weight" or a similar term reflecting the passenger capacity be used. After review of the suggestions, the Administration has concluded that the GVWR-GAWR usage, though perhaps not current in some parts of the industry, is nonetheless the simplest and most accurate means of informing subsequent manufacturers of the vehicle's weight characteristics.

After review of the numerous comments on the subject, the Administration has decided not to require manufacturers to provide information on gross combination weight ratings. The term is not in general use in the industry and its application is not clear with respect to certain types of combinations. For this reason, and because there are no existing or proposed standards that refer to gross combination weight ratings, it is not now appropriate to require GCWR information.

The regulation adopts the requirement that the incomplete vehicle manufacturer must list in the document each standard, applicable to the types of vehicles into which the incomplete vehicle may be manufactured, that is in effect at the time of manufacture of the incomplete vehicle. He must provide, with respect to each of these standards, one of the three types of statements proposed in the notice, depending on the degree to which his vehicle complies with each standard. If compliance is complete, and certification of the completed vehicle requires only that the final-stage vehicle manufacturer not alter certain portions of the vehicle, the incomplete vehicle manufacturer may so state. There is no need for parts to be listed in detail, as suggested by one commenting party. The portions of the

vehicle may be referred to by part, system, dimensions, or any other method sufficient to objectively identify them.

At the other extreme, an incomplete vehicle manufacturer may state that the design of the incomplete vehicle does not substantially determine the completed vehicle's conformity with a standard. This would be the case, for example, with respect to Standard No. 205, Glazing Materials, if the incomplete vehicle is a stripped chassis. Some comments stated that it appeared unnecessary to recite such standards if the incomplete vehicle manufacturer has nothing to do with them. It is the Administration's position, however, that such a recitation serves as useful notice to final-stage vehicle manufacturers, many of whom may be less familiar with the standards than the incomplete vehicle manufacturers.

Between these two extremes are the situations in which the work of the incomplete vehicle manufacturer partially determines the conformity of the final vehicle, but in which the input of subsequent manufacturers will necessarily affect such conformity. It may be that the main system components are furnished and installed by the incomplete vehicle manufacturer, as in the case of the recently adopted standard on air-brake systems, but that the final-stage vehicle manufacturer must necessarily perform operations that affect the performance of the components, such as placing a body on the chassis, thereby affecting the vehicle's weight distribution and center of gravity. In some cases, as under the lighting standard, the incomplete vehicle manufacturer will supply some components that will be installed by the final-stage manufacturer, with or without additional components. In either case, the ultimate conformity of the vehicle is determined by more than one manufacturer, and the regulation deals with this problem by requiring the incomplete vehicle manufacturer to set forth specific conditions under which the completed vehicle will conform to the standard. It is not intended that the incomplete vehicle manufacturer should indicate all possible conditions under which a vehicle will or will not conform. He must, however, specify at least one set of conditions under which the completed vehicle will conform. A final-stage manufacturer who wishes to act outside these conditions will be on notice that he should consult further with the incomplete vehicle manufacturer, or accept responsibility for conformity with the standard in question. Since the information that the incomplete vehicle manufacturer is required to gather will be developed in the course of his engineering development program, the requirement that this information be supplied to subsequent manufacturers does not appear unduly burdensome, and the requirement is adopted as proposed.

The obligations of the final-stage manufacturer have also been adopted without change from the notice of March 17. The major objection expressed in the comments was that the final-stage manufacturer was often a small com-

pany whose input was small relative to that of the incomplete vehicle manufacturer and that he should not bear the burden of certifying that the vehicle fully conforms to the standards. This objection confuses certification with liability. Although the certifying manufacturer may be approached first in the event of his vehicle's nonconformity, if the nonconforming aspect of the vehicle is a component or system supplied by the incomplete vehicle manufacturer, the final-stage manufacturer may establish that he exercised due care by showing that he observed the conditions stated by the incomplete vehicle manufacturer. To the extent that the final vehicle's conformity is determined by work done by the incomplete vehicle manufacturer, the final manufacturer's burden is thus reduced.

Several comments stated that considerable time may elapse between the date of manufacture of the incomplete vehicle and the date of completion of the final-stage vehicle. The regulation deals with this situation by permitting the final-stage manufacturer to select either date or any date in between as the certification date. Although this aspect of the regulation appears to be generally understood, the question arose at the September 18 meeting as to whether a manufacturer may certify compliance with standards as they are effective at different dates between initial and final manufacture. This question has been answered in the negative. The regulation requires manufacturers to conform to all the standards in effect on a particular date, between the two limits. The NHTSA may repeal certain requirements while instituting others, and those in effect at a particular time must be viewed, and conformed to, as a system. A manufacturer who wishes to comply with a standard before its effective date may do so, of course, even though he is not required to certify. Where amendments to an existing standard are such that a vehicle complying with the amended standard will not comply with the earlier version, the Administration will ordinarily provide in the standard that a manufacturer may elect to comply with the amendment before its effective date, if such a course is considered acceptable.

A further question raised in the comments concerns the status of a manufacturer who does not have title to the vehicle on which he performs manufacturing operations. The Administration's response, as stated at the September 18 meeting, is that if a manufacturer produces a completed vehicle from the incomplete stage, he is a final-stage manufacturer, regardless of title. Basing responsibility for conformity on title would present too many opportunities for evasion, and the actual assembler is the party most likely to have the technical knowledge necessary for effective exercise of responsibility.

Another question concerns the magnitude of the manufacturing operation that makes the vehicle a completed vehicle and its manufacturer a final-stage manufacturer. By its definition a completed



vehicle is one that requires no further manufacturing operations in order to perform its intended function, other than the attachment of readily attachable components and minor finishing operations. If a manufacturer installs a component that is not readily attachable, such as a fifth wheel, then he is a final-stage manufacturer even though his contribution to the overall vehicle may appear small. In any case, however, an incomplete vehicle or intermediate manufacturer may assume legal responsibility for the vehicle and affix the appropriate label under § 567.5 (b) or (c) of the certification regulations.

In the event that a "readily attachable component" is a component regulated by the standards, such as a mirror or a tire, the final-stage manufacturer must assume responsibility and certify the vehicle even though he does not install the particular component. Otherwise, the installers of mirrors and tires would be considered final-stage manufacturers, a status that they would probably find unacceptable and that would tend to make certification less meaningful.

II. The amendments to the certification regulations proposed on May 1, 1970 (35 F.R. 6969) are adopted as proposed, except that GCWR information is not required.

The most frequently stated objection to the amendments was that the providing of GVWR and GAWR for passenger cars gives the purchaser information that is already provided by the label required by Standard No. 110. Although the information is to some extent duplicative, in that if the consumer knew the vehicle's unloaded weight, he could use the information required by Standard No. 110 to estimate the gross vehicle weight, the gross weight information is more easily usable for regulatory purposes. Requirements of certain standards may in the future apply to a passenger car according to its weight class.

Several comments stated that the inclusion of weight information on the certification label would make the labels awkwardly large. Since only two items would be added to the label, these comments are considered to be without merit.

As amended, the regulation requires a certification label on vehicles sold directly to users, as well as on those sold to dealers and distributors. The Administration regards this as useful to the consumer and necessary to efficient enforcement of the standards. The authority for requiring information labels is found in sections 112 and 119 of the Act, as well as in section 114.

The requirements for the certification label for multi-stage vehicles, discussed above, include the vehicle type. Under Part 567 as presently in force, the type need only be shown for multipurpose passenger vehicles. This information has been determined to be useful for enforcement and other information purposes, and Part 567 is therefore hereby amended to require the vehicle type to appear on all labels.

III. Several of the initial comments to the notice of March 17, 1970, referred to the widespread usage of "private brands" in the trailer industry. Prior to the issuance of the original certification regulations in 1968, a manufacturer might sell under its name trailers made to order for it by other manufacturers. The certification regulations ended this practice by requiring the name of the actual manufacturer to be placed on the label. In response to a petition by the Truck Trailer Manufacturers Association to permit resumption of the practice, the Administration issued a notice of proposed rulemaking on June 13, 1970, to add a new subdivision (iii) to § 567.4(g) (1) permitting such resumption with certain safeguards to assure that a manufacturer will be responsible for each certification. No adverse comments were received and the Administration hereby adopts the paragraph as proposed.

In consideration of the above, Title 49, Code of Federal Regulations, is amended as set forth below.

**Effective date.** The amendments to 49 CFR 567.4(g)(1), concerning trailer certification, are effective June 1, 1971. The remaining amendments will require additional time for compliance and are effective October 1, 1972.

(Secs. 103, 112, 114 and 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1401, 1403, and 1407; delegation of authority at 49 CFR 1.51)

Issued on April 8, 1971.

DOUGLAS W. TOMS,  
Acting Administrator.

## PART 567—CERTIFICATION

1. Part 567, "Certification," is amended to read as set forth below.

- Sec.
- 567.1 Purpose and scope.
  - 567.2 Application.
  - 567.3 Definitions.
  - 567.4 Requirements for manufacturers of motor vehicles.
  - 567.5 Requirements for manufacturers of vehicles manufactured in two or more stages.
  - 567.6 Requirements for distributors of motor vehicles.

**AUTHORITY:** The provisions of this Part 567 issued under secs. 103, 112, 114, and 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1401, 1403, and 1407; delegation of authority at 49 CFR 1.51.

### § 567.1 Purpose and scope.

The purpose of this part is to specify the content and location of, and other requirements for, the label or tag to be affixed to motor vehicles required by section 114 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1403) (the Act) and to provide the consumer with information to assist him in determining which of the Federal Motor Vehicle Safety Standards (Part 571 of this chapter) (Standards) are applicable to the vehicle.

### § 567.2 Application.

(a) This part applies to manufacturers and distributors of motor vehicles to

which one or more standards are applicable.

(b) In the case of imported motor vehicles, the requirement of affixing a label or tag applies to importers of vehicles, admitted to the United States under § 12.80(b)(2) of the joint regulations for importation of motor vehicles and equipment (19 CFR 12.80(b)(2)) to which the required label or tag is not affixed.

### § 567.3 Definitions.

All terms that are defined in the Act and the rules and standards issued under its authority are used as defined therein.

### § 567.4 Requirements for manufacturers of motor vehicles.

(a) Each manufacturer of motor vehicles (except vehicles manufactured in two or more stages) shall affix to each vehicle a label, of the type and in the manner described below, containing the statements specified in paragraph (g) of this section.

(b) The label shall, unless riveted, be permanently affixed in such a manner that it cannot be removed without destroying or defacing it.

(c) Except for trailers and motorcycles, the label shall be affixed to either the hinge pillar, door-latch post, or the door edge that meets the door-latch post, next to the driver's seating position, or if none of these locations is practicable, to the left side of the instrument panel. If none of these locations is practicable, notification of that fact, together with drawings or photographs showing a suggested alternate location in the same general area, shall be submitted for approval to the Administrator, National Highway Traffic Safety Administration, Washington, D.C. 20591. The location of the label shall be such that it is easily readable without moving any part of the vehicle except an outer door.

(d) The label for trailers shall be affixed to a location on the forward half of the left side, such that it is easily readable from outside the vehicle without moving any part of the vehicle.

(e) The label for motorcycles shall be affixed to a permanent member of the vehicle as close as is practicable to the intersection of the steering post with the handle bars, in a location such that it is easily readable without moving any part of the vehicle except the steering system.

(f) The lettering on the label shall be of a color that contrasts with the background of the label.

(g) The label shall contain the following statements, in the English language, lettered in block capitals and numerals not less than three thirty-seconds of an inch high, in the order shown:

(1) Name of manufacturer: Except as provided in subdivisions (i), (ii), and (iii) of this subparagraph, the full corporate or individual name of the actual assembler of the vehicle shall be spelled out, except that such abbreviations as "Co." or "Inc." and their foreign equivalents, and the first and middle initials of individuals, may be used. The name of



the manufacturer shall be preceded by the words "Manufactured By" or "Mfd By". In the case of imported vehicles, where the label required by this section is affixed by a person other than the final assembler of the vehicle, the corporate or individual name of the person affixing the label shall also be placed on the label in the manner described in this paragraph, directly below the name of the final assembler.

(i) If a vehicle is assembled by a corporation that is controlled by another corporation that assumes responsibility for conformity with the standards, the name of the controlling corporation may be used.

(ii) If a vehicle is fabricated and delivered in complete but unassembled form, such that it is designed to be assembled without special machinery or tools, the fabricator of the vehicle may affix the label and name itself as the manufacturer for the purposes of this section.

(iii) If a trailer is sold by a person who is not its manufacturer, but who is engaged in the manufacture of trailers and assumes legal responsibility for all duties and liabilities imposed by the Act with respect to that trailer, the name of that person may appear on the label as the manufacturer. In such a case the name shall be preceded by the words "Responsible Manufacturer" or "Resp Mfr."

(2) Month and year of manufacture: This shall be the time during which work was completed at the place of main assembly of the vehicle. It may be spelled out, as "June 1970", or expressed in numerals, as "6/70."

(3) "Gross Vehicle Weight Rating" or "GVWR," followed by the appropriate value in pounds.

(4) "Gross Axle Weight Rating" or "GAWR," followed by the appropriate value in pounds for each axle, identified in order from front to rear (e.g., front, first intermediate, second intermediate, rear).

(5) The statement: "This vehicle conforms to all applicable Federal motor vehicle safety standards in effect on the date of manufacture shown above." The expression "U.S." or "U.S.A." may be inserted before the word "Federal."

(6) Vehicle identification number.

(7) The type classification of the vehicle as defined in § 571.3 of this chapter (e.g., truck, MPV, bus, trailer).

**§ 567.5 Requirements for manufacturers of vehicles manufactured in two or more stages.**

(a) Except as provided in paragraphs (b) and (c) of this section, each final-stage manufacturer, as defined in § 568.3 of this chapter, of a vehicle manufactured in two or more stages shall affix to each vehicle a label, of the type and in the manner and form described in § 567.4, containing the following statements:

(1) Name of final-stage manufacturer, preceded by the words "Manufactured By" or "Mfd By."

(2) Month and year in which final-stage manufacture is completed. This may be spelled out, as "June 1970", or expressed in numerals, as "6/70." No preface is required.

(3) Name of original manufacturer of the incomplete vehicle, preceded by the words "Incomplete Vehicle Manufactured By" or "Inc VEH MFD By."

(4) Month and year in which the original manufacturer of the incomplete vehicle performed his last manufacturing operation on the incomplete vehicle, in the same form as subparagraph (2) of this paragraph.

(5) "Gross Vehicle Weight Rating" or "GVWR," followed by the appropriate value in pounds.

(6) "Gross Axle Weight Rating" or "GAWR," followed by the appropriate value in pounds for each axle, identified in order from front to rear (e.g., front, first intermediate, second intermediate, rear).

(7) The statement: "This vehicle conforms to all applicable Federal motor vehicle safety standards in effect in [month, year]." The date shown shall be no earlier than the manufacturing date of the incomplete vehicle, and no later than the date of completion of final-stage manufacture.

(8) The type classification of the vehicle as defined in § 571.3 of this title (e.g., truck, MPV, bus, trailer).

(b) If an incomplete vehicle manufacturer assumes legal responsibility for all duties and liabilities imposed by the Act, with respect to the vehicle as finally manufactured, the incomplete vehicle manufacturer shall ensure that a label is affixed to the final vehicle in conformity with paragraph (a) of this section, except that the name of the incomplete vehicle manufacturer shall appear instead of the name of the final-stage manufacturer after the words "Manufactured by" or "Mfd by" required by paragraph (a)(1) of this section, the additional manufacturer's name required by paragraph (a)(3) of this section shall be omitted, and the date required by paragraph (a)(4) of this section shall be preceded by the words "Incomplete vehicle manufactured" or "Inc veh mfd."

(c) If an intermediate manufacturer of a vehicle assumes legal responsibility for all duties and liabilities imposed on manufacturers by the Act, with respect to the vehicle as finally manufactured, the intermediate manufacturer shall ensure that a label is affixed to the final vehicle in conformity with paragraph (a) of this section, except that the name of the intermediate manufacturer shall appear instead of the name of the final-stage manufacturer after the words "Manufactured by" or "Mfd by" required by paragraph (a)(1) of this section.

**§ 567.6 Requirements for distributors of motor vehicles.**

A distributor of a motor vehicle who does not alter the vehicle in a manner that affects compliance with applicable standards may satisfy the certification

requirements of the Act by allowing a manufacturer's label that conforms to the requirements of this part to remain affixed to the vehicle. A distributor of a vehicle who alters a vehicle in a manner that affects compliance with applicable standards shall furnish to a dealer or other distributor to whom he delivers the vehicle a separate certification. The certification shall be on a label as described in § 567.4, except that its contents shall be in the following form:

This vehicle was altered by [name of distributor] in [month and year in which alterations were completed] and as altered it conforms to all applicable Federal motor vehicle safety standards in effect on the date of original manufacture.

**PART 568—VEHICLES MANUFACTURED IN TWO OR MORE STAGES**

2. A new Part 568, "Vehicles Manufactured in Two or More Stages," is added, reading as set forth below.

Sec.	
568.1	Purpose and scope.
568.2	Application.
568.3	Definitions.
568.4	Requirements for incomplete vehicle manufacturers.
568.5	Requirements for intermediate manufacturers.
568.6	Requirements for final-stage manufacturers.
568.7	Requirements for manufacturers who assume legal responsibility for the vehicle.

**AUTHORITY:** The provisions of this Part 568 issued under secs. 103, 112, 114, and 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1401, 1403, and 1407; delegation of authority at 49 CFR 1.51.

**§ 568.1 Purpose and scope.**

The purpose of this part is to prescribe the method by which manufacturers of vehicles manufactured in two or more stages shall ensure conformity of those vehicles with the Federal motor vehicle safety standards ("standards") and other regulations issued under the National Traffic and Motor Vehicle Safety Act.

**§ 568.2 Application.**

This part applies to incomplete vehicle manufacturers, intermediate manufacturers, and final-stage manufacturers of vehicles manufactured in two or more stages.

**§ 568.3 Definitions.**

"Completed vehicle" means a vehicle that requires no further manufacturing operations to perform its intended function, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting.

"Final-stage manufacturer" means a person who performs such manufacturing operations on an incomplete vehicle that it becomes a completed vehicle.

"Gross axle weight rating" (GAWR) means the value specified by the vehicle manufacturer as the loaded weight on a single axle measured at the tire-ground interfaces.



"Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the loaded weight of a single vehicle.

"Incomplete vehicle" means an assemblage consisting, as a minimum, of frame and chassis structure, power train, steering system, suspension system, and braking system, to the extent that those systems are to be part of the completed vehicle, that requires further manufacturing operations, other than the addition of readily attachable components, such as mirrors or tire and rim assemblies, or minor finishing operations such as painting, to become a completed vehicle.

"Intermediate manufacturer" means a person, other than the incomplete vehicle manufacturer or the final-stage manufacturer, who performs manufacturing operations on an incomplete vehicle.

"Incomplete vehicle manufacturer" means a person who manufactures an incomplete vehicle by assembling components none of which, taken separately, constitute an incomplete vehicle.

#### § 568.4 Requirements for incomplete vehicle manufacturers.

(a) The incomplete vehicle manufacturer shall furnish with the incomplete vehicle, at or before the time of delivery, a document that contains the following statements, in the order shown, and any other information required by this chapter to be included therein.

(1) Name and mailing address of the incomplete vehicle manufacturer.

(2) Month and year during which the incomplete vehicle manufacturer performed his last manufacturing operation on the incomplete vehicle.

(3) Identification of the incomplete vehicle(s) to which the document applies. The identification may be by serial number, groups of serial numbers, or otherwise, but it must be sufficient to ascertain positively that a document applies to a particular incomplete vehicle after the document has been removed from the vehicle.

(4) Gross vehicle weight rating of the completed vehicle for which the incomplete vehicle is intended.

(5) Gross axle weight rating for each axle of the completed vehicle, listed and identified in order from front to rear.

(6) Listing of the vehicle types as defined in § 571.3 of this chapter (e.g., truck, MPV, bus, trailer) into which the incomplete vehicle may appropriately be manufactured.

(7) Listing by number of each standard, in effect at the time of manufacture of the incomplete vehicle, that applies to any of the vehicle types listed in this subparagraph (7), followed in each case by one of the following three types of statement, as applicable:

(i) A statement that the vehicle when completed will conform to the standard if no alterations are made in identified components of the incomplete vehicle.

EXAMPLE: 107—This vehicle when completed will conform to Standard 107, Reflecting Surfaces, if no alterations are made in the windshield wiper components or in the reflecting surfaces in the interior of the cab.

(ii) A statement of specific conditions of final manufacture under which the manufacturer specifies that the completed vehicle will conform to the standard.

EXAMPLE: 121—This vehicle when completed will conform to Standard 121, Airbrake Systems, if it does not exceed any of the gross axle weight ratings, if the center of gravity at GVWR is not higher than nine feet above the ground, and if no alterations are made in any brake system component.

(iii) A statement that conformity with the standard is not substantially determined by the design of the incomplete vehicle, and that the incomplete vehicle manufacturer makes no representation as to conformity with the standard.

(b) The document shall be attached to the incomplete vehicle in such a manner that it will not be inadvertently detached, or alternatively, it may be sent directly to a final-stage manufacturer, intermediate manufacturer or purchaser for purposes other than resale to whom the incomplete vehicle is delivered.

#### § 568.5 Requirements for intermediate manufacturers.

Each intermediate manufacturer of an incomplete vehicle shall furnish the document required by § 568.4, in the manner specified in that section. If any of the changes in the vehicle made by the intermediate manufacturer affect the validity of the statements in the document as provided to him he shall furnish an addendum to the document that contains his name and mailing address and an indication of all changes that should be made in the document to reflect changes that he made in the vehicle.

#### § 568.6 Requirements for final-stage manufacturers.

(a) Each final-stage manufacturer shall complete the vehicle in such a manner that it conforms to the standards in effect on the date of manufacture of the incomplete vehicle, the date of final completion, or a date between those two dates. This requirement shall, however, be superseded by any conflicting provisions of a standard that applies by its terms to vehicles manufactured in two or more stages.

(b) Each final-stage manufacturer shall certify that the entire vehicle conforms to all applicable standards, in accordance with § 567.5 of this chapter, *Requirements for manufacturers of vehicles manufactured in two or more stages.*

#### § 568.7 Requirements for manufacturers who assume legal responsibility for the vehicle.

(a) If an incomplete vehicle manufacturer assumes legal responsibility for all duties and liabilities imposed on manufacturers by the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381-1425) (hereafter referred to as the Act), with respect to the vehicle as finally manufactured, the requirements of §§ 568.4, 568.5 and 568.6(b) do not apply to that vehicle. In such a case, the incomplete vehicle manufacturer shall ensure that a label is affixed to the final vehicle in conformity with § 567.5(b) of this chapter.

(b) If an intermediate manufacturer of a vehicle assumes legal responsibility for all duties and liabilities imposed on manufacturers by the Act, with respect to the vehicle as finally manufactured, §§ 568.5 and 568.6(b) do not apply to that vehicle. In such a case, the manufacturer assuming responsibility shall ensure that a label is affixed to the final vehicle in conformity with § 567.5(c) of this chapter. The assumption of responsibility by an intermediate manufacturer does not, however, change the requirements for incomplete vehicle manufacturers in § 568.4.

### PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

3. Section 571.3 is amended by deleting the definition of "chassis cab."

4. Sections 571.5(b) and 571.13, and the Ruling Regarding Chassis-cabs appearing at 33 F.R. 29 (January 3, 1968), are revoked.

[FR Doc. 71-5182 Filed 4-13-71; 8:48 am]



# Proposed Rule Making

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[ 26 CFR Part 179 ]

## MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

### Notice of Proposed Rule Making

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

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

In order to implement the provisions of Title II, Machine Guns, Destructive Devices, and Certain Other Firearms (U.S.C., Title 26, Chapter 53), of the Gun Control Act of 1968 (Public Law 90-618, 82 Stat. 1213), the following regulations are hereby prescribed as Part 179 of Title 26 of the Code of Federal Regulations:

*Preamble.* 1. These regulations, 26 CFR Part 179, "Machine Guns, Destructive Devices, and Certain Other Firearms," supersede Regulations 26 CFR Part 179 (1955 edition, 20 F.R. 6739, as amended) issued under the National Firearms Act of 1954 (U.S.C., Title 26, Chapter 53).

2. These regulations shall not affect any act done or any liability or right accruing, or accrued, or any suit or proceeding had or commenced before the effective date of these regulations.

3. These regulations shall be effective on the first day of the first month following their publication in the FEDERAL REGISTER.

## PART 179—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

### Subpart A—Scope of Regulations

Sec. 179.1 General.

### Subpart B—Definitions

179.11 Meaning of terms.

### Subpart C—Administrative and Miscellaneous Provisions

179.21 Forms prescribed.  
179.22 Right of entry and examination.  
179.23 Restrictive use of required information.  
179.24 Destructive device determination.  
179.25 Collector's items.

### Subpart D—Special (Occupational) Taxes

179.31 Liability for tax.  
179.32 Special (occupational) tax rates.  
179.33 Special exemption.  
179.34 Registration, return, and payment of special (occupational) taxes.  
179.35 Employer identification number.  
179.36 The special tax stamp, receipt for special (occupational) taxes.  
179.37 Certificates in lieu of stamps lost or destroyed.  
179.38 Engaging in business at more than one location.  
179.39 Engaging in more than one business at the same location.  
179.40 Partnership liability.  
179.41 Single sale.

### CHANGE OF OWNERSHIP

179.42 Changes through death of owner.  
179.43 Changes through bankruptcy of owner.  
179.44 Change in partnership or incorporated association.  
179.45 Change in corporation.

### CHANGE OF BUSINESS LOCATION

179.46 Notice by taxpayer.

### CHANGE OF TRADE NAME

179.47 Notice by taxpayer.

### PENALTIES AND INTEREST

179.48 Failure to pay special (occupational) tax.  
179.49 Failure to register change or removal.  
179.50 Delinquency.  
179.51 Fraudulent return.

### APPLICATION OF STATE LAWS

179.52 State regulations.

### Subpart E—Tax on Making Firearms

179.61 Rate of tax.

### APPLICATION TO MAKE A FIREARM

179.62 Application to make.  
179.63 Identification of applicant.  
179.64 Procedure for approval of application.  
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179.66 Subsequent transfer of firearms.

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### EXCEPTIONS TO TAX ON MAKING FIREARMS

179.68 Qualified manufacturer.  
179.69 Making a firearm for the United States.  
179.70 Certain government entities.

### REGISTRATION

179.71 Proof of registration.

### Subpart F—Transfer Tax

179.81 Scope of tax.  
179.82 Rate of tax.  
179.83 Transfer tax in addition to import duty.

### APPLICATION AND ORDER FOR TRANSFER OF FIREARM

179.84 Application to transfer.  
179.85 Identification of transferee.  
179.86 Action on application.  
179.87 Cancellation of stamp.

### EXEMPTIONS RELATING TO TRANSFERS OF FIREARMS

179.88 Special (occupational) taxpayers.  
179.89 Transfers to the United States.  
179.90 Certain government entities.  
179.91 Unserviceable firearms.  
179.92 Transportation of firearms to effect transfer.

### OTHER PROVISIONS

179.93 Transfers of firearms to certain persons.

### Subpart G—Registration and Identification of Firearms

179.101 Registration of firearms.  
179.102 Identification of firearms.  
179.103 Registration of firearms manufactured.  
179.104 Registration of firearms by certain governmental entities.

### Subpart H—Importation and Exportation

#### IMPORTATION

179.111 Procedure.  
179.112 Registration of imported firearms.  
179.113 Conditional importation.

#### EXPORTATION

179.114 Application and permit for exportation of firearms.  
179.115 Action by Director.  
179.117 Action by Customs.  
179.118 Proof of exportation.  
179.119 Transportation of firearms to effect exportation.

179.120 Refunds.

179.121 Insular possessions.

#### MUTUAL SECURITY ACT

179.122 Requirements.

### Subpart I—Records and Returns

179.131 Records.

### Subpart J—Stolen or Lost Firearms or Documents

179.141 Stolen or lost firearms.  
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### Subpart K—Examination of Books and Records

179.151 Failure to make returns: substitute records.  
179.152 Penalties (records and returns).



**Subpart L—Distribution and Sale of Stamps**

- Sec.  
179.161 Orders for stamps.  
179.162 Stamps authorized.  
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**Subpart M—Redemption of or Allowance for Stamps or Refunds**

- 179.171 Redemption of or allowance for stamps.  
179.172 Refunds.

**Subpart N—Penalties and Forfeitures**

- 179.181 Penalties.  
179.182 Forfeitures.

**Subpart O—Other Laws Applicable**

- 179.191 Applicability of other provisions of internal revenue laws.  
179.192 Commerce in firearms and ammunition.  
179.193 Mutual Security Act.

**AUTHORITY:** The provisions of this Part 179 issued under 68A Stat. 917; 26 U.S.C. 7805 and 26 U.S.C. Chapter 53, unless otherwise noted.

**Subpart A—Scope of Regulations****§ 179.1 General.**

This part contains the procedural and substantive requirements relative to the importation, manufacture, making, exportation, identification and registration of, and the dealing in, machine guns, destructive devices and certain other firearms under the provisions of the National Firearms Act (Chapter 53, I.R.C.).

**Subpart B—Definitions****§ 179.11 Meaning of terms.**

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

**Antique firearm.** Any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

**Any other weapon.** Any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a

single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

**Assistant Regional Commissioner.** An Assistant Regional Commissioner, Alcohol, Tobacco and Firearms, who is responsible to, and functions under, the direction and supervision of a Regional Commissioner, Internal Revenue.

**Commissioner.** The Commissioner of Internal Revenue.

**Customs officer.** Any officer of the Bureau of Customs or any agent or other person authorized by law or by the Secretary of the Treasury, or appointed in writing by a Regional Commissioner of Customs, or by another principal customs officer under delegated authority, to perform the duties of an officer of the Bureau of Customs.

**Dealer.** Any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

**Destructive device.** (a) Any explosive, incendiary, or poison gas (1) bomb, (2) grenade, (3) rocket having a propellant charge of more than 4 ounces, (4) missile having an explosive or incendiary charge of more than one-quarter ounce, (5) mine, or (6) similar device; (b) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes; and (c) any combination of parts either designed or intended for use in converting any device into a destructive device as described in paragraphs (a) and (b) of this definition and from which a destructive device may be readily assembled. The term shall not include any device which is neither designed or redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684 (2), 4685, or 4686 of title 10 of the United States Code; or any device which the Director finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

**Director.** The Director, Alcohol, Tobacco, and Firearms Division, Internal Revenue Service, Treasury Department, Washington, D.C. 20224.

**Director of the Service Center.** A Director of an Internal Revenue Service Center in an internal revenue region.

**District Director.** A District Director of Internal Revenue.

**Executed under penalties of perjury.** Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this—(insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

**Exportation.** The severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country.

**Exporter.** Any person who exports firearms from the United States.

**Firearm.** (a) A shotgun having a barrel or barrels of less than 18 inches in length; (b) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (c) a rifle having a barrel or barrels of less than 16 inches in length; (d) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (e) any other weapon, as defined in this subpart; (f) a machine gun; (g) a muffler or a silencer for any firearm whether or not such firearm is included within this definition; and (h) a destructive device. The term shall not include an antique firearm or any device (other than a machine gun or destructive device) which, although designed as a weapon, the Director finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

**Fixed ammunition.** That self-contained unit consisting of the case, primer, propellant charge, and projectile or projectiles.

**Frame or receiver.** That part of a firearm which provides housing for the hammer, bolt or breechblock and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

**Importation.** The bringing of a firearm within the limits of the United States or any territory under its control or jurisdiction, from a place outside thereof (whether such place be a foreign country or territory subject to the jurisdiction of the United States), with intent to unlade. Except that, bringing a firearm from a foreign country or a territory subject to the jurisdiction of the United States into a foreign trade zone for storage pending shipment to a foreign country or subsequent importation into this country, pursuant to the I.R.C. and this part, shall not be deemed importation.



**Importer.** Any person who is engaged in the business of importing or bringing firearms into the United States.

**I.R.C.** The Internal Revenue Code of 1954, as amended.

**Machine gun.** Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination of parts designed and intended for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

**Make.** This term and the various derivatives thereof shall include manufacturing (other than by one qualified to engage in such business under this part), putting together, altering, any combination of these, or otherwise producing a firearm.

**Manual reloading.** The inserting of a cartridge or shell into the chamber of a firearm either with the hands or by means of a mechanical device controlled and energized by the hands.

**Manufacturer.** Any person who is engaged in the business of manufacturing firearms.

**Muffler or silencer.** Any device for silencing or diminishing the report of any portable weapon, such as a rifle, carbine, pistol, revolver, machine gun, submachine gun, shotgun, fowling piece, or other device from which a shot, bullet, or projectile may be discharged by an explosive, and is not limited to mufflers or silencers for "firearms" as defined.

**Person.** A partnership, company, association, trust, estate, or corporation, as well as a natural person.

**Pistol.** A weapon originally designed, made, and intended to fire a small projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s). The term shall not include any gadget device, any gun altered or converted to resemble a pistol, any gun that fires more than one shot, without manual reloading, by a single function of the trigger, or any small portable gun such as: Nazi belt buckle pistol, glove pistol, or a one-hand stock gun designed to fire fixed shotgun ammunition.

**Regional Commissioner.** A regional commissioner of internal revenue.

**Revolver.** A small projectile weapon, of the pistol type, having a breechloading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

**Rifle.** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile

through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

**Shotgun.** A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

**Transfer.** This term and the various derivatives thereof shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

**United States.** The States and the District of Columbia.

**U.S.C.** The United States Code.

**Unserviceable firearm.** A firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

**Subpart C—Administrative and Miscellaneous Provisions**

**§ 179.21 Forms prescribed.**

The Director is authorized to prescribe all forms required by this part. All of the information called for in each form shall be furnished, as indicated by the headings on the form and in the instructions thereon or issued in respect thereto, and as required by this part. Each form requiring that it be executed under penalties of perjury shall be executed under penalties of perjury.

**§ 179.22 Right of entry and examination.**

Any internal revenue officer or employee of the Internal Revenue Service duly authorized to perform any function relating to the administration or enforcement of this part may enter during business hours the premises (including places of storage) of any importer or manufacturer of or dealer in firearms, to examine any books, papers, or records required to be kept pursuant to this part, and any firearms kept by such importer, manufacturer or dealer on such premises, and may require the production of any books, papers, or records necessary to determine any liability for tax under chapter 53, I.R.C., or the observance of chapter 53, I.R.C., and this part.

**§ 179.23 Restrictive use of required information.**

No information or evidence obtained from an application, registration, or record required to be submitted or retained by a natural person in order to comply with any provision of chapter 53, I.R.C., or this part or section 207 of the Gun Control Act of 1968 shall be used, directly or indirectly, as evidence against that person in a criminal proceeding with respect to a violation of law occurring prior to or concurrently with the filing of the application or registration, or the compiling of the record containing the

information or evidence: *Provided, however,* That the provisions of this section shall not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information.

**§ 179.24 Destructive device determination.**

The Director shall determine in accordance with section 5845(f), I.R.C., whether a device is excluded from the definition of a destructive device. A person who desires to obtain a determination under that provision of law for any device which he believes is not likely to be used as a weapon shall submit a written request, in triplicate, for a ruling thereon to the Director. Each such request shall be executed under the penalties of perjury and contain a complete and accurate description of the device, the name and address of the manufacturer or importer thereof, the purpose of and use for which it is intended, and such photographs, diagrams, or drawings as may be necessary to enable the Director to make his determination. The Director may require the submission to him, of a sample of such device for examination and evaluation. If the submission of such device is impracticable, the person requesting the ruling shall so advise the Director and designate the place where the device will be available for examination and evaluation.

**§ 179.25 Collector's items.**

The Director shall determine in accordance with section 5845(a), I.R.C., whether a firearm or device, which although originally designed as a weapon, is by reason of the date of its manufacture, value, design, and other characteristics primarily a collector's item and is not likely to be used as a weapon. A person who desires to obtain a determination under that provision of law shall follow the procedures prescribed in § 179.24 relating to destructive device determinations, and shall include information as to date of manufacture, value, design and other characteristics which would sustain a finding that the firearm or device is primarily a collector's item and is not likely to be used as a weapon.

**Subpart D—Special (Occupational) Taxes**

**§ 179.31 Liability for tax.**

Every person who engages in the business of importing, manufacturing or dealing in (including pawnbrokers) firearms in the United States is required to pay a special (occupational) tax for each place where such business is conducted.

**§ 179.32 Special (occupational) tax rates.**

(a) The special (occupational) taxes are as follows:

	Per year or fraction thereof
Class 1—Importer of firearms.....	\$500
Class 2—Manufacturer of firearms.....	500



	<i>Per year or fraction thereof</i>
Class 3—Dealer in firearms.....	200
Class 4—Importer only of weapons classified as "any other weapon".....	25
Class 5—Manufacturer only of weapons classified as "any other weapon".....	25
Class 6—Dealer only in weapons classified as "any other weapon".....	10

(b) The tax year begins July 1 and ends June 30. Special (occupational) taxes are due and payable on first engaging in business, and thereafter on or before the first day of July each year. Special (occupational) taxes may not be prorated. Persons commencing business at any time after the first day of July in any year are liable for the special (occupational) tax for the complete tax year.

#### § 179.33 Special exemption.

(a) Any person required to pay special (occupational) tax under this part shall be relieved from payment of that tax if he establishes to the satisfaction of the Director that his business is conducted exclusively with, or on behalf of, the United States or any department, independent establishment, or agency thereof. The Director may relieve any person manufacturing firearms for or on behalf of the United States from compliance with any provision of this part in the conduct of the business with respect to such firearms.

(b) The exemption in this section may be obtained by filing with the Director an application, in letter form, setting out the manner in which the applicant conducts his business, the type of firearm to be manufactured, and proof satisfactory to the Director of the existence of the contract with the United States, department, independent establishment, or agency thereof, under which the applicant intends to operate.

#### § 179.34 Registration, return, and payment of special (occupational) taxes.

(a) Each person, prior to commencing any business taxable under section 5801, I.R.C., shall, for each place of business operated by such person, register, file a return (Form 11) with, and pay the proper tax to, the District Director of the internal revenue district in which each such place of business is located, except that, where instructions on or relating to Form 11 so provide, Form 11 shall be filed with the Director of the Service Center serving the internal revenue district in which the place of business is located. Thereafter, such person shall, for each place of business, register, file a return (Form 11), and pay the proper tax on or before the 1st day of July each year during which he continues such business. If a person has paid special (occupational) taxes for a taxable year he will be furnished a return (Form 11) which shall be filled out and executed for registration and tax payment for the succeeding taxable year if that person intends to continue in business. Properly completing, executing, and timely filing of a return (Form

11) will constitute compliance with section 5802, I.R.C. A person doing business under a style or trade name shall give his own name, followed by his style or trade name. In the case of a partnership, unincorporated association, firm, or company, other than a corporation, its style or trade name shall be given, also the name of each member and his place of residence. In the case of a corporation, its style or trade name shall be given, also the name of each responsible officer and his place of residence. The class of business, as described in § 179.32, and the period for which special (occupational) tax is due, shall also be stated. The Form 11 shall be executed under penalties of perjury.

(b) Notwithstanding the provisions of this part relating to the filing of returns on Form 11 for special (occupational) tax, such returns which are required, by the instructions on the form or issued in respect thereof, to be filed with the Director of the Service Center and which are filed by hand carrying shall be filed with the District Director of the internal revenue district in which the taxpayer's business is located.

(68A Stat. 752, as amended; 26 U.S.C. 6091)

#### § 179.35 Employer identification number.

(a) The employer identification number (defined at § 301.7701-12 of this chapter) of the taxpayer who has been assigned such a number shall be shown on each Form 11, including amended Form 11, filed pursuant to the provisions of this part. Failure of the taxpayer to include his employer identification number on Form 11 may result in assertion and collection of the penalty specified in § 301.6676-1 of this chapter.

(b) An employer identification number will be assigned pursuant to application on Form SS-4 filed by the taxpayer. Form SS-4 may be obtained from any District Director or any Director of a Service Center.

(c) An application on Form SS-4 for an employer identification number shall be made by every taxpayer who files a return on Form 11, but who prior to the filing of his first return on Form 11 has neither secured an employer identification number nor made application therefor. Such application on Form SS-4 shall be filed on or before the seventh day after the date on which such first return on Form 11 is filed.

(d) Each taxpayer shall make application for and shall be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file Form 11. This same number is used for all internal revenue purposes requiring the use of a taxpayer identification number.

(e) The application on Form SS-4, together with any supplementary statement, shall be prepared in accordance with the form, instructions, and regulations applicable thereto, and shall set forth fully and clearly the data therein called for. The application shall be filed with the District Director of any internal

revenue district in which the taxpayer operates a business subject to special tax, except that, where the instructions on or relating to Form SS-4 so provide, Form SS-4 shall be filed with the Director of the Service Center serving such district. The application shall be signed by (1) the individual, if the person is an individual; (2) the president, vice president, or other principal officer, if the person is a corporation; (3) a responsible and duly authorized member or officer having knowledge of its affairs, if the person is a partnership or other unincorporated organization; or (4) the fiduciary, if the person is a trust or estate.

(75 Stat. 828; 26 U.S.C. 6109, 6676)

#### § 179.36 The special tax stamp, receipt for special (occupational) taxes.

Upon filing a properly completed and executed return (Form 11) accompanied by remittance of the full amount due, the taxpayer will be issued a special tax stamp as evidence of payment of the special (occupational) tax.

#### § 179.37 Certificates in lieu of stamps lost or destroyed.

When a special tax stamp has been lost or destroyed, such fact should be reported immediately to the Director of the Service Center who issued the stamp. A certificate in lieu of the lost or destroyed stamp will be issued to the taxpayer upon the submission of an affidavit showing to the satisfaction of the Director of the Service Center that the stamp was lost or destroyed.

#### § 179.38 Engaging in business at more than one location.

A person shall pay the special (occupational) tax for each location where he engages in any business taxable under section 5801, I.R.C. However, a person paying a special (occupational) tax covering his principal place of business may utilize other locations solely for storage of firearms without incurring special (occupational) tax liability at such locations. A manufacturer, upon the single payment of the appropriate special (occupational) tax, may sell firearms of the type(s) covered by such tax, if such firearms are of his own manufacture, at the place of manufacture and at his principal office or place of business if no such firearms, except samples, are kept at such office of place of business. When a person changes the location of a business for which he has paid the special (occupational) tax, he will be liable for another such tax unless the change is properly registered with the Director of the Service Center serving the internal revenue district in which the special tax stamp was issued, as provided in § 179.46.

#### § 179.39 Engaging in more than one business at the same location.

If more than one business taxable under section 5801, I.R.C., is carried on at the same location during a taxable year, the special (occupational) tax imposed on each such business must be paid. This section does not require a qualified manufacturer or importer to qualify as a



dealer if such manufacturer or importer also engages in business on his qualified premises as a dealer. However, a qualified manufacturer who engages in business as an importer must also qualify as an importer. Further, a qualified dealer is not entitled to engage in business as a manufacturer or importer. Also, one qualified to manufacture, for example, only "any other weapons" shall not be qualified to manufacture or deal in other categories of firearms. Conversely, a person qualified, for example, to manufacture all firearms may manufacture and deal in firearms in the "any other weapons" category.

#### § 179.40 Partnership liability.

Any number of persons doing business in partnership at any one location shall be required to pay but one special (occupational) tax.

#### § 179.41 Single sale.

A single sale, unattended by circumstances showing the one making the sale to be engaged in business, does not create special (occupational) tax liability.

#### CHANGE OF OWNERSHIP

#### § 179.42 Changes through death of owner.

Whenever any person who has paid special (occupational) tax dies, the surviving spouse or child, or executors or administrators, or other legal representatives, may carry on such business for the remainder of the term for which tax has been paid and at the place for which the tax was paid without any additional payment, subject to the conditions hereinafter stated. If the surviving spouse or child, or executor or administrator, or other legal representative of the deceased taxpayer continues the business, such person shall, within 30 days after the date on which the successor begins to carry on the business, file a new return, Form 11, with the Director of the Service Center serving the internal revenue district in which the business is located. The return thus executed shall show the name of the original taxpayer, together with the basis of the succession. (As to liability in case of failure to register, see § 179.49.)

#### § 179.43 Changes through bankruptcy of owner.

A receiver or referee in bankruptcy may continue the business under the stamp issued to the taxpayer at the place and for the period for which the tax was paid. An assignee for the benefit of creditors may continue business under his assignor's special tax stamp without incurring additional special (occupational) tax liability. In such cases, the change shall be registered with the Director of the Service Center serving the internal revenue district in which the business is located in a manner similar to that required by § 179.42.

#### § 179.44 Change in partnership or unincorporated association.

When one or more members withdraw from a partnership or an unincorporated

association, the remaining member, or members, may, without incurring additional special (occupational) tax liability, carry on the same business at the same location for the balance of the taxable period for which special (occupational) tax was paid, provided any such change shall be registered in the same manner as required by § 179.42. Where new member(s) are taken into a partnership or an unincorporated association, the new firm so constituted may not carry on business under the special tax stamp of the old firm. The new firm must file a return, pay the special (occupational) tax and register in the same manner as a person who first engages in business is required to do under § 179.34 even though the name of the new firm may be the same as that of the old. Where the members of a partnership or an unincorporated association, which has paid special (occupational) tax, form a corporation to continue the business, a new special tax stamp must be taken out in the name of the corporation.

#### § 179.45 Changes in corporation.

Additional special (occupational) tax is not required by reason of a mere change of name or increase in the capital stock of a corporation if the laws of the State of incorporation provide for such change or increase without the formation of a new corporation. A stockholder in a corporation who after its dissolution continues the business, incurs new special (occupational) tax liability.

#### CHANGE OF BUSINESS LOCATION

#### § 179.46 Notice by taxpayer.

Whenever during the taxable year a taxpayer intends to remove his business to a location other than specified in his last special (occupational) tax return (see § 179.34), he shall file with the Director of the Service Center serving the internal revenue district in which the special tax stamp was issued (a) a return, Form 11, bearing the notation "Removal Registry," and showing the new address intended to be used, (b) his current special tax stamp, and (c) a letter application requesting the amendment of his registration. The Director of the Service Center, upon approval of the application, shall return the special tax stamp, amended to show the new business location. Firearms operations shall not be commenced at the new business location by the taxpayer prior to the required approval of his application to so change his business location.

#### CHANGE OF TRADE NAME

#### § 179.47 Notice by taxpayer.

Whenever during the taxable year a taxpayer intends to change the name of his business, he shall file with the Director of the Service Center serving the internal revenue district in which the special tax stamp was issued (a) a return, Form 11, bearing the notation "Amended," and showing the trade name intended to be used, (b) his current special tax stamp, and (c) a letter applica-

tion requesting the amendment of his registration. The Director of the Service Center, upon approval of the application, shall return the special tax stamp, amended to show the new trade name. Firearms operations shall not be commenced under the new trade name by the taxpayer prior to the required approval of his application to so change the trade name.

#### PENALTIES AND INTEREST

#### § 179.48 Failure to pay special (occupational) tax.

Any person who engages in a business taxable under section 5801, I.R.C., without timely payment of the tax imposed with respect to such business (see § 179.34) shall be liable for such tax, plus the interest and penalties thereon (see sections 6601 and 6651 I.R.C.). In addition, such person may be liable for criminal penalties under section 5871, I.R.C.

#### § 179.49 Failure to register change or removal.

Any person succeeding to and carrying on a business for which special (occupational) tax has been paid without registering such change within 30 days thereafter, and any taxpayer removing his business with respect to which special (occupational) tax has been paid to a place other than that for which tax was paid without obtaining approval therefor (see § 179.46), will incur liability to an additional payment of the tax, addition to tax and interest, as provided in sections 5801, 6651, and 6601, respectively, I.R.C., for failure to make return (see § 179.50) or pay tax, as well as criminal penalties for carrying on business without payment of special (occupational) tax (see section 5871 I.R.C.).

#### § 179.50 Delinquency.

Any person liable for special (occupational) tax under section 5801, I.R.C., who fails to file a return (Form 11), as prescribed, will be liable for a delinquency penalty computed on the amount of tax due unless a return (Form 11) is later filed and failure to file the return timely is shown to the satisfaction of the District Director or the Director of the Service Center, whichever is designated to receive the return (Form 11), to be due to reasonable cause. The delinquency penalty to be added to the tax is 5 percent if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which failure continues, not to exceed 25 percent in the aggregate (section 6651, I.R.C.). However, no delinquency penalty is assessed where the 50 percent addition to tax is assessed for fraud (see § 179.51).

#### § 179.51 Fraudulent return.

If any part of any underpayment of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment, but no delinquency penalty shall be assessed with respect to the



same underpayment (section 6653, I.R.C.).

#### APPLICATION OF STATE LAWS

##### § 179.52 State regulations.

Special tax stamps are merely receipts for the tax. Payment of tax under Federal law confers no privilege to act contrary to State law. One to whom a special tax stamp has been issued may still be punishable under a State law prohibiting or controlling the manufacture, possession or transfer of firearms. On the other hand, compliance with State law confers no immunity under Federal law. Persons who engage in the business of importing, manufacturing or dealing in firearms, in violation of the law of a State, are nevertheless required to pay special (occupational) tax as imposed under the internal revenue laws of the United States. For provisions relating to restrictive use of information furnished to comply with the provisions of this part see § 179.23.

#### Subpart E—Tax on Making Firearms

##### § 179.61 Rate of tax.

Except as provided in this subpart, there shall be levied, collected, and paid upon the making of a firearm a tax at the rate of \$200 for each firearm made. This tax shall be paid by the person making the firearm. Payment of the tax on the making of a firearm shall be represented by a \$200 adhesive stamp bearing the words "National Firearms Act."

#### APPLICATION TO MAKE A FIREARM

##### § 179.62 Application to make.

No person shall make a firearm unless he has filed with the Director a written application on Form 1 (Firearms), Application to Make and Register a Firearm in duplicate, executed under the penalties of perjury, to make and register the firearms and has received the approval of the Director to make the firearms which approval shall effectuate registration of the weapon to the applicant. The application shall identify the firearm to be made by serial number, type, model, caliber or gauge, length of barrel, other marks of identification, and the name and address of original manufacturer (if he is not the original manufacturer). The applicant must identify himself on the Form 1 (Firearms) by name and address and, if other than a natural person, the name and address of the principal officer or authorized representative and the employer identification number and, if an individual, the identification must include the date and place of birth and the social security number of the applicant and the information prescribed in § 179.63. Each applicant shall identify the Federal firearms license and special (occupational) tax stamp issued to him, if any. The applicant also shall show required information evidencing that his making or possession of the firearms would not be in violation of law. Further, the applicant shall show why he intends to make the firearm. A National Firearms Act stamp (see § 179.61) must be affixed

to the original application in the space provided therefor and properly canceled (see § 179.67) if the making is taxable. If the making of the firearm is tax exempt under this part, an explanation of the basis of the exemption shall be attached to the Form 1 (Firearms). Form 1 (Firearms) and appropriate tax stamp may be obtained from any District Director of Internal Revenue.

##### § 179.63 Identification of applicant.

If the applicant is an individual, he shall attach to each copy of the Form 1 (Firearms) a properly executed Form 4539, Identification of Transferee or Maker of Firearm, containing an individual photograph of himself, taken within 1 year prior to the date of such application, and his fingerprints. The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them. The application must be supported by a certificate of the local chief of police, sheriff of the county, United States attorney, United States marshal, or such other person whose certificate may in a particular case be acceptable to the Director, certifying that he is satisfied that the fingerprints and photograph appearing on the application are those of the applicant and that he has no information indicating that the possession of the firearm by the maker would be in violation of State or local law or that the maker will use the firearm for other than lawful purposes.

##### § 179.64 Procedure for approval of application.

The application to make a firearm, Form 1 (Firearms), must be forwarded directly, in duplicate, by the maker of the firearm to the Director. The Director will consider the application for approval or disapproval. If the application is approved, the Director will return the original thereof to the maker of the firearm and retain the duplicate. Upon receipt of the approved application, the maker is authorized to make the firearm described therein. The maker of the firearm shall not, under any circumstances, make the firearm until the application, satisfactorily executed, with the "National Firearms Act" stamp attached, has been forwarded to the Director and has been approved and returned by him. If the application is disapproved, the original Form 1 (Firearms) with the "National Firearms Act" stamp attached thereto will be returned to the applicant with the reasons for disapproval stated on the form, and tax will be refunded as provided in § 179.172.

##### § 179.65 Denial of application.

An application to make a firearm shall not be approved by the Director if the making or possession of the firearm would place the person making the firearm in violation of law.

##### § 179.66 Subsequent transfer of firearms.

Where a firearm which has been made in compliance with section 5821, I.R.C.,

and the regulations contained in this part, is to be transferred subsequently, the transfer provisions of the firearms laws and regulations must be complied with. (See Subpart F of this part).

##### § 179.67 Cancellation of stamp.

The person affixing to a Form 1 (Firearms) a "National Firearms Act" stamp shall cancel it by writing or stamping thereon, in ink, his initials, and the day, month and year, in such manner as to render it unfit for reuse. The cancellation shall not so deface the stamp as to prevent its denomination and genuineness from being readily determined.

#### EXCEPTIONS TO TAX ON MAKING FIREARMS

##### § 179.68 Qualified manufacturer.

A manufacturer qualified under this part to engage in such business may make the type of firearm which he is qualified to manufacture without payment of the making tax. However, such manufacturer shall report and register each firearm made in the manner prescribed by this part.

##### § 179.69 Making a firearm for the United States.

A firearm may be made by, or on behalf of, the United States or any department, independent establishment, or agency thereof without payment of the making tax. However, if a firearm is to be made on behalf of the United States, the maker must file an application, in duplicate, on Form 1 (Firearms) and obtain the approval of the Director in the manner prescribed in § 179.62.

##### § 179.70 Certain government entities.

A firearm may be made without payment of the making tax by, or on behalf of, any State, or possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations. Any person making a firearm under this exemption shall first file an application, in duplicate, on Form 1 (Firearms) and obtain the approval of the Director as prescribed in § 179.62.

#### REGISTRATION

##### § 179.71 Proof of registration.

The approval by the Director of an application, Form 1 (Firearms), to make a firearm under this subpart shall effectuate registration of the firearm described in the Form 1 (Firearms) to the person making the firearm. The original Form 1 (Firearms) showing approval by the Director shall be retained by the maker to establish proof of his registration of the firearm described therein, and shall be made available to any internal revenue officer on request.

#### Subpart F—Transfer Tax

##### § 179.81 Scope of tax.

Except as otherwise provided in this part, each transfer of a firearm in the United States is subject to a tax to be represented by an adhesive stamp of the



proper denomination bearing the words "National Firearms Act" to be affixed to the Form 4 (Firearms), Application for Transfer and Registration of Firearm, as provided in this subpart.

**§ 179.82 Rate of tax.**

The transfer tax imposed with respect to firearms transferred within the United States is at the rate of \$200 for each firearm transferred, except that the transfer tax on any firearm classified as "any other weapon" shall be at the rate of \$5 for each such firearm transferred. The tax imposed on the transfer of the firearm shall be paid by the transferor.

**§ 179.83 Transfer tax in addition to import duty.**

The transfer tax imposed by section 5811, I.R.C., is in addition to any import duty.

**APPLICATION AND ORDER FOR TRANSFER OF FIREARM**

**§ 179.84 Application to transfer.**

Except as otherwise provided in this subpart, no firearm may be transferred in the United States unless an application, Form 4 (Firearms), Application for Transfer and Registration of Firearm, in duplicate, executed under the penalties of perjury to transfer the firearm and register it to the transferee has been filed with and approved by the Director. The application, Form 4 (Firearms), shall be filed by the transferor and shall identify the firearm to be transferred by type; serial number; name and address of the manufacturer and importer, if known; model; caliber, gauge or size; in the case of a short-barreled shotgun or a short-barreled rifle, the length of the barrel; in the case of a weapon made from a rifle or shotgun, the overall length of the weapon and the length of the barrel; and any other identifying marks on the firearm. In the event the firearm does not bear a serial number, the applicant shall obtain a serial number from the Assistant Regional Commissioner and shall stamp (impress) or otherwise conspicuously place such serial number on the firearm in a manner not susceptible of being readily obliterated, altered or removed. The application, Form 4 (Firearms), shall identify the transferor by name and address; shall identify the transferor's Federal firearms license and special (occupational) tax stamp, if any; and if the transferor is other than a natural person, shall show the title or status of the person executing the application. The application also shall identify the transferee by name and address, and, if the transferee is a natural person not qualified as a manufacturer, importer or dealer under this part, he shall be further identified in the manner prescribed in § 179.85. The application also shall identify the special (occupational) tax stamp and Federal firearms license of the transferee, if any. Any tax payable on the transfer must be represented by an adhesive stamp of proper denomination being affixed to the application, Form 4 (Firearms), properly cancelled. Form 4 (Firearms) and appropriate tax

stamp may be obtained from any District Director of Internal Revenue.

**§ 179.85 Identification of transferee.**

If the transferee is an individual, he shall attach to each copy of the application, Form 4 (Firearms), a properly executed Form 4539, Identification of Transferee or Maker of Firearm, containing an individual photograph of himself, taken within one year prior to the date of such application, and shall affix his fingerprints to the form. The fingerprints must be clear for accurate classification and should be taken by someone properly equipped to take them. The Form 4539 must be supported by a certificate of the local chief of police, sheriff of the county, U.S. attorney, U.S. marshal or such other person whose certificate may in a particular case be acceptable to the Director certifying that he is satisfied that the fingerprints and photograph appearing on the Form 4539 are those of the transferee and that he has no information indicating that the receipt or possession of the firearm would place the transferee in violation of State or local law or that the transferee will use the firearm for other than lawful purposes.

**§ 179.86 Action on application.**

The Director will consider a completed and properly executed application, Form 4 (Firearms), to transfer a firearm. If the application is approved, the Director will return the original thereof showing approval to the transferor who may then transfer the firearm to the transferee along with the approved application. The approval of an application, Form 4 (Firearms), by the Director will effectuate registration of the firearm to the transferee. The transferee shall not take possession of a firearm until the application, Form 4 (Firearms), for the transfer filed by the transferor has been approved by the Director and registration of the firearm is effectuated to the transferee. The transferee shall retain the approved application as proof that the firearm described therein is registered to him, and shall make the approved Form 4 (Firearms) available to any internal revenue officer on request. If the application, Form 4 (Firearms), to transfer a firearm is disapproved by the Director, the original application will be returned to the transferor with reasons for the disapproval stated on the application, and any tax paid will be refunded as provided in § 179.172. An application, Form 4 (Firearms), to transfer a firearm shall be denied if the transfer, receipt, or possession of a firearm would place the transferee in violation of law.

**§ 179.87 Cancellation of stamp.**

The method of cancellation of the stamp required by this subpart as prescribed in § 179.67 shall be used.

**EXEMPTIONS RELATING TO TRANSFERS OF FIREARMS**

**§ 179.88 Special (occupational) taxpayers.**

(a) A firearm registered to a person qualified under this part to engage in business as an importer, manufacturer,

or dealer may be transferred by that person without payment of the transfer tax to any other person qualified under this part to manufacture, import or deal in that type of firearm.

(b) The exemption provided in paragraph (a) of this section shall be obtained by the transferor of the firearm filing with the Director an application, Form 3 (Firearms), Application for Tax-exempt Transfer of Firearm and Registration to Special (Occupational) Taxpayer, in duplicate, executed under the penalties of perjury. The application, Form 3 (Firearms), shall (1) show the name and address of the transferor and of the transferee, (2) identify the Federal firearms license and special (occupational) tax stamp of the transferor and of the transferee, (3) show the name and address of the manufacturer and the importer of the firearm, if known, (4) show the type, model, overall length (if applicable), length of barrel, caliber, gauge or size, serial number, and other marks of identification of the firearm, and (5) contain a statement by the transferor that he is entitled to the exemption because the transferee is a person qualified under this part to manufacture, import or deal in the type of firearm to be transferred. If the Director approves an application, Form 3 (Firearms), he shall return the original Form 3 (Firearms) to the transferor with the approval noted thereon. Approval of an application, Form 3 (Firearms), by the Director shall remove registration of the firearm reported thereon from the transferor and shall effectuate the registration of that firearm to the transferee. Upon receipt of the approved Form 3 (Firearms), the transferor shall deliver same with the firearm to the transferee. The transferor shall not transfer the firearm to the transferee until his application, Form 3 (Firearms), has been approved by the Director and the original thereof has been returned to the transferor. If the Director disapproves the application, Form 3 (Firearms), he shall return the original Form 3 (Firearms) to the transferor with the reasons for the disapproval stated thereon.

(c) The transferor shall be responsible for establishing the exempt status of the transferee before making a transfer under the provisions of this section. Therefore, before engaging in transfer negotiations with the transferee, the transferor should satisfy himself as to the claimed exempt status of the transferee and the bona fides of the transaction. If not fully satisfied, the transferor should communicate with the Director, report all circumstances regarding the proposed transfer, and await the Director's advice before making application for the transfer. An unapproved transfer or a transfer to an unauthorized person may subject the transferor to civil and criminal liabilities. (See sections 5852, 5861, and 5871 I.R.C.)

**§ 179.89 Transfers to the United States.**

A firearm may be transferred to the United States or any department, independent establishment or agency thereof without payment of the transfer tax. However, the procedures for the transfer



of a firearm as provided in § 179.90 shall be followed in a tax-exempt transfer of a firearm under this section, unless the transferor is relieved of such requirement under other provisions of this part.

#### § 179.90 Certain government entities.

(a) A firearm may be transferred without payment of the transfer tax to any State, possession of the United States, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations.

(b) The exemption provided in paragraph (a) of this section shall be obtained by the transferor of the firearm filing with the Director an application, Form 5 (Firearms). Application for Tax-exempt Transfer and Registration of Firearm, in duplicate, executed under the penalties of perjury. The application shall (1) show the name and address of the transferor and of the transferee, (2) identify the Federal firearms license and special (occupational) tax stamp, if any, of the transferor and of the transferee, (3) show the name and address of the manufacturer and the importer of the firearm, if known, (4) show the type, model, overall length (if applicable), length of barrel, caliber, gauge or size, serial number, and other marks of identification of the firearm, and (5) contain a statement by the transferor that he is entitled to the exemption because the transferee is a governmental entity coming within the purview of paragraph (a) of this section. If the Director approves an application, Form 5 (Firearms), he shall return the original Form 5 (Firearms) to the transferor with the approval noted thereon. Approval of an application, Form 5 (Firearms), by the Director shall effectuate the registration of that firearm to the transferee. Upon receipt of the approved Form 5 (Firearms), the transferor shall deliver same with the firearm to the transferee. The transferor shall not transfer the firearm to the transferee until his application, Form 5 (Firearms), has been approved by the Director and the original thereof has been returned to the transferor. If the Director disapproves the application, Form 5 (Firearms), he shall return the original Form 5 (Firearms) to the transferor with the reasons for the disapproval stated thereon.

(c) The transferor shall be responsible for establishing the exempt status of the transferee before making a transfer under the provisions of this section. Therefore, before engaging in transfer negotiations with the transferee, the transferor should satisfy himself of the claimed exempt status of the transferee and the bona fides of the transaction. If not fully satisfied, the transferor should communicate with the Director, report all circumstances regarding the proposed transfer, and await the Director's advice before making application for transfer. An unapproved transfer or a transfer to an unauthorized person may subject the transferor to civil and criminal liabilities.

(See sections 5852, 5861, and 5871 I.R.C.)

#### § 179.91 Unserviceable firearms.

An unserviceable firearm may be transferred as a curio or ornament without payment of the transfer tax. However, the procedures for the transfer of a firearm as provided in § 179.90 shall be followed in a tax-exempt transfer of a firearm under this section, except a statement shall be entered on the transfer application, Form 5 (Firearms), by the transferor that he is entitled to the exemption because the firearm to be transferred is unserviceable and is being transferred as a curio or ornament. An unapproved transfer, the transfer of a firearm under the provisions of this section which is in fact not an unserviceable firearm, or the transfer of an unserviceable firearm as something other than a curio or ornament, may subject the transferor to civil and criminal liabilities. (See sections 5811, 5852, 5861, and 5871 I.R.C.)

#### § 179.92 Transportation of firearms to effect transfer.

Notwithstanding any provision of § 178.28 of this chapter, it shall not be required that authorization be obtained from any Assistant Regional Commissioner for the transportation in interstate or foreign commerce of a firearm in order to effect the transfer of a firearm authorized under the provisions of this subpart.

#### OTHER PROVISIONS

#### § 179.93 Transfers of firearms to certain persons.

Where the transfer of a destructive device, machinegun, short-barreled shotgun, or short-barreled rifle is to be made by a person licensed under the provisions of Title I of the Gun Control Act of 1968 (82 Stat. 1213) to a person not so licensed, the sworn statement required by § 178.98 of this chapter shall be attached to and accompany the transfer application required by this subpart.

#### Subpart G—Registration and Identification of Firearms

#### § 179.101 Registration of firearms.

(a) The Director shall maintain a central registry of all firearms in the United States which are not in the possession of or under the control of the United States. This registry shall be known as the National Firearms Registration and Transfer Record and shall include:

- (1) Identification of the firearm as required by this part;
- (2) Date of registration; and
- (3) Identification and address of person entitled to possession of the firearm as required by this part.

(b) Each manufacturer, importer, and maker shall register each firearm he manufactures, imports, or makes in the manner prescribed by this part. Each firearm transferred shall be registered to the transferee by the transferor in

the manner prescribed by this part. No firearm may be registered by a person unlawfully in possession of the firearm except during an amnesty period established under section 207 of the Gun Control Act of 1968 (82 Stat. 1235).

(c) A person shown as possessing firearms by the records maintained by the Director pursuant to the National Firearms Act (Chapter 53, I.R.C.) in force on October 31, 1968, shall be considered to have registered the firearms in his possession which are disclosed by that record as being in his possession on October 31, 1968.

(d) The National Firearms Registration and Transfer Record shall include firearms registered to the possessors thereof under the provisions of section 207 of the Gun Control Act of 1968.

(e) A person possessing a firearm registered to him shall retain proof of registration which shall be made available to any internal revenue officer upon request.

(f) A firearm not identified as required by this part shall not be registered.

#### § 179.102 Identification of firearms.

Each manufacturer, importer, or maker of a firearm shall legibly identify it by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed) or placed on the frame or receiver thereof in a manner not susceptible of being readily obliterated, altered, or removed, an individual serial number not duplicating any serial number placed by the manufacturer, importer, or maker on any other firearm, and by engraving, casting, stamping (impressing), or otherwise conspicuously placing or causing to be engraved, cast, stamped (impressed), or placed on the frame, receiver, or barrel thereof in a manner not susceptible of being readily obliterated, altered or removed, the model, if such designation has been made; the caliber or gauge; the name (or recognized abbreviation of same) of the manufacturer, or maker, and also, when applicable, of the importer; in the case of a domestically made firearm, the city and State (or recognized abbreviation thereof) wherein the manufacturer or importer maintains his place of business, or the maker made the firearm; and in the case of an imported firearm, the name of the country in which manufactured and the city and State (or recognized abbreviation thereof) of the importer: *Provided*, That the Director may authorize other means of identification of the manufacturer, importer, or maker upon receipt of letter application, in duplicate, from same showing that such other identification is reasonable and will not hinder the effective administration of this part: *Provided, further*, That in the case of a destructive device, the Director may authorize other means of identifying that weapon upon receipt of letter application, in duplicate, from the manufacturer, importer, or maker showing that



engraving, casting, or stamping (impressing) such a weapon would be dangerous or impracticable. A firearm frame or receiver which is not a component part of a complete weapon at the time it is sold, shipped, or otherwise disposed of by a manufacturer, importer, or maker, shall be identified as required by this section.

#### § 179.103 Registration of firearms manufactured.

Each manufacturer qualified under this part shall file with the Director an accurate notice on Form 2 (Firearms), Notice of Firearms Manufactured or Imported, executed under the penalties of perjury, to show his manufacture of firearms. The notice shall set forth the name and address of the manufacturer, identify his special (occupational) tax stamp and Federal firearms license, and show the date of manufacture, the type, model, length of barrel, overall length, caliber, gauge or size, serial numbers, and other marks of identification of the firearms he manufactures, and the place where the manufactured firearms will be kept. All firearms manufactured by him during a single day shall be included on one notice, Form 2 (Firearms), filed by the manufacturer no later than the close of the next business day. The manufacturer shall prepare the notice, Form 2 (Firearms), in duplicate, file the original notice as prescribed herein and keep the copy with the records required by Subpart I of this part at the premises covered by his special (occupational) tax stamp. Receipt of the notice, Form 2 (Firearms), by the Director shall effectuate the registration of the firearms listed on that notice. The requirements of this part relating to the transfer of a firearm are applicable to transfers by qualified manufacturers.

#### § 179.104 Registration of firearms by certain governmental entities.

Any State, any political subdivision thereof, or any official police organization of such a government entity engaged in criminal investigations, which acquires for official use a firearm not registered to it, such as by abandonment or by forfeiture, will register such firearm with the Director by filing Form 10 (Firearms), Registration of Firearms Acquired by Certain Governmental Entities, and such registration shall become a part of the National Firearms Registration and Transfer Record. The application shall identify the applicant, describe each firearm covered by the application, show the location where each firearm usually will be kept, and, if the firearm is unserviceable, the application shall show how the firearm was made unserviceable. This section shall not apply to a firearm merely being held for use as evidence in a criminal proceeding. The Form 10 (Firearms) shall be executed in duplicate in accordance with the instructions thereon. Upon registering the firearm, the Director shall return the original Form 10 (Firearms) to the registrant

with notification thereon that registration of the firearm has been made.

### Subpart H—Importation and Exportation

#### IMPORTATION

##### § 179.111 Procedure.

(a) No firearm shall be imported or brought into the United States or any territory under its control or jurisdiction unless the person importing or bringing in the firearm establishes to the satisfaction of the Director that the firearm to be imported or brought in is being imported or brought in for:

(1) The use of the United States or any department, independent establishment, or agency thereof or any State or possession or any political subdivision thereof; or

(2) Scientific or research purposes; or

(3) Testing or use as a model by a registered manufacturer or solely for use as a sample by a registered importer or registered dealer.

The burden of proof is affirmatively on any person importing or bringing the firearm into the United States or any territory under its control or jurisdiction to show that the firearm is being imported or brought in under one of the above subparagraphs. Any person desiring to import or bring a firearm into the United States under this paragraph shall file with the Director an application on Form 6 (Firearms), Application and Permit for Importation of Firearms, Ammunition and Implements of War, in triplicate, executed under the penalties of perjury. The application shall show the information required by Subpart G of Part 178 of this chapter. A detailed explanation of why the importation of the firearm falls within the standards set out in this paragraph shall be attached to the application. The person seeking to import or bring in the firearm will be notified of the approval or disapproval of his application. If the application is approved, the original Form 6 (Firearms) will be returned to the applicant showing such approval and he will present the approved application, Form 6 (Firearms), to the Customs officer at the port of importation. The approval of an application to import a firearm shall be automatically terminated at the expiration of six (6) months from the date of approval unless, upon request, it is further extended by the Director. If the firearm described in the approved application is not imported prior to the expiration of the approval, the Director shall be so notified. Customs officers will not permit release of a firearm from Customs custody, except for exportation, unless covered by an application which has been approved by the Director and which is currently effective. The importation or bringing in of a firearm not covered by an approved application may subject the person responsible to civil and criminal liabilities. (See sections 5861, 5871 and 5872 I.R.C.)

(b) Part 178 of this chapter also contains requirements and procedures for the importation of firearms into the United States. A firearm may not be imported into the United States under this part unless those requirements and procedures are also complied with by the person importing the firearm.

(c) The provisions of this subpart shall not be construed as prohibiting the return to the United States or any territory under its control or jurisdiction of a firearm by a person who can establish to the satisfaction of Customs that (1) the firearm was taken out of the United States or any territory under its control or jurisdiction by such person, (2) the firearm is registered to that person, and (3) if appropriate, the authorization required by Part 178 of this chapter for the transportation of such a firearm in interstate or foreign commerce has been obtained by such person.

##### § 179.112 Registration of imported firearms.

(a) Each importer shall file with the Director an accurate notice on Form 2 (Firearms), Notice of Firearms Manufactured or Imported, in duplicate, executed under the penalties of perjury, showing his importation of a firearm. The notice shall set forth the name and address of the importer, identify his special (occupational) tax stamp and Federal firearms license, and show the date of release from Customs custody, the type, model, length of barrel, overall length, caliber, gauge or size, serial number, and other marks of identification of the firearm imported, and the place where the imported firearm will be kept. The Form 2 (Firearms) covering an imported firearm shall be filed by the importer no later than fifteen (15) days from the date the firearm was released from Customs custody. The importer shall prepare the notice, Form 2 (Firearms), in duplicate, file the original return as prescribed herein, and keep the copy with the records required by Subpart I of this part at the premises covered by his special (occupational) tax stamp. The timely receipt by the Director of the notice, Form 2 (Firearms), and the timely receipt by the Assistant Regional Commissioner of the copy of Form 6A (Firearms), Release and Receipt of Imported Firearms, Ammunition and Implements of War, required by § 178.112 of this chapter, covering the weapon reported on the Form 2 (Firearms) by the qualified importer, shall effectuate the registration of the firearm to the importer.

(b) The requirements of this part relating to the transfer of a firearm are applicable to the transfer of imported firearms by a qualified importer or any other person.

##### § 179.113 Conditional importation.

The Director may permit the conditional importation or bringing into the



United States of any firearm for the purpose of examining and testing the firearm in connection with making a determination as to whether the importation or bringing in of such firearm will be authorized under this subpart. An application under this section shall be filed, in triplicate, with the Director. The Director may impose conditions upon any importation under this section including a requirement that the firearm be shipped directly from Customs custody to the Director and that the person importing or bringing in the firearm must agree to either export the weapon or destroy it if a final determination is made that it may not be imported or brought in under this subpart. A firearm so imported or brought into the United States may be released from Customs custody in the manner prescribed by the conditional authorization of the Director.

#### EXPORTATION

##### § 179.114 Application and permit for exportation of firearms.

Any person desiring to export a firearm without payment of the transfer tax must file with the Director an application on Form 9 (Firearms), Application and Permit for Exportation of Firearms, in quadruplicate, for a permit providing for deferment of tax liability. Part 1 of the application shall show the name and address of the foreign consignee, number of firearms covered by the application, the intended port of exportation, a complete description of each firearm to be exported, the name, address, State Department license number (or date of application if not issued), and identification of the special (occupational) tax stamp of the transferor. Part 1 of the application shall be executed under the penalties of perjury by the transferor and shall be supported by a certified copy of a written order or contract of sale or other evidence showing that the firearm is to be shipped to a foreign designation. Where it is desired to make a transfer free of tax to another person who in turn will export the firearm, the transferor shall likewise file an application supported by evidence that the transfer will start the firearm in course of exportation, except, however, that where such transferor and exporter are registered special-taxpayers the transferor will not be required to file an application on Form 9 (Firearms).

##### § 179.115 Action by Director.

If the application is acceptable, the Director will execute the permit, Part 2 of Form 9 (Firearms), to export the firearm described on the form and return three copies thereof to the applicant. Issuance of the permit by the Director will suspend assertion of tax liability for a period of six (6) months from the date of issuance. If the application is disapproved, the Director will indicate thereon the reason for such action and return the forms to the applicant.

##### § 179.116 Procedure by exporter.

Shipment may not be made until the permit, Form 9 (Firearms), is received

from the Director. If exportation is to be made by means other than by parcel post, two copies of the form must be addressed to the Collector of Customs at the port of exportation and must precede or accompany the shipment in order to permit appropriate inspection prior to lading. If exportation is to be made by parcel post, one copy of the form must be presented to the postmaster at the office receiving the parcel who will execute Part 4 of such form and return the form to the exporter for transmittal to the Director. In the event exportation is not effected, all copies of the form must be immediately returned to the Director for cancellation.

##### § 179.117 Action by Customs.

Upon receipt of a permit, Form 9 (Firearms), in duplicate, authorizing the exportation of firearms, the Collector of Customs may order such inspection as deemed necessary prior to lading of the merchandise. If satisfied that the shipment is proper and the information contained in the permit to export is in agreement with information shown in the shipper's export declaration, the Collector of Customs will, after the merchandise has been duly exported, execute the certificate of exportation (Part 3 of Form 9 (Firearms)). One copy of the form will be retained with the shipper's export declaration and the remaining copy thereof will be transmitted to the Director.

##### § 179.118 Proof of exportation.

Within a six-month's period from date of issuance of the permit to export firearms, the exporter shall furnish or cause to be furnished to the Director (a) the certificate of exportation (Part 3 of Form 9 (Firearms)) executed by the Collector of Customs as provided in § 179.117, or (b) the certificate of mailing by parcel post (Part 4 of Form 9 (Firearms)) executed by the postmaster of the post office receiving the parcel containing the firearm, or (c) a certificate of landing executed by a Customs officer of the foreign country to which the firearm is exported, or (d) a sworn statement of the foreign consignee covering the receipt of the firearm, or (e) the return receipt, or a reproduced copy thereof, signed by the addressee or his agent, where the shipment of a firearm was made by insured or registered parcel post. Issuance of a permit to export a firearm and furnishing of evidence establishing such exportation under this section will relieve the actual exporter and the person selling to the exporter for exportation from transfer tax liability. Where satisfactory evidence of exportation of a firearm is not furnished within the stated period, the transfer tax will be assessed.

##### § 179.119 Transportation of firearms to effect exportation.

Notwithstanding any provision of § 178.28 of this chapter, it shall not be required that authorization be obtained from any Assistant Regional Commissioner for the transportation in interstate or foreign commerce of a firearm in order to effect the exportation of a

firearm authorized under the provisions of this subpart.

##### § 179.120 Refunds.

Where, after payment of tax by the manufacturer, a firearm is exported, and satisfactory proof of exportation (see § 179.118) is furnished, a claim for refund may be submitted on Form 843 (see § 179.172). If the manufacturer waives all claim for the amount to be refunded, the refund shall be made to the exporter. A claim for refund by an exporter of tax paid by a manufacturer should be accompanied by waiver of the manufacturer and proof of tax payment by the latter.

##### § 179.121 Insular possessions.

Transfers of firearms to persons in the insular possessions of the United States are exempt from transfer tax, provided title in cases involving change of title (and custody or control, in cases not involving change of title), does not pass to the transferee or his agent in the United States. However, such exempt transactions must be covered by approved permits and supporting documents corresponding to those required in the case of firearms exported to foreign countries (see §§ 179.114 and 179.115), except that the Director may vary the requirements herein set forth in accordance with the requirements of the governing authority of the insular possession. Shipments to the insular possessions will not be authorized without compliance with the requirements of the governing authorities thereof. In the case of a nontaxable transfer to a person in such insular possession, the exemption extends only to such transfer and not to prior transfers.

#### MUTUAL SECURITY ACT

##### § 179.122 Requirements.

(a) Persons engaged in the business of importing firearms are required by the Mutual Security Act (22 U.S.C. 1934) to register with the Secretary of the Treasury. (See Part 180 of this chapter.)

(b) Persons engaged in the business of exporting firearms caliber .22 or larger are subject to the requirements of a license issued by the Secretary of State. Application for such license should be made to the Office of Munitions Control, Department of State, Washington, D.C. 20502, prior to exporting firearms.

#### Subpart I—Records and Returns

##### § 179.131 Records.

For the purposes of this part, each manufacturer, importer, and dealer in firearms shall keep and maintain such records regarding the manufacture, importation, acquisition (whether by making, transfer, or otherwise), receipt, and disposition of firearms as are prescribed, and in the manner and place required, by Part 178 of this chapter. In addition, each manufacturer, importer, and dealer shall maintain, in chronological order, at his place of business a separate record consisting of the documents required by this



part showing the registration of any firearm to him. If firearms owned or possessed by a manufacturer, importer, or dealer are stored or kept on premises other than the place of business shown on his special (occupational) tax stamp, the record establishing registration shall show where such firearms are stored or kept. The records required by this part shall be readily accessible for inspection at all reasonable times by internal revenue officers.

**Subpart J—Stolen or Lost Firearms or Documents**

**§ 179.141 Stolen or lost firearms.**

Whenever any registered firearm is stolen or lost, the person losing possession thereof will, immediately upon discovery of such theft or loss, make a report to the Director showing the following: (a) Name and address of the person in whose name the firearm is registered, (b) kind of firearm, (c) serial number, (d) model, (e) caliber, (f) manufacturer of the firearm, (g) date and place of theft or loss, and (h) complete statement of facts and circumstances surrounding such theft or loss.

**§ 179.142 Stolen or lost documents.**

When any Forms 1, 2, 3, 4, 5, 6A, or 10 (Firearms) evidencing possession of a firearm is stolen, lost, or destroyed, the person losing possession will immediately upon discovery of the theft, loss, or destruction report the matter to the Director. The report will show in detail the circumstances of the theft, loss, or destruction and will include all known facts which may serve to identify the document. Upon receipt of the report, the Director will make such investigation as appears appropriate and may issue a duplicate document upon such conditions as the circumstances warrant.

**Subpart K—Examination of Books and Records**

**§ 179.151 Failure to make returns: substitute returns.**

If any person required by this part to make returns shall fail or refuse to make any such return within the time prescribed by this part or designated by the Director, then the return shall be made by an internal revenue officer upon inspection of the books, but the making of such return by an internal revenue officer shall not relieve the person from any default or penalty incurred by reason of failure to make such return.

(53 Stat. 437; 26 U.S.C. 6020)

**§ 179.152 Penalties (records and returns).**

Any person failing to keep records or make returns, or making, or causing the making of, a false entry on any application, return or record, knowing such entry to be false, is liable to fine and imprisonment as provided in section 5871, I.R.C.

**Subpart L—Distribution and Sale of Stamps**

**§ 179.161 Orders for stamps.**

Each order for stamps to be used under this part shall be made in writing to the

District Director or his duly authorized agent in the internal revenue collection district in which the stamps are to be used, showing the date of the order, the number of "National Firearms Act" stamps applied for, and the name and address of the purchaser, and shall be signed in ink by the purchaser.

**§ 179.162 Stamps authorized.**

Adhesive stamps of the \$5 and \$200 denomination, bearing the words "National Firearms Act," have been prepared and distributed to District Directors, and only such stamps shall be used for the payment of the transfer tax and for the tax on the making of a firearm.

**§ 179.163 Reuse of stamps prohibited.**

A stamp once affixed to one document cannot lawfully be removed and affixed to another. Any person willfully reusing such a stamp shall be subject to the penalty prescribed by section 7208, I.R.C.

**Subpart M—Redemption of or Allowance for Stamps or Refunds**

**§ 179.171 Redemption of or allowance for stamps.**

Where a "National Firearms Act" stamp is destroyed, mutilated or rendered useless after purchase, and before liability has been incurred, such stamp may be redeemed by giving another stamp in lieu thereof. Claim for redemption of the stamp should be filed on Form 843. Such claim shall be accompanied by the stamp or by a satisfactory explanation of the reasons why the stamp cannot be returned, and shall be filed within 3 years after the purchase of the stamp. The claim shall be filed with the Director of the Service Center serving the internal revenue district in which the tax was paid. (For provisions relating to hand-carried documents and manner of filing, see §§ 301.6091-1(b) and 301.6402-2(a), respectively, of this chapter.)

(68A Stat. 830; 26 U.S.C. 6805)

**§ 179.172 Refunds.**

As indicated in this part, the transfer tax or tax on the making of a firearm is ordinarily paid by the purchase and affixing of stamps, while special tax stamps are issued in payment of special (occupational) taxes. However, in exceptional cases, transfer tax, tax on the making of firearms, and/or special (occupational) tax may be paid pursuant to assessment. Claims for refunds of such taxes, whether paid pursuant to assessment or voluntarily paid, shall be filed on Form 843 within 3 years next after payment of the taxes. Such claims shall be filed with the Director of the Service Center serving the internal revenue district in which the tax was paid. (For provisions relating to hand-carried documents and manner of filing, see §§ 301.6091-1(b) and 301.6402-2(a), respectively, of this chapter.)

(68A Stat. 808, 830; 26 U.S.C. §511, 6805)

**Subpart N—Penalties and Forfeitures**

**§ 179.181 Penalties.**

Any person who violates or fails to comply with the requirements of Chap-

ter 53, I.R.C., shall upon conviction, be subject to the penalties imposed under section 5871, I.R.C.

**§ 179.182 Forfeitures.**

Any firearm involved in any violation of the provisions of Chapter 53, I.R.C., shall be subject to seizure, and forfeiture under the internal revenue laws: *Provided, however,* That the disposition of forfeited firearms shall be in conformance with the requirements of section 5872, I.R.C. In addition, any vessel, vehicle or aircraft used to transport, carry, convey, or conceal or possess any firearm with respect to which there has been committed any violation of any provision of Chapter 53, I.R.C., or the regulations in this part issued pursuant thereto, shall be subject to seizure and forfeiture under the Customs laws, as provided by the act of August 9, 1939 (49 U.S.C. 781-788).

**Subpart O—Other Laws Applicable**

**§ 179.191 Applicability of other provisions of internal revenue laws.**

All of the provisions of the internal revenue laws not inconsistent with the provisions of Chapter 53, I.R.C., shall be applicable with respect to the taxes imposed by sections 5801, 5811, and 5821, I.R.C. (see section 5846, I.R.C.).

**§ 179.192 Commerce in firearms and ammunition.**

For provisions relating to commerce in firearms and ammunition, including the movement of destructive devices, machine guns, short-barreled shotguns, or short-barreled rifles, see 18 U.S.C., chapter 44, and Part 178 of this chapter issued pursuant thereto.

**§ 179.193 Mutual Security Act.**

For provisions relating to the registration and licensing of persons engaged in the business of manufacturing, importing or exporting arms, ammunition, or implements of war, see section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), and the regulations issued pursuant thereto.

[FR Doc.71-5202 Filed 4-13-71;8:50 am]

**DEPARTMENT OF AGRICULTURE**

**Consumer and Marketing Service**

[7 CFR Part 1036]

[Docket No. AO-179-A34]

**MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA**

**Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order**

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area.



Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and opportunity to file exceptions thereto are issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

#### PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Parma, Ohio, on March 12, 1971, pursuant to notice thereof which was issued March 1, 1971 (36 F.R. 4297).

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

1. Partial payments to producers; and
2. Timing of amendments.

#### FINDINGS AND CONCLUSIONS

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

1. *Partial payments to producers.* The order should provide that all handlers be required to make partial payments to producers, or to cooperative associations that collect for their members, for producer milk delivered during the first 15 days of the month. Such payments to individual producers should be made by the last day of the month. Payments to cooperative associations should be made 2 days earlier. The rate of payment should be the Class III price for the preceding month, less any deductions authorized by the producer.

Under the present order, partial payments are optional with the producer or cooperative. Handlers are required to make such payments only if requested to do so by the producer or the cooperative collecting for the producer. Final settlement for producer deliveries during the month is not required until about the middle of the following month.

A group of 10 proprietary handlers proposed that partial payments for producer milk delivered during the first 15 days of the month be mandatory for all handlers. Proponents pointed out that the option under the order for partial payments was invoked recently for the first time by a cooperative association in the market. As a result of this payment request, some handlers are being required to make partial payments for producer milk while others are not. Proponents contended that this results

in inequities among handlers since those not making such payments have a greater amount of time to accumulate sufficient funds for their milk purchases. It was claimed that handlers making partial payments are competitively disadvantaged relative to handlers not making such payments because of the considerably different cash flow required.

This proposal was supported at the hearing by two major cooperative associations in the marketing area, one of which recently invoked the optional partial payments.

Opposition to the proposal was voiced by a proprietary handler. The handler contended that delayed payments for milk by his customers would make it difficult for him to have sufficient funds available by the end of the month to make the proposed partial payments to producers. The handler urged that if mandatory partial payments are adopted, the rate of payment proposed by proponents should be reduced for the first 3 years. As suggested by this handler, the payment rate for the first year would be 25 percent of the Class III price, 50 percent of such price in the second year, and 75 percent in the third year. This procedure, he claimed, would give handlers a period of time to accommodate their business to this change in producer payments.

Presently, there is a mixture of payment practices in the Eastern Ohio-Western Pennsylvania market. Final payments by handlers for all deliveries of producer milk during the month are due by the 18th day of the following month (16th day if payments are to a cooperative). Partial payments for the first 15 days' deliveries are being requested under the terms of the order of a limited number of handlers in Ohio. In the Pennsylvania portion of the market, where over half of the handlers in the market are located, partial payments are mandatory for all handlers pursuant to the regulations of the Pennsylvania Milk Marketing Board. Producers delivering milk to plants located in Pennsylvania thus receive partial payments regardless of the optional payment provision of the Eastern Ohio-Western Pennsylvania order.

Although the optional payment provision has been in the order for many years, it was invoked only recently by a cooperative association representing over 50 percent of the producers supplying the market. Consequently, certain handlers in Ohio are being required to make partial payments to producers while others in the State with whom they compete are not.

The cooperative's request for partial payments stems from changes now being made in their producer payment and accounting procedures. Such changes were prompted by the recent merger of several cooperative associations, including one Pennsylvania-based association, into the present organization. Since the merger, over half the members of the present cooperative have been receiving partial payments pursuant to Pennsylvania regulations. In an attempt to pro-

vide uniform payment procedures for all its members and to facilitate the use of automatic data processing, the cooperative intends to request partial payments of all handlers receiving milk from its members. Under this change-over, such payments have been requested thus far only of handlers in the Cleveland metropolitan area.

Under this mixture of payment practices, handlers in the market are not subject to the same payment schedules. Because of the different cash flow required, the financial position of a milk processor is affected by the different payment requirements. This can affect his competitive position in the marketplace. Handlers in this market who are being required to make partial payments are in competition with those handlers who have a greater length of time to accumulate the necessary funds for their purchases of milk. Greater equity among all handlers and among all producers can be achieved by requiring mandatory partial payments for producer milk.

It is not unreasonable to require a handler to make partial payments for milk that he has received from producers. If only a final settlement for the milk is required, payable by the middle of the next month, a handler has use of the milk for approximately 15 to 45 days without any payment. The application of partial payments will reduce the period a producer must wait to receive some payment. Such partial payment still would be less than the full value of the milk by the amount of the difference between the price for the lowest-use class and the uniform price (disregarding adjustments for butterfat test and plant location). During 1970, this difference averaged \$1.30 per hundredweight.

The rate of partial payments should be the Class III price for the preceding month, without adjustment for butterfat content or plant location. This rate is the same as in the current order for the optional payments. The proposal to institute any mandatory partial payments on a graduated scale—25 percent of the Class III price the first year, 50 percent the second year, 75 percent the third year, and 100 percent thereafter—should not be adopted. The Class III price represents the lowest use value that can apply to producer milk and a lower payment rate should not apply.

The partial payments should be reduced by the amount of any proper deductions authorized by a producer. It is not unusual for a producer to have assignments or other deductions made against the payments for his milk. This provision will accommodate such circumstances and allow these deductions to be made from the partial as well as the final payments for milk.

As under the present optional payment provisions, a handler should be required to make partial payment only to a producer who has not discontinued delivery of milk to the handler as of the end of the month. Due to previous assignments made against a producer's milk deliveries, partial payment might possibly result in an overpayment to a producer



who stops delivery to a handler prior to the end of the month. This requirement will minimize the possibility of overpayments.

The order should provide that partial payments to a cooperative association collecting for its members be made at least 2 days prior to the last day of the month, rather than by the 27th day of the month as at present. The period of time between the 27th day and the end of the month can vary from 1 to 4 days. A minimum fixed period should be provided so that the individual members of the cooperative can receive such payments by the same time as producers receiving payment directly from handlers. Two days should be adequate for this purpose.

2. *Timing of amendments.* The amendments adopted herein should be made effective as soon as practicable. The recommended decision and opportunity to file exceptions thereto, however, should not be omitted.

The proponent handlers requested that their proposal be made effective on January 1, 1972, and that the present provisions for optional partial payments be suspended until such date. Proponents claimed that the delayed effective date would provide sufficient time for handlers to adjust their operations to the proposed change in producer payments. They stated that the suspension action for the interim period would remove the inequities among handlers that are being experienced currently. Proponents urged that if the mandatory partial payments are not delayed the recommended decision and opportunity for filing exceptions thereto be omitted. Such emergency action, they claimed, would be necessary to expeditiously remove the inequities created by the present order provisions.

Postponement until January 1972 of the amendments adopted herein would not tend to effectuate the declared policy of the Act. Partial payments to producers are justified on a marketwide basis and should be made uniformly by all handlers regulated under the order. Many of the handlers in the market are making partial payments at the present time. Those handlers not now making such payments to producers may need to make some adjustment in their financial arrangements to accommodate the new payment procedure. This should be minimal, though, since under the present terms of the order such handlers not now making partial payments must be prepared to do so upon 12 days' notice. An extended delay in the effective date of the amendments adopted herein is not warranted.

The record does not support, on the other hand, the omission of the recommended decision. Testimony at the hearing did not demonstrate that such action is imperative. The proposed amendments may necessitate some changes in the business operations of certain handlers. The opportunity to file exceptions to these amendments should not be denied to the affected parties.

#### RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

#### GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

#### RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

Section 1036.70 is revised as follows:

#### § 1036.70 Time and method of payment.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) On or before the last day of the month, to each producer who has not discontinued delivery of milk to such handler, not less than the amount determined by multiplying the pounds of producer milk received from such producer during the first 15 days of the month by the Class III price for the preceding month, without adjustment for butter fat content, less proper deductions authorized by the producer; and

(2) On or before the 18th day after the end of the month, to each producer not less than the amount determined by multiplying the pounds of producer milk received from such producer during the month by the uniform price as adjusted pursuant to §§ 1036.71 and 1036.72, less the following amounts:

(i) The payment made pursuant to subparagraph (1) of this paragraph for such month;

(ii) Proper deductions authorized by the producer;

(iii) Any marketing service deduction pursuant to § 1036.76; and

(iv) If before such date the handler has not received full payment from the market administrator pursuant to § 1036.75 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this subparagraph next following after receipt of the balance due from the market administrator.

(b) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall pay to the cooperative association for producer milk received from such members an amount equal to the sum of the individual payments otherwise payable to such producers pursuant to subparagraph (1) or (2), as the case may be, of paragraph (a) of this section. Such payment shall be made on or before the second day prior to the date specified in such applicable subparagraph. Payments under this paragraph shall be subject to the following conditions:

(1) Each handler shall submit to the cooperative association with such payments written information which shows for each such producer:

(i) The total pounds of milk received from him during the period for which the payment applies;

(ii) With respect to the payment described in paragraph (a) (2) only of this section, the total pounds of butterfat contained in such milk;

(iii) The number of days on which milk was received; and



(iv) The amount of any authorized deductions by the handler;

(2) Payments to a cooperative association and the submission of information by handlers pursuant to this paragraph shall be made with respect to that milk of each producer whom the cooperative association certifies is a member which is received on and after the first day of the calendar month next following the receipt of such certification through the last day of the month next preceding the receipt of a notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(3) A copy of each such request, promise to reimburse, and certified list, of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(c) On or before the 15th day after the end of the month, each handler shall pay a cooperative association at not less than the class prices applicable pursuant to § 1036.51 for milk which he receives:

(1) By transfer or diversion from a pool plant operated by such cooperative association; or

(2) From such cooperative association in its capacity as a handler pursuant to § 1036.13(d), if such cooperative association also operates a pool plant.

Signed at Washington, D.C. on April 8, 1971.

JOHN C. BLUM,  
Deputy Administrator,  
Regulatory Programs.

[FR Doc. 71-5171 Filed 4-13-71; 8:47 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Airspace Docket No. 71-CE-47]

#### [ 14 CFR Part 71 ]

### FEDERAL AIRWAY SEGMENTS

#### Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would renumber the segment of VOR Federal airway No. 233 between Mount Pleasant, Mich., and Traverse City, Mich., and extend V-233 from Mount Pleasant to Pellston, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the

Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

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

The airspace actions proposed in this docket would:

1. Renumber the segment of V-233 between Mount Pleasant and Traverse City as V-420.

2. Extend V-233 from the Mount Pleasant VOR to the Pellston VORTAC via the intersection of the Mount Pleasant VOR 351° T (353° M) and the Gaylord, Mich., VOR 206° T (209° M) radials, and the Gaylord VOR.

Because of the increasing number of IFR off-airway direct flights being filed between Mount Pleasant and Pellston en route traffic control would be simplified and user needs better served if an airway were established between these points.

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on April 7, 1971.

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

[FR Doc. 71-5156 Filed 4-13-71; 8:46 am]

#### [ 14 CFR Part 71 ]

[Airspace Docket No. 71-EA-27]

### TRANSITION AREA

#### Proposed Designation

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Celina, Ohio, Transition Area.

A new NDB RWY 8 instrument approach procedure developed for Lakefield Airport, Celina, Ohio, requires designation of a 700-foot floor transition area to provide controlled airspace to protect aircraft executing the instrument approach procedure.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Fed-

eral Building, John F. Kennedy International Airport, Jamaica, NY 11430. All communications received within 30 days after publication in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Celina, Ohio, proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a Celina, Ohio, 700-foot floor transition area as follows:

#### CELINA, OHIO

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the center, 40°29'00" N., 84°33'59" W., of Lakefield Airport, Celina, Ohio; within 3.5 miles each side of the 262° bearing from the Celina, RBN, 40°28'35" N., 84°38'06" W., extending from the 7-mile radius area to 11.5 miles west of the RBN; and within 3.5 miles each side of the 262° bearing from the Celina RBN, extending from the 7-mile radius area to 8.5 miles west of the RBN.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on March 11, 1971.

ROBERT M. BROWN,  
Acting Director, Eastern Region.

[FR Doc. 71-5157 Filed 4-13-71; 8:46 am]

#### [ 14 CFR Part 71 ]

[Airspace Docket No. 71-EA-41]

### FEDERAL AIRWAY SEGMENT

#### Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter VOR Federal airway No. 1 by adding an east alternate between Kinston, N.C., and Norfolk, Va.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention:



Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

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

The FAA proposes to designate a non-standard east alternate to VOR Federal airway No. 1 between Kinston, N.C., and Norfolk, Va., via the intersection of the Kinston 050° T (055° M) and Norfolk 209° T (216° M) radials. The proposed alternate airway would provide a secondary departure route from the Norfolk terminal area to the south which would be laterally separated from the inbound route via Victor airways No. 1 and No. 194.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on April 7, 1971.

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

[FR Doc.71-5158 Filed 4-13-71; 8:46 am]

[ 14 CFR Part 71 ]

[Airspace Docket No. 71-SO-26]

FEDERAL AIRWAY  
Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter VOR Federal airway No. 296 by extending it from Fayetteville, N.C. to Wilmington, N.C.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the

Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, DC 20590. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The airspace action proposed in this docket would extend V-296 from the Fayetteville VOR direct to the Wilmington VORTAC. The maximum authorized altitude (MAA) of this segment of V-296 would be 4,000 feet MSL.

There has been an increase in traffic between Fayetteville and Wilmington. The proposed airway extension would simplify air traffic control procedures between these two points. The proposed MAA of 4,000 feet would conform with the MAA of V-56 to the north and V-39 to the south of the proposed airway extension. These MAAs would satisfy a current U.S. Air Force requirement for aircraft operating from Seymour Johnson AFB, N.C., to conduct air combat tactics off airways at 5,000 feet MSL and above.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on April 7, 1971.

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

[FR Doc.71-5159 Filed 4-13-71; 8:46 am]

Hazardous Materials Regulations  
Board

[ 49 CFR Part 171 ]

[Docket No. HM-22; Notice No. 71-11]

TRANSPORTATION OF HAZARDOUS  
MATERIALS

Matter Incorporated by Reference

The Hazardous Materials Regulations Board of the Department of Transportation is considering amending § 171.7(d) (1) and (2) of the Hazardous Materials Regulations to update references to the Association of American Railroads Specifications for Tank Cars and addenda to sections VIII (Division I) and IX of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

The Board has been petitioned by the Association of American Railroads and the Compressed Gas Association, Inc. for these revisions.

In consideration of the foregoing, it is proposed to amend 49 CFR Part 171 as follows:

In § 171.7 subparagraphs (d) (1) and (2) will be amended to read as follows:

§ 171.7 Matter incorporated by reference.

(d) \* \* \*

(1) ASME Code means sections VIII (Division I) and IX of the 1968 edition of the "American Society of Mechanical Engineers Boiler and Pressure Vessel

Code," and addenda thereto through December 31, 1970.

(2) AAR Specifications for Tank Cars means the 1970 edition of the "Association of American Railroads Specifications for Tank Cars".

Interested persons are invited to give their views on this proposal. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before May 25, 1971 will be considered before final action is taken on the proposal. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, both before and after the closing date for comments.

This proposal is made under the authority of sections 831-835 of title 18, United States Code, section 9 of the Department of Transportation Act (49 U.S.C. 1657), and title VI and section 902(h) of the Federal Aviation Act of 1958 (49 U.S.C. 1421-1430 and 1472(h)).

Issued in Washington, D.C., on April 7, 1971.

W. M. BENKERT,  
Captain, U.S. Coast Guard, by  
direction of Commandant,  
U.S. Coast Guard.

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

ROBERT A. KAYE,  
Director, Bureau of Motor Car-  
rier Safety, Federal High-  
way Administration.

SAM SCHNEIDER,  
Board Member for the  
Federal Aviation Administration.

[FR Doc.71-5183 Filed 4-13-71; 8:48 am]

NATIONAL CREDIT UNION  
ADMINISTRATION

[ 12 CFR Part 741 ]

REQUIREMENTS FOR INSURANCE

Notice of Proposed Rule Making

Notice is hereby given that the Administrator of the National Credit Union Administration, pursuant to the authority conferred by section 209, 85 Stat. 1015, Public Law 91-468, is considering the addition of a new Part 741 entitled "Requirements for Insurance" to Title 12 of the Code of Federal Regulations.

The proposed new Part 741 would establish certain requirements which must be met in order for a credit union to qualify for share insurance under title II of the Federal Credit Union Act, 84 Stat. 994, Public Law 91-468.

This notice is published pursuant to section 553 of title 5 of the United States Code.



To aid in the consideration of the matter by the Administrator, interested persons are invited to submit relevant data, views, or arguments.

Any such material should be submitted in writing to the Administrator, National Credit Union Administration, 1325 K Street NW., Washington, DC 20456, to be received not later than 30 days from publication of this notice in the FEDERAL REGISTER.

HERMAN NICKERSON, Jr.,  
Administrator.

APRIL 8, 1971.

The proposed new Part 741 would read as follows:

#### PART 741—REQUIREMENTS FOR INSURANCE

Sec.

741.1 Minimum surety bond requirements.

741.2 Minimum period for verification of accounts.

741.3 Maximum borrowing authority.

**AUTHORITY:** The provisions of this Part 741 are issued under Section 209, 85 Stat. 1015, Public Law 91-468.

##### § 741.1 Minimum surety bond requirements.

Any credit union which makes application for insurance of its accounts pursuant to title II of the Federal Credit Union Act must possess the minimum surety bond coverage stated in 12 CFR 701.20 in order for its application for such insurance to be approved and for such insurance coverage to continue.

##### § 741.2 Minimum period for verification of accounts.

The Supervisory Committee of any credit union which makes application for insurance of its accounts pursuant to title II of the Federal Credit Union Act must verify or cause to be verified, under controlled conditions, the members' passbooks and accounts with the records of the treasurer not less frequently than once every 2 years. If such verification has not been made within 2 years prior to the date of submission of the application for insurance, the credit union concerned shall cause such verification to be completed prior to submission of such application and at least every 2 years thereafter.

##### § 741.3 Maximum borrowing authority.

Any credit union which makes application for insurance of its accounts pursuant to title II of the Federal Credit Union Act, in order for such application to be approved and for such insurance coverage to continue, must not borrow, from any source, an aggregate amount in excess of 50 per centum of its paid-in and impaired capital and surplus.

[FR Doc.71-5155 Filed 4-13-71;8:46 am]

## INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1048]

[Ex Parte No. MC-37 (Sub-No. 146)]

### ATLANTA, GA., COMMERCIAL ZONES AND TERMINAL AREAS

#### Specific Definition

APRIL 9, 1971.

**Joint Petitioners:** de Kalb Chamber of Commerce and Stone Mountain Industrial Park Association.

**Petitioner's representatives:** Robert C. Boozer, Robert W. Gerson, 1500 Chandler Building, Atlanta, GA 30303.

By petition filed March 25, 1971, petitioners request the Commission to institute a proceeding for the purpose of specifically defining the limits of the zone adjacent to and commercially a part of Atlanta, Ga., which are now determined by applying the general population-mileage formula set forth in 49 CFR 1048.101.

Specially, petitioner requests that the Atlanta commercial zone be defined as follows: (a) The area which would result by application of the general formula promulgated in § 1048.101; and in addition thereto, (b) That area of De Kalb County, Ga., contiguous to the limits defined in (a) above, bounded by a line beginning at the Intersection of LaVista Road (Georgia Highway 236) and the line determined under paragraph (a) of this section, thence northeasterly along LaVista Road to its intersection with Lawrenceville Highway (U.S. Highway 29), thence due south approximately 1,000 feet along an imaginary straight

line to the railroad tract of the Seaboard Coast Line Railroad Co., thence easterly approximately 0.9 mile along said railroad track to its intersection with an imaginary straight line representing the extension of Litton Drive due north from its terminus at the Stone Mountain Parkway, thence due south along said imaginary straight line to the Stone Mountain Parkway, thence southwesterly along the Stone Mountain Bypass to the railroad track of the Georgia Railroad, thence northwesterly along said railroad track to a point opposite the junction of East Ponce de Leon Avenue and Veal Mill Road, thence due west along an imaginary straight line (being the south line of land lots 138, 139, and 140 of the 18th District of De Kalb County) to its intersection with an imaginary straight line running due south from the intersection of the Stone Parkway and Idlewood Road, thence due north along said imaginary straight line to the Stone Mountain Parkway near its intersection with Idlewood Road), thence southwesterly along the Stone Mountain Parkway to its intersection with the limits defined in (a) above, thence along such limits to the point of beginning. No oral hearing is contemplated at this time, but anyone wishing to make representation in favor of, or against, the above-proposed specific definition of the limits of the Atlanta, Ga., commercial zone, may do so by the submission of written data, views, or arguments.

An original and seven copies of such data, views, or arguments shall be filed with the Commission on or before June 1, 1971. Each such statement shall include a statement of position with respect to the proposed revision, and a copy thereof should be served upon petitioner's representative.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL]

ROBERT L. OSWALD,  
Secretary.

[FR Doc.71-5190 Filed 4-13-71;8:49 am]



# Notices

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[Wyoming 27572]

#### WYOMING

#### Notice of Classification

APRIL 7, 1971.

Pursuant to 43 CFR 2462.1, the lands described below are hereby classified for disposal through exchange, under section 8 of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272) as amended (43 U.S.C. 315g) for lands within the Casper District.

The lands affected by this classification are described as follows:

#### SIXTH PRINCIPAL MERIDIAN, WYOMING

##### NATRONA COUNTY

- T. 36 N., R. 79 W.,  
 Sec. 3, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
 N $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , and  
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 4, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SW $\frac{1}{4}$ ,  
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ , and N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 8, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 9, NW $\frac{1}{4}$ NW $\frac{1}{4}$ .  
 T. 37 N., R. 79 W.,  
 Sec. 1, S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 2, S $\frac{1}{2}$ S $\frac{1}{2}$  and NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 3, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 10, NE $\frac{1}{4}$ ;  
 Sec. 11, All;  
 Sec. 12, W $\frac{1}{2}$ NW $\frac{1}{4}$  and N $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 14, NW $\frac{1}{4}$ ;  
 Sec. 22, E $\frac{1}{2}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ , and S $\frac{1}{2}$ ;  
 Sec. 23, W $\frac{1}{2}$ NW $\frac{1}{4}$  and NW $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 Sec. 26, NW $\frac{1}{4}$ ;  
 Sec. 27, All.

##### WASHAKIE COUNTY

- T. 42 N., R. 86 W.,  
 Sec. 34, S $\frac{1}{2}$ N $\frac{1}{2}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , and  
 S $\frac{1}{2}$ SE $\frac{1}{4}$ .

The areas described aggregate 4,112.83 acres.

For a period of 30 days, interested parties may submit comments to the Secretary of the Interior, LLM, 320, Washington, D.C. 20240 (43 CFR 2462.3).

DANIEL P. BAKER,  
*State Director.*

[FR Doc.71-5145 Filed 4-13-71; 8:45 am]

## DEPARTMENT OF AGRICULTURE

### Rural Electrification Administration

#### WESTERN FARMERS ELECTRIC COOPERATIVE

#### Draft Environmental Statement

Notice is hereby given that the Rural Electrification Administration has pre-

pared a draft environmental statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with a loan application from the Western Farmers Electric Cooperative of Anadarko, Okla. This loan application, together with funds from other sources, is to finance the construction of a 135,000 kw. electrical generating unit as an addition to the generation station at Mooreland, Okla., bringing the total capacity of this station to approximately 323,000 kw.

Additional information may be secured on request submitted to Mr. James N. Myers, Assistant Administrator, Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Statement have been sent to various Federal agencies, the Oklahoma State Clearinghouse and the Oklahoma State Department of Health. The Draft Environmental Statement may be examined during regular business hours at the offices of REA, in the South Agriculture Building, 12th and Independence Avenue SW., Washington, D.C., Room 4322, or at the offices of the Western Farmers Electric Cooperative at Anadarko, Okla., and at Mooreland, Okla.

Comments concerning the environmental effects of the construction proposed under the loan application should be addressed to Mr. Myers, at the address given above. Comments must be received within sixty (60) days of the date of publication of this notice (thirty (30) days in the case of agencies receiving a specific request for comment) to be considered in connection with the loan application.

Any loan which may be made pursuant to this application will be subject to, and release of funds thereunder contingent upon, REA's reaching satisfactory conclusions with respect to environmental effects and after compliance with Environmental Statement procedures required by the National Environmental Policy Act.

Dated at Washington, D.C. this 8th day of April 1971.

DAVID A. HAMIL,  
*Administrator,*

*Rural Electrification Administration.*

[FR Doc.71-5170 Filed 4-13-71; 8:47 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[DESI 9149; Docket No. FDC-D-334;  
 NDA 9-149 etc.]

#### CERTAIN PREPARATIONS CONTAINING CHLORPROMAZINE; PERPHENAZINE; PROCHLORPERAZINE; PROMAZINE; THIORIDAZINE; TRIFLUOPERAZINE; OR TRIFLUPROMAZINE

#### Drugs for Human Use; Drug Efficacy Study Implementation

##### Correction

In F.R. Doc. 71-4608 appearing at page 6447 in the issue of Saturday, April 3, 1971, the second line of item 2 under heading G in the center column on page 6448 should read "an adjunct in preoperative and post-".

## ATOMIC ENERGY COMMISSION

[Docket No. 50-47]

### ARMY MATERIALS AND MECHANICS RESEARCH CENTER

#### Notice of Issuance of Facility License Amendment

The Atomic Energy Commission ("the Commission") has issued, effective as of the date of issuance, Amendment No. 9 to Facility License No. R-65. The license presently authorizes the Army Materials and Mechanics Research Center (AMMRC) of the U.S. Department of the Army to possess, use, and operate its pool-type research reactor located in Watertown, Mass., at power levels up to 5 megawatts (thermal). The amendment authorizes AMMRC to possess, but not to operate, the reactor in accordance with AMMRC's application dated January 13, 1971.

The Commission has found that the application for the amendment complies with the requirements of the Atomic Energy Act of 1954, as amended ("the Act"), and the Commission's regulations published in 10 CFR Chapter I. The Commission has made the findings required by the Act and the Commission's regulations, which are set forth in the amendment, and has concluded that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. The Commission has also found that prior public notice of proposed issuance of this amended license is not



required since the possession of the facility in accordance with the terms of the amended license does not involve significant hazards considerations different from those previously evaluated.

Within 15 days from the date of publication of the notice in the FEDERAL REGISTER, the applicant may file a request for a hearing and any person whose interest may be affected by this proceeding may file a petition for leave to intervene. Requests for a hearing and petitions to intervene shall be filed in accordance with the Commission's rules of practice in 10 CFR Part 2. If a request for a hearing or a petition for leave to intervene is filed within the time prescribed in this notice, the Commission will issue a notice of hearing or an appropriate order.

For further details with respect to this amendment, see (1) AMMRC's application dated January 13, 1971, (2) the amendment to the facility license, including revised Technical Specifications, and (3) a related Safety Evaluation by the Division of Reactor Licensing, all of which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies of items (2) and (3) above may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 3d day of April 1971.

For the Atomic Energy Commission.

DUDLEY THOMPSON,  
Acting Assistant Director for  
Reactor Operations, Division  
of Reactor Licensing.

[FR Doc.71-5163 Filed 4-13-71;8:46 am]

[Docket No. 50-386]

## HALL OF SCIENCE OF THE CITY OF NEW YORK, INC.

### Notice of Receipt of Application

The Hall of Science of the City of New York, Inc., has filed an application for licenses to construct and operate a TRIGA Mark II reactor facility located in Flushing Meadow-Corona Park, Borough of Queens, New York City, N.Y. The proposed reactor would be operated at steady-state power levels up to 250 kilowatts (thermal).

A copy of the application is available for public inspection in the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Dated at Bethesda, Md., this 5th day of April 1971.

For the Atomic Energy Commission.

DUDLEY THOMPSON,  
Acting Assistant Director for  
Reactor Operations, Division  
of Reactor Licensing.

[FR Doc.71-5164 Filed 4-13-71;8:46 am]

[Docket No. 50-206]

## SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS & ELECTRIC CO.

### Order Extending Provisional Operating License Expiration Date

Southern California Edison Co. and San Diego Gas and Electric Co. filed Application Amendment No. 21 dated March 18, 1971, for an extension of the expiration date of Provisional Operating License No. DPR-13, which authorizes the possession and operation of the San Onofre Nuclear Generating Station Unit No. 1, a pressurized light water reactor, located in San Diego County, Calif., at thermal power levels not to exceed 1,347 megawatts, and good cause having been shown in the application for this extension pursuant to paragraph 5 of said license and 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered*, That the expiration date of Provisional Operating License No. DPR-13 is extended from March 27, 1971, to September 27, 1972.

Dated at Bethesda, Md., this 23d day of March 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,  
Director,  
Division of Reactor Licensing.

[FR Doc.71-5165 Filed 4-13-71;8:47 am]

[Docket No. 50-356]

## UNIVERSITY OF ILLINOIS AT URBANA-CHAMPAIGN

### Extension of Completion Date of Construction Permit

The University of Illinois having filed a request dated February 19, 1971, for extension of the latest completion date specified in Construction Permit No. CPRR-110, which authorizes the construction of a low power reactor assembly (LOPRA) on the University's campus at Urbana, Ill., and good cause having been shown for extension of said date, pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.55 of the Commission's regulations:

*It is hereby ordered*, That the latest completion date for Construction Permit No. CPRR-110 is extended from April 1, 1971, to October 1, 1971.

Date of issuance: March 24, 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,  
Director,  
Division of Reactor Licensing.

[FR Doc.71-5166 Filed 4-13-71;8:47 am]

[Docket No. 50-166]

## UNIVERSITY OF MARYLAND

### Notice of Issuance of Amendment to Facility License

No request for a hearing or petition for leave to intervene having been filed fol-

lowing publication of the notice of proposed action in the FEDERAL REGISTER on March 6, 1971 (36 FR 4519), the Atomic Energy Commission (the Commission) has issued Amendment No. 3 to Facility License No. R-70 to the University of Maryland. The amendment authorizes operation of the modified reactor located on the University's campus in College Park, Md. The modifications were authorized by Construction Permit No. CPRR-108.

The Commission has found that the application for the amendment, as amended, complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations as published in 10 CFR Chapter I, and the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. The Commission has inspected the facility and determined that it has been constructed in accordance with the application, as amended, and the provisions of Construction Permit No. CPRR-108.

Copies of the amendment to the facility license will be available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, or upon request sent to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 23d day of March 1971.

For the Atomic Energy Commission.

DUDLEY THOMPSON,  
Acting Assistant Director for  
Reactor Operations, Division  
of Reactor Operations.

[FR Doc.71-5167 Filed 4-13-71;8:47 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 22307]

### AMERICAN FLYERS AIRLINE CORP. ET AL.

#### Notice of Hearing

American Flyers Airline Corp., Charter Consultants, Inc., Fred Meyrow, individually, Group Travel Associates, Inc., Howard J. McConnell, individually, enforcement proceeding.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in the above-entitled matter is assigned to be held on May 3, 1971, at 10 a.m., e.d.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner William F. Cusick.

Dated at Washington, D.C., April 8, 1971.

[SEAL] RALPH L. WISER,  
Associate Chief Examiner.

[FR Doc.71-5151 Filed 4-13-71;8:45 am]



[Docket No. 22628; Order 71-4-27]

**INTERNATIONAL AIR TRANSPORT ASSOCIATION**

**Order Regarding Delayed Inaugural Flights**

Issued under delegated authority April 5, 1971.

By Order 71-3-126, dated March 23, 1971, action was deferred, with a view toward eventual approval, on a resolution adopted by Joint Conference 1-2 of the International Air Transport Association (IATA). The agreement permits Pan American World Airways, Inc. to postpone to dates not later than April 15, 1971, the performance of its inaugural flights between New York and Damascus.

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 71-3-126 will herein be made final.

*Accordingly, it is ordered, That:*

Agreement CAB 22330 be, and it hereby is, approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,  
Secretary.

[FR Doc.71-5152 Filed 4-13-71;8:45 am]

[Docket No. 22628; Order 71-4-28]

**INTERNATIONAL AIR TRANSPORT ASSOCIATION**

**Order Regarding Passenger Fare Matters**

Issued under delegated authority April 5, 1971.

Agreements have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA), and adopted by mail votes. The agreements have been assigned the above-designated CAB agreement numbers.

The agreements would: (1) Amend an existing resolution governing children's fares so as to base fares for infants (of less than 2 years of age) traveling via the North/Central Pacific between Alaska and points outside the Western Hemisphere on 10 percent of the applicable adult fare for such travel, resulting in a reduction since infant fares are currently based on 10 percent of higher-level fares to/from San Francisco regardless of routing; (2) delay until November 1, 1971, the effectiveness of 30-, 45-, and 60-day individual inclusive tour fares and 45- and 60-day group inclusive tour fares applying from points in Australasia to points in Europe/Africa/Middle East, otherwise intended to be

effective April 1, 1971, as approved by the Board in Order 71-3-147; and (3) amend the current resolution governing conditions of service involving in-flight entertainment so as to clarify that an alteration of conditions or charges by an IATA member, when in response to practices by a non-IATA carrier within Asia/Australasia, shall not negate the effectiveness of the basic resolution.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.15, it is not found, on a tentative basis, that the following resolutions, which are incorporated in the agreement indicated, are adverse to the public interest or in violation of the Act:

CAB Agreement:	IATA Resolution Number
22230-----	JT31 (Mail 196) 201. JT123 (Mail 660) 201.
22247-----	JT23 (Mail 270) 080h. JT123 (Mail 662) 080h. JT23 (Mail 270) 081t. JT123 (Mail 662) 081t.
22317-----	TC3 (Mail 353) 100.

*Accordingly, it is ordered, That:*

Action on Agreements C.A.B. 22230, 22247, and 22317 be and hereby is deferred, with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Economic Regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,  
Secretary.

[FR Doc.71-5153 Filed 4-13-71;8:46 am]

[Docket No. 22628; Order 71-4-39]

**INTERNATIONAL AIR TRANSPORT ASSOCIATION**

**Order Regarding Fare Matters**

Issued under delegated authority April 7, 1971.

By Order 71-3-127, dated March 23, 1971, action was deferred on a resolution adopted by the Joint Conferences of the International Air Transport Association (IATA). The agreement amends an IATA resolution recently approved by the Board as agreed upon at the 1970 Worldwide Passenger Fare Conference held in Honolulu, in that it would permit the combinability of normal fares in conjunction with group inclusive tour fares and that the stopover points covered by such normal fares shall not be counted for the purposes of determining the number of permissible stopovers under the group inclusive tour rules.

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 71-3-127 will herein be made final.

*Accordingly, it is ordered, That:*

Agreement CAB 22285 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,  
Secretary.

[FR Doc.71-5154 Filed 4-13-71;8:46 am]

**ENVIRONMENTAL PROTECTION AGENCY**

**JUDICIAL OFFICER**

**Delegation of Authority**

There is hereby established in this Agency a Judicial Officer. The Judicial Officer of this Agency is authorized to perform any function which the Administrator is or hereafter may be authorized or required by law to perform in acting as final deciding officer in adjudication proceedings subject to 5 U.S.C. 556 and 557 in proceedings under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135-135k).

As used herein the "Judicial Officer" shall mean any person or persons so designated by the Administrator of the Environmental Protection Agency.

This delegation shall not affect the authority of the Administrator, the Deputy Administrator or any Assistant Administrator to perform any such function nor shall it limit the authority of the Judicial Officer to perform any other function which may be assigned by the Administrator to him.

Done at Washington, D.C., this 7th day of April 1971.

WILLIAM D. RUCKELSHAUS,  
Administrator,  
Environmental Protection Agency.

[FR Doc.71-5172 Filed 4-13-71;8:47 am]

**FEDERAL HOME LOAN BANK BOARD**

[H.C. No. 97]

**FIDELITY FINANCIAL CORP.**

**Notice of Receipt of Application for Approval of Acquisition of Control of Preferred Savings and Loan Association**

APRIL 8, 1971.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Fidelity Financial Corp., San Francisco, Calif., a unitary savings and loan holding company, for approval of acquisition of control of the Preferred Savings and Loan Association, Santa Maria, Calif., an insured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a (e)), and § 584.4 of the regulations for Savings and Loan Holding Companies, said acquisition to be effected by the purchase for cash of the guarantee stock of Preferred Savings and Loan Association



by Fidelity Savings and Loan Association, an insured subsidiary of Fidelity Financial Corp. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, within 30 days of the date this Notice appears in the FEDERAL REGISTER.

[SEAL]

JACK CARTER,  
Secretary,  
Federal Home Loan Bank Board.

[FR Doc. 71-5177 Filed 4-13-71; 8:48 am]

## FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder  
License No. 451]

**CALDWELL & CO., INC.**

### Order of Revocation

On March 25, 1971, the Commission received notification that Caldwell & Co., Inc., 17 Battery Place, New York, N.Y. 10004, wished to have its ocean freight forwarder number 451 canceled, effective immediately. The license was returned for cancellation.

By virtue of the authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1, revised section 704(g) dated September 29, 1970.

It is ordered, That the Independent Ocean Freight Forwarder License No. 451 of Caldwell & Co., Inc., be and is hereby revoked, effective March 25, 1971, without prejudice to reapply for a license at a later date.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on Caldwell & Co., Inc., 17 Battery Place, New York, N.Y. 10004.

AARON W. REESE,  
Managing Director.

[FR Doc. 71-5173 Filed 4-13-71; 8:47 am]

[Docket No. 71-35]

### MILITARY CARGO

#### Investigation of Competitive Procurement Practices; Order of Investigation

In June 1966, the Department of Defense, through the Military Sea Transportation Service, inaugurated its Competitive Procurement program by the issuance of Request For Proposals No. 100. Upon the petition of a number of American-flag berth operators, the Commission issued a declaratory order in August of that year. Docket No. 66-42—In the Matter of the Carriage of Military Cargo, 10 F.M.C. 69 (1966). At the time of the decision in that case, no bids had been submitted and no rates fixed. Consequently, in concluding that the new program of competitive procurement did not violate the provisions of the Shipping Act, 1916, it was noted that certain issues such as whether the contracts called for by the program were unlawful under

section 14 Fourth and whether rates fixed as a result of bidding under the program were violative of sections 16 First, 17 and 18(b) (5) were premature. On appeal, the Circuit Court of Appeals for the District of Columbia Circuit countered the dire predictions of the American-flag berth operators with an acknowledgment of this Commission's continuing responsibilities under the Shipping Act, 1916 (46 U.S.C. 801, et seq.):

The Commission, as an expert administrative agency, has told us that the fearful results foretold by the conferences will not come about. We respect this judgment grounded in administrative expertise, as we must, *Consolo v. Federal Maritime Commission*, 383 U.S. 607, 621 (1966). We have no basis for saying that the Commission is wrong when it concludes that the evils foreseen by the conferences exist, if at all, only in the abstract and that they will not come about in the practical implementation of the RFP 100 program. \* \* \*

We think it only proper to reiterate, however, that the affirmation of the Commission's order declaring the general legality of the new procurement system does not deny the Commission's power to deal with specific developments under section 14 Fourth or conceivably section 18(b) (5), or any of the other sections initially invoked by the conferences. It seems reasonable to suppose that if there are noxious outgrowths of the competitive procurement system, these will be promptly called to the attention of Congress, which can take the action necessary to protect the legitimate interests of the maritime industry if the Commission is unable or unwilling to do so.

The program has now been in effect for some 5 years, and questions which were unanswerable at the time of our previous consideration may now be asked in the light of the considerable experience gained under the program. The sheer volume of cargo shipped under the program would alone warrant an examination of the workings and effect of competitive procurement. But there are indications that the program has not worked well. It is alleged that rates under the program are noncompensatory and burdensome to American-flag carriers and detrimental to the commerce of the United States, and that contracts called for by the program may be unfair or unjustly discriminatory. Thus, the RFP's through which the program is implemented may well be regulations which adversely affect shipping in the foreign trade within the meaning of section 19(1) (c) of the Merchant Marine Act, 1920.

Additionally, a comprehensive investigation of the program is needed to determine what, if any, legislation should be recommended to the Congress. Accordingly,

It is ordered, That pursuant to section 22 an investigation is hereby instituted into the Department of Defense's Competitive Procurement program (Ocean Transportation-Common Carriage) as implemented by RFP series 100 through 500 and as to be implemented for fiscal year 1972 by RFP series 600 to determine if these procurement programs have violated or will violate, if

implemented, sections 14 Fourth, 16 First, 17 and 18(b) (5) of the Shipping Act, 1916; and for the further purpose of determining whether the Commission should act under the authority vested in it by section 19(1) (c) of the Merchant Marine Act, 1920.

It is further ordered, That the common carriers by water appearing in Appendix A below, the Secretary of Defense, the Secretary of the Navy and the Commander, Military Sea Lift Command are hereby made respondents in this proceeding and that the matter be assigned for hearing before an examiner of the Commission's Office of Hearing Examiners at a date and place to be announced by the Presiding Examiner.

It is further ordered, That notice of this order be published in the FEDERAL REGISTER and a copy thereof and notice of hearing be served upon respondents.

It is further ordered, That any person, other than respondents, who desires to become a party to this proceeding and to participate therein shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, with copies to respondents, the Secretary of Defense, the Secretary of the Navy and the Commander, Military Sea Lift Command.

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL]

FRANCIS C. HURNEY,  
Secretary.

#### APPENDIX

- American Export Isbrandtsen Lines, Inc., 26 Broadway, New York, NY 10004.
- American Mail Line, Ltd., 601 California Street, San Francisco, CA 94108.
- American President Lines, Ltd., 601 California Street, San Francisco, CA 94108.
- American Union Transport, Inc., 15 East 26th Street, New York, NY 10010.
- Central Gulf Steamship Corp., Suite 2700, International Trade Mart, No. 2 Canal Street, New Orleans, LA 70150.
- Columbus Steamship Co., Inc., 2300 Southwest First Avenue, Portland, OR 97201.
- Global Bulk Transport, Inc., High Ridge Park, Post Office Box 1540, Stamford, CT 06904.
- Gulf & South American Steamship Co., Inc., Commerce Building, Post Office Box 50988, New Orleans, LA 70150.
- Isthmian Lines, Inc., High Ridge Park, Post Office Box 1540, Stamford, CT 06904.
- Lykes Bros. Steamship Co., Inc., 821 Gravier Street, New Orleans, LA 70112.
- Matson Navigation Co., 100 Mission Street, San Francisco, CA 94105.
- Moore-McCormack Lines, Inc., 2 Broadway, New York, NY 10004.
- Pacific Far East Line, Inc., 141 Battery Street, San Francisco, CA 94111.
- Prudential-Grace Lines, Inc., 1 Whitehall Street, New York, NY 10004.
- Sea-Land Service, Inc., Corbin & Fleet Streets, Post Office Box 1050, Elizabeth, NJ 07207.
- Seatrains Lines, Inc., Port Seatrain Weehawken, NJ 07087.
- States Marine International, Inc., High Ridge Park, Post Office Box 1540, Stamford, CT 06904.



## APPENDIX—Continued

States Steamship Co., 320 California Street, San Francisco, CA 94104.

United Fruit Co., 321 St. Charles Avenue, Post Office Box 61150, New Orleans, LA 70160.

United States Lines, Inc., 1 Broadway, New York, NY 10004.

Waterman Steamship Corp., 61 St. Joseph Street, Post Office Box 231, Mobile, AL 36601.

Sapphire Steamship Lines, 41 Flatbush Avenue, Brooklyn, NY 11217.

[FR Doc.71-5174 Filed 4-13-71;8:47 am]

## WEST COAST OF ITALY, SICILIAN AND ADRIATIC PORTS NORTH ATLANTIC RANGE 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:

G. Ravera, Secretary, W.I.N.A.C., Post Office Box 1070, 16100 Genoa, Italy.

Agreement No. 2846-21, between the member lines of The West Coast of Italy, Sicilian and Adriatic Ports North Atlantic Range Conference, modifies Article 24 of the basic agreement to provide that a member line may not withdraw from the Conference on less than 60 days' notice without being subject to a penalty.

Dated: April 8, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc.71-5175 Filed 4-13-71;8:48 am]

## WEST COAST OF ITALY, SICILIAN AND ADRIATIC PORTS NORTH ATLANTIC RANGE CONFERENCE

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

G. Ravera, Secretary, W.I.N.A.C., Post Office Box 1070, 16100 Genoa, Italy.

Agreement No. 2846-22, between the member lines of The West Coast of Italy, Sicilian and Adriatic Ports North Atlantic Range Conference, modifies Article 1, Paragraph 9 of the basic agreement by defining more explicitly the term "Conference Freights" and listing the exceptions to which it does not apply.

Dated: April 8, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,  
Secretary.

[FR Doc.71-5176 Filed 4-13-71;8:48 am]

## FEDERAL POWER COMMISSION

[Docket No. E-7620]

### KANSAS GAS AND ELECTRIC CO. Notice of Application

APRIL 8, 1971.

Take notice that on March 31, 1971, Kansas Gas and Electric Co. (applicant), filed an application with the Federal Power Commission seeking an order pur-

suant to section 204 of the Federal Power Act authorizing the issuance of \$35 million principal amount of First Mortgage Bonds.

Kansas Gas and Electric Co. provides electric energy to the southeastern quarter of the State of Kansas with an estimated population of 572,000.

The 30-year bonds will bear interest at a rate fixed by competitive bidding, the applicant said, and would contain a 5-year limitation on refunding.

The net proceeds to be received by the applicant will be used (1) to repay bank loans and commercial paper indebtedness approximating \$28 million incurred and to be incurred prior to the completion of the financing, for the applicant's construction program and (2) to finance, in part, the applicant's 1971 construction program which will cost an estimated \$54.7 million.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 23, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,  
Acting Secretary.

[FR Doc.71-5192 Filed 4-13-71;8:49 am]

[Docket No. CP71-236]

## MICHIGAN WISCONSIN PIPE LINE CO.

### Notice of Application

APRIL 8, 1971.

Take notice that on March 31, 1971, Michigan Wisconsin Pipe Line Co. (applicant), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP71-236 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities to meet the increased peak day requirements of its customers commencing September 1, 1971, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to install two 4,000 horsepower compressor units, one at its Hamilton Compressor Station and one at its Lincoln Compressor Station, both of which are located in Michigan. Applicant also proposes to reinforce six service laterals, to complete the looping of its Defiance, Ohio, to Bridgman, Mich., tie line, to install a third crossing of the Red and Mississippi



Rivers in Arkansas and Louisiana, and to provide two new delivery points, one for Michigan Gas Utilities Co. and one for Wisconsin Public Service Corp. Applicant states that the purpose of the facilities proposed herein is to provide an increase of 112,394 Mcf of natural gas in peak day supply through the continued development of underground storage as previously authorized. Applicant states that it does not propose an expansion of its system transmission capacity or an increase in annual gas supply.

The estimated cost of the facilities proposed herein is \$13,854,000 which cost applicant states will be financed with bank borrowings and through funds generated internally.

Applicant states that its FPC Gas Tariff provided for the allocation of increased peak day supplies on the basis of peak day entitlement where requested peak day increases exceed available increased peak day supplies, and that its tariff contains no comparable provision for the allocation of increased annual gas supplies. Applicant proposes herein a modification of its tariff to provide for an allocation of increased annual gas supplies on the basis of annual entitlement where requested annual gas supply increases exceed available increased annual gas supplies.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 3, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,  
*Acting Secretary.*

[FR Doc.71-5193 Filed 4-13-71;8:49 am]

[Project No. 2301]

### MONTANA POWER CO.

#### Notice of Issuance of Annual License

APRIL 8, 1971.

On December 23, 1968, the Montana Power Co., Licensee for Mystic Lake Project No. 2301 located in Stillwater County, Mont., on West Rosebud Creek and Mystic Lake filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on December 23, 1969.

The License for Project No. 2301 was issued effective December 1, 1961, for a period ending December 31, 1969. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to the Montana Power Co. for continued operation and maintenance of Project No. 2301.

Take notice that an annual license is issued to the Montana Power Co. (Licensee) under section 15 of the Federal Power Act for the period January 1, 1971, to December 31, 1971, or until Federal takeover, or the issuance of a new license for the project, which ever comes first, for the continued operation and maintenance of the Mystic Lake Project No. 2301, subject to the terms and conditions of its license.

KENNETH F. PLUMB,  
*Acting Secretary.*

[FR Doc.71-5194 Filed 4-13-71;8:49 am]

[Project No. 619]

### PACIFIC GAS AND ELECTRIC CO.

#### Notice of Issuance of Annual License

APRIL 8, 1971.

On December 22, 1967, Pacific Gas and Electric Co., Licensee for Bucks Creek Project No. 619 located in the vicinity of Quincy, County of Plumas, Calif., on Bucks Creek filed an application for a new license under Section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6). Licensee also made a supplemental filing pursuant to Commission Order No. 384 on February 2, 1970.

The License for Project No. 619 was issued effective April 14, 1926, for a period ending December 31, 1968. In order to authorize the continued operation of the project pursuant to section 15 of the Act

pending completion of licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Pacific Gas and Electric Co. for continued operation and maintenance of Project No. 619.

Take notice that an annual license is issued to Pacific Gas and Electric Co. (Licensee) under section 15 of the Federal Power Act for the period January 1, 1971, to December 31, 1971, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Bucks Creek Project No. 619, subject to the terms and conditions of its license.

KENNETH F. PLUMB,  
*Acting Secretary.*

[FR Doc.71-5195 Filed 4-13-71;8:49 am]

[Project No. 1121]

### PACIFIC GAS AND ELECTRIC CO.

#### Notice of Application for Major License and Surrender of Minor Part License for Constructed Project

APRIL 8, 1971.

Public notice is hereby given that application for a major license and surrender of the present minor part license has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Pacific Gas and Electric Co. (correspondence to: J. F. Roberts, Jr., Vice President, Pacific Gas and Electric Co., 245 Market Street, San Francisco, CA 94106) for its constructed Battle Creek Project No. 1121 located on Battle Creek and its north and south forks and tributaries in Shasta and Tehama Counties, Calif., in the vicinity of the towns of Manton, Shingleton, and Viola, Calif. The project affects lands of the United States including lands within the Lassen National Forest.

According to the application the constructed Battle Creek project will be redeveloped by replacing the existing four power plants with new power plants containing new mechanical and generating facilities. It is proposed to retain all other project structures and to develop certain new recreational facilities.

The project, constructed and where noted proposed, consists of: (1) North Battle Creek Reservoir having a surface area of 76 acres and a gross storage capacity of 1,012 acre-feet at reservoir elevation 5,562.2 feet (all elevations are USGS datum) formed by a dam 439 feet long and 46 feet high; (2) Macumber Reservoir having a surface area of 127 acres and a gross storage capacity of 860 acre-feet at reservoir elevation 4,088.7 feet formed by a dam 2,425 feet long and 27 feet high; (3) canals which convey regulated flows from North Battle Creek Reservoir, Macumber Reservoir, and supplemental diversion flows to Lake Grace and Lake Nora Forebays including Loomis Mill, Armstrong No. 1, Armstrong No. 2, Al Smith, Lower Mill Creek,



Shingle Creek, Baldwin-Lake Grace, and Keswick canals; (4) Lake Grace Forebay with a surface area of 8.5 acres and a gross storage capacity of 46.5 feet acre-feet at elevation 3,478.2 feet formed by a dam 1,688 feet long and 16 feet high; (5) Lake Nora Forebay with a surface area of 3.5 acres and a gross storage of 14.9 acre-feet at water surface elevation 3,429.8 feet formed by a dam 1,500 feet long and 14 feet high; (6) Lake Grace Penstock, 8,871 feet long, and Lake Nora Penstock, 8,869 feet long, extending to Volta Powerhouse; (7) the proposed new Volta Powerhouse containing one unit rated 8,550 kw.; (8) canals which convey flows from Volta Powerhouse and supplemental diversion flows to the penstock of South Powerhouse, including Cross Country, North Battle Creek Feeder, Bramlett-Bristol-Benton, Upper Ripley Creek Feeders, Union, and South Battle Creek canals; (9) South Powerhouse Penstock, 1,842 feet long, extending to South Powerhouse; (10) the proposed new South Powerhouse containing one unit rated 6,750 kw.; (11) canals which convey flows from South Powerhouse and supplemental diversion flows to the Inskip intake structure and penstock including Inskip, Lower Ripley Creek Feeder, and Eagle Canyon canals; (12) Inskip Penstock, 3,285 feet long, extending to the Inskip Powerhouse; (13) the proposed new Inskip Powerhouse containing one unit rated 7,200 kw.; (14) canals which convey flows from Inskip Powerhouse and supplemental diversion flows to Coleman Forebay, including Coleman, Wildcat, and Pacific canals and the Asbury pump and pipeline; (15) Coleman Forebay having a surface area of 10.6 acres and a gross storage capacity of 76.4 acre-feet at water surface elevation 937.9 feet formed by a dam 2,600 feet long and 20 feet high; (16) Coleman Penstocks, one 3,552 feet long and one 3,721 feet long; (17) the proposed new Coleman Powerhouse containing one unit rated 12,150 kw.; (18) five 60,000-volt transmission lines, 50.3 miles in total length: Volta-Deschutes substation, Volta-South, South-Inskip, Inskip-Coleman, and Coleman-Coleman junction; (19) five substations; and (20) all other appurtenant facilities.

The project includes five reservoirs and about 40 miles of canals totaling about 242 acres surface area, extends for approximately 28 miles and provides opportunities for fishing, hunting, picnicking, camping, and boating.

Because of the quality of the environment in the project area most project lands are managed as a "natural environment area" to encourage the use of the natural environment rather than man-made facilities. According to the application two existing picnic areas will be improved and a third may be enlarged. Five additional areas are being studied for future development and a seven-unit public camp ground is being considered for future expansion.

Fish ladders have been provided at the six major diversion dams and reconstruction of the ladder at the Cole-

man diversion dam is proposed. Deer crossings and escape ramps have been provided in the canal system and a flow of 150 c.f.s. will continue to be maintained downstream from the project for the Coleman National Fish Hatchery and for downstream irrigation.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 30, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,  
*Acting Secretary.*

[FR Doc. 71-5196 Filed 4-13-71; 8:49 am]

## FEDERAL RESERVE SYSTEM

### FIRST FLORIDA BANCORPORATION

#### Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of First Florida Bancorporation, Tampa, Fla., for approval of the acquisition of 80 percent or more of the voting shares of Midway Bank at Tampa, Tampa, Fla.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by First Florida Bancorporation, Tampa, Fla. (Applicant), a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Midway Bank at Tampa, Tampa, Fla. (Midway Bank).

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Florida State Commissioner of Banking and requested his views and recommendation. The Commissioner recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on January 28, 1971 (36 F.R. 1373), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered by the Board.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned, and the convenience and needs of the communities to be served. Upon such consideration, the Board finds that:

Applicant controls 18 banks with aggregate deposits of approximately \$360 million, representing 2.9 percent of the total commercial bank deposits in the State, and is the sixth largest banking organization in Florida. (All banking data are as of June 30, 1970, and reflect holding company acquisitions approved through February 28, 1971.)

Midway Bank (deposits of \$6 million) is located in an unincorporated area west of the Tampa city limits. Applicant's lead bank is located in downtown Tampa; and a much smaller bank subsidiary of Applicant is located near the eastern end of the city. These two present subsidiary banks in the Tampa area control about 14 percent of market deposits and, as a result, Applicant is the third largest banking organization in the market, defined as approximately Hillsborough County except for Plant City. Midway Bank controls only .7 percent of market deposits, which makes it the third smallest of the 19 banking organizations in the market. Therefore, consummation of the proposal will increase market concentration only marginally.

Midway Bank and Applicant's smaller Tampa bank are not regarded as competitors nor is it likely that they would become competitors in the future. They are located at opposite ends of the city, about 15 miles apart, and there are several intervening banks. Nor does Midway Bank compete to a significant extent with Applicant's lead bank, despite some overlap in the service areas of the two banks. Applicant's lead bank is a large wholesale-oriented institution, while Midway Bank is a small retail-oriented institution; thus, in general, they serve customers with different needs. Furthermore, the two banks have been affiliated since 1968 and common directors and officers serve both banks. Because of this affiliation, and the fact that Applicant's lead bank is better equipped to provide large credits and more sophisticated banking services, it obtains business from Midway Bank's service area on a referral basis from Midway Bank. In addition, there are a number of banks in the area intervening between Midway Bank and Applicant's lead bank. On the basis of the facts of record, it seems unlikely that the two banks would become competitors in the future. Therefore, it appears that consummation of the proposed acquisition would not eliminate any significant existing competition nor foreclose significant potential competition; nor does it appear likely that consummation would have any undue adverse effects on other banks in the areas involved.



On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area. The financial condition, management, and prospects of Applicant and its subsidiary banks are regarded as generally satisfactory. Under the direction of Applicant's lead bank, the financial condition of Midway Bank has improved considerably; the management of Midway Bank is regarded as satisfactory and its prospects appear to be favorable. Considerations relating to the convenience and needs of the communities to be served lend some weight in support of approval of the application because Midway Bank, through association with a large full-service banking organization, would be able to continue to offer specialized services, such as trust, travel, and international services, and would be assured a source of qualified management and additional capital, if needed. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and that the application should be approved.

It is hereby ordered, For the reasons set forth in the findings summarized above, that said application be and hereby is approved, provided that the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such time is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,<sup>1</sup>  
April 8, 1971.

[SEAL] KENNETH A. KENYON,  
Deputy Secretary.

[FR Doc.71-5169 Filed 4-13-71;8:47 am]

## FEDERAL TRADE COMMISSION

### COMPLIANCE REPORTS AND INVESTIGATIONS

#### Delegation of Authority

Pursuant to authority provided by the provisions of Reorganization Plan No. 4 of 1961, the Commission, subject to the right to revoke, delegated to the Director, Bureau of Competition, and the Director, Bureau of Consumer Protection, severally and without power of redelegation, the authority to approve compliance reports, reject compliance reports and to close compliance investigations: *Provided, however,* That such delegation does not apply: to compliance with orders involving section 7 of the Clayton Act, to any matter which has received previous Commission consideration as to compliance or in which the Commission or any Commissioner has expressed an interest, any matter proposed to be closed by reason of

<sup>1</sup> Voting for this action: Chairman Burns and Governors Robertson, Maisel, and Sherrill. Absent and not voting: Governors Mitchell, Daane, and Brimmer.

expense of investigation or testing, or any matter involving substantial questions as to the public interest, Commission policy or statutory construction, in each of which type of case a report with recommendation will be made to the Commission.

And provided further, That such approvals, rejections and closings shall not be effective until the file relating to the subject matter has been transmitted to the Secretary and he shall have advised the Commission of the Bureau Director's determination and no one member within 5 working days thereafter shall have objected to such determination. If upon the expiration of such 5-day period no Commissioner shall have objected, the Secretary shall enter upon the records of the Commission the determination of the matter and take such other action as is required. If a Commissioner objects to such action he should communicate his objection to the Secretary, who will immediately assign the matter to that Commissioner for recommendation to the Commission.

Approved: April 8, 1971.

By direction of the Commission.

[SEAL] CHARLES A. TOBIN,  
Secretary.

[FR Doc.71-5180 Filed 4-13-71;8:48 am]

## SECURITIES AND EXCHANGE COMMISSION

[70-4836]

### CONNECTICUT LIGHT AND POWER CO.

#### Post-Effective Amendment Regarding Issue and Sale of Notes to Banks and Dealer in Commercial Paper and Exception from Competitive Bidding

APRIL 6, 1971.

Notice is hereby given that The Connecticut Light and Power Co. (CL&P), Selden Street, Berlin, Conn. 06037, a public-utility subsidiary company of Northeast Utilities, a registered holding company, has filed with this Commission a post-effective amendment to its declaration in this proceeding pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 (Act) and Rule 50(a)(5) promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated March 19, 1970 (Holding Company Act Release No. 16647), the Commission authorized CL&P to issue and sell short-term notes (including commercial paper) in an aggregate principal amount outstanding at any one time of not more than \$61 million. CL&P was to utilize the proceeds of the sale of its notes for construction expenditures and for investments in nuclear generat-

ing companies. The proposed notes to banks were not to exceed \$50,340,000 outstanding at any one time and were to be issued to 25 Connecticut banks and four New York banks.

CL&P now proposes that the maximum amount of borrowings be increased from \$61 million to \$139,400,000, that the time of issuance be extended for 1 year to June 30, 1972, and that the aggregate amount of bank borrowings outstanding at any one time be increased from \$50,340,000 to \$72,390,000. Two banks, The First National Bank of Boston, Mass., and New Britain National Bank, New Britain, Conn., have been added to the list with maximum amounts to be borrowed of \$24 million and \$350,000, respectively. The maximum amounts to be borrowed from two banks, The Union Trust Co., Norwalk, Conn., and Bankers Trust Co., New York, have been reduced to \$2 million and \$10 million, respectively. In all other respects the transactions remain unchanged. CL&P estimates construction expenditures for 1971 to aggregate \$129,900,000.

It is stated that no additional fees and expenses are to be incurred and that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 26, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing therein. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ROSALIE F. SCHNEIDER,  
Recording Secretary.

[FR Doc.71-5147 Filed 4-13-71;8:45 am]



[70-4903]

**HARTFORD ELECTRIC LIGHT CO.****Post-Effective Amendment Regarding Issue and Sale of Notes to Banks and Dealer in Commercial Paper and Exception from Competitive Bidding**

APRIL 6, 1971.

Notice is hereby given that the Hartford Electric Light Co. (Hartford), 176 Cumberland Avenue, Wethersfield, CT 06109, a public-utility subsidiary company of Northeast Utilities, a registered holding company, has filed with this Commission a post-effective amendment to its declaration in this proceeding pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 (Act) and Rule 50(a)(5) promulgated thereunder regarding the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated August 31, 1970 (Holding Company Act Release No. 16820), the Commission authorized Hartford to issue and sell short-term notes (including commercial paper) in an aggregate principal amount outstanding at any one time of not more than \$35 million. Hartford was to utilize the proceeds of the sale of its notes for construction expenditures and for investments in nuclear generating companies. The proposed notes to banks were not to exceed \$35 million outstanding at any one time and were to be issued to nine Connecticut banks and one Boston bank.

Hartford now proposes that the maximum amount of borrowings be increased from \$35 million to \$70,800,000 and that the time of issuance be extended for 6 months to June 30, 1972. The following four New York banks with the respective maximum amounts to be borrowed have been added to the list of banks: Irving Trust Co., \$2 million; Bankers Trust Co., \$10 million; Manufacturers Hanover Trust Co., \$4 million; and Morgan Guaranty Trust Co., \$4 million. The maximum amount to be borrowed from Union Trust Co., Stamford, Conn., has been increased to \$3 million, and City Trust Co., Bridgeport, Conn., has been deleted from the list. In all other respects the transactions remain unchanged. Hartford estimates construction expenditures for 1971 to aggregate \$66,300,000.

It is stated that no additional fees and expenses are to be incurred and that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 26, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such

request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. An any time after said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ROSALIE F. SCHNEIDER,  
Recording Secretary.

[FR Doc. 71-5148 Filed 4-13-71; 8:45 am]

[70-5013]

**MONONGAHELA POWER CO.****Proposed Issue and Sale of First Mortgage Bonds; and Shares of Preferred Stock at Competitive Bidding; and Charter Amendment**

APRIL 7, 1971.

Notice is hereby given that Monongahela Power Co. (Monongahela), 1310 Fairmont Avenue, Fairmont, W. Va. 26554, a registered holding company and an electric utility subsidiary company of Allegheny Power System, Inc., also a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6 and 7 thereof and Rule 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Monongahela proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, \$20 million principal amount of its First Mortgage Bonds, ---- percent Series due May 1, 2001. The interest rate of the bonds (which will be a multiple of one-eighth of 1 percent and the price, exclusive of accrued interest, to be paid to Monongahela (which will be not less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding. The bonds will be issued under the Indenture dated as of August 1, 1945, between Monongahela and First National City Bank, New York, N.Y., Trustee, as

heretofore supplemented and as to be further supplemented by a Supplemental Indenture to be dated as of May 1, 1971, and includes a prohibition until May 1, 1976, against refunding the bonds with the proceeds of funds borrowed at a lower annual cost of money.

Monongahela also proposes to amend its charter to increase the authorized shares of Cumulative Preferred Stock from 340,000 to 390,000 and to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, 50,000 shares of its Cumulative Preferred Stock, Series G, par value \$100 per share. The dividend rate of the preferred shares (which will be a multiple of \$0.04) and the price, exclusive of accrued dividends, to be paid to Monongahela (which will not be less than \$100 nor more than \$102.75 per share) will be determined by the competitive bidding. The terms of the preferred stock include a five-year prohibition against refunding the preferred stock, directly or indirectly, with funds derived from the issuance of debt securities at a lower effective interest cost or other preferred stock at a lower effective dividend cost.

It is stated that The Public Utilities Commission of Ohio has jurisdiction over the issue and sale of the bonds and preferred stock and that no other State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

The fees and expenses to be paid in connection with the proposed transactions are estimated at \$47,000 for the bonds and \$26,000 for the preferred stock, including accountants' fees of \$3,500 and \$900, respectively and legal fees of \$10,000 and \$6,000, respectively. The fees of counsel for the underwriters, to be paid by the successful bidders, are estimated at \$9,500 in respect of the bonds and \$5,500 in respect of the preferred stock.

Notice is further given that any interested person may, not later than April 28, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as



to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ROSALIE F. SCHNEIDER,  
Recording Secretary.  
[FR Doc.71-5149 Filed 4-13-71;8:45 am]

[811-1119]

## PACIFIC SOUTHWEST SMALL BUSINESS INVESTMENT CO.

### Notice of Proposal To Terminate Registration

APRIL 6, 1971.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that Pacific Southwest Small Business Investment Co. (Pacific), c/o Sam P. Applewhite III, Ryley, Carlock & Ralston, 114 West Adams Street, Phoenix, AZ 85003, formerly an Arizona corporation, registered under the Act as a closed-end, nondiversified management investment company, has ceased to be an investment company.

Pacific registered under the Act on November 8, 1961 on Form N-5.

Information available to the Commission indicates that Pacific never became active; that it issued no stock and has no assets; and that its charter was revoked November 3, 1965, by the Arizona Corporation Commission for failure to file annual reports and pay the annual franchise fee.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect, and that, if necessary for the protection of investors, such order may be made upon appropriate conditions.

Notice is further given that any interested person may, not later than April 26, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Pacific Southwest Small Business Investment Co., at the address set forth above. Proof of such service (by affidavit or in case of an at-

torney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter may be issued by the Commission upon the basis of the information stated in this notice, unless an order for a hearing upon this matter shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] ROSALIE F. SCHNEIDER,  
Recording Secretary.  
[FR Doc.71-5150 Filed 4-13-71;8:45 am]

## SMALL BUSINESS ADMINISTRATION

### FIRST CAROLINA FUND, INC.

#### Notice of License Surrender

Notice is hereby given that First Carolina Fund (FCF), Bank of Hodges Building, Main Street, Hodges, SC 29653, has surrendered its license to operate as a small business investment company pursuant to § 107.105 of the regulations governing small business investment companies (33 F.R. 326, 13 CFR Part 107).

FCF was licensed as a small business investment company on March 2, 1962, to operate solely under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C., 661 et seq.), and the regulations promulgated thereunder.

Under the authority vested by the Act, and pursuant to the cited regulation, the surrender of the license is hereby accepted and all rights, privileges, and franchises derived therefrom are canceled.

Dated: April 2, 1971.

A. H. SINGER,  
Associate Administrator  
for Investment.

[FR Doc. 71-5142 Filed 4-13-71;8:45 am]

## INTERSTATE COMMERCE COMMISSION

### FOURTH SECTION APPLICATION FOR RELIEF

APRIL 9, 1971.

Protests to the granting of an application must be prepared in accordance with § 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. 42173—Sulphuric Acid from Copperhill, Tenn. Filed by O. W. South, Jr., Agent (No. A6240), for interested rail carriers. Rates on acid, sulphuric, in tank-car loads, as described in the application, from Copperhill, Tenn., to Clyattville, Ga. Grounds for relief—Market competition. Tariff—Supplement 37 to Southern Freight Association, Agent, tariff, ICC S-881.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.  
[FR Doc.71-5189 Filed 4-13-71;8:49 am]

[Notice 1]

## MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

APRIL 9, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

### APPLICATIONS ASSIGNED FOR ORAL HEARING

#### MOTOR CARRIERS OF PROPERTY

The applications immediately following are assigned for hearing at the time and place designated in the notice of filing as here published in each proceeding. All of the proceedings are subject to the Special Rules of Procedure for Hearing outlined below:

### SPECIAL RULES OF PROCEDURE FOR HEARING

(1) All of the testimony to be adduced by applicant's company witnesses shall be in the form of written statements which shall be submitted at the hearing at the time and place indicated.

(2) All of the written statements by applicant's company witnesses shall be offered in evidence at the hearing in the same manner as any other type of evidence. The witnesses submitting the written statements shall be made available at the hearing for cross-examination, if such becomes necessary.

(3) The written statements by applicant's company witnesses, if received in evidence, will be accepted as exhibits. To the extent the written statements refer to attached documents such as copies of operating authority, etc., they should be referred to in written statement as numbered appendices thereto.

(4) The admissibility of the evidence contained in the written statements and



the appendices thereto, will be at the time of offer, subject to the same rules as if the evidence were produced in the usual manner.

(5) Supplemental testimony by a witness to correct errors or to supply inadvertent omissions in his written statement is permissible.

No. MC 13250 (Sub-No. 109) (republication), filed February 18, 1971, published in the FEDERAL REGISTER issue of March 11, 1971, republished in part in the FEDERAL REGISTER of April 1, 1971, and republished this issue to reflect the hearing information. Applicant: J. H. ROSE TRUCK LINE, INC., 5003 Jensen Drive, Post Office Box 16190, Houston, TX 77022. Applicant's representative: James M. Doherty, Suite 401, First National Life Building, Austin, TX 78701. NOTE: The purpose of this partial republication is: (1) To separate the commodity and territorial description by including the letters (a) and (b), respectively, before the said commodity description, and the said territorial description; and (2) to redescribe a portion of the commodity description as follows: "(2) *liquid cooling and vapor condensing systems and equipment*,". The rest of the application remains as previously published on March 11, 1971.

HEARING: May 3, 1971, in Room 5-A15-17, New Federal Building and Courthouse, 1100 Commerce Street, Dallas, TX.

No. MC 54847 (Sub-No. 8), filed March 17, 1971. Applicant: INTRACOASTAL TRUCK LINE, INC., 1200 Peters Road, Post Office Box 354, Harvey, LA 70058. Applicant's representative: Joseph Lorio (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (a) *Antipollution systems equipment and parts; liquid cooling and vapor condensing systems equipment and parts; environmental control and protective systems equipment and parts; and (b) equipment, materials, and supplies* used in the construction or installation of antipollution and environmental control and protective systems, and liquid cooling and vapor condensing systems, (1) between points in Louisiana, Mississippi, Alabama, Georgia, and Florida, and (2) between points in the States named in (1) above, on the one hand, and, on the other, points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

HEARING: May 3, 1971, in Room 5-A15-17, New Federal Building and Courthouse, 1100 Commerce Street, Dallas, TX.

No. MC 60157 (Sub-No. 15) (Republication), filed February 19, 1971, published in the FEDERAL REGISTER of March 18, 1971, and republished this issue to reflect the hearing information. Applicant: C. A. WHITE TRUCKING COMPANY, a corporation, 4641 Greenville Avenue, Dallas, TX 75206. Applicant's representative: J. G. Dail, Jr., 1111

E Street NW., Washington, DC 20004. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Antipollution systems equipment and parts; liquid cooling and vapor condensing systems equipment and parts; environmental control and protective systems equipment and parts; and equipment, materials and supplies* used in the construction or installation of antipollution and environmental control and protective systems and liquid cooling and vapor condensing systems (1) between points in Arkansas, Colorado, Illinois, Kansas, Louisiana, Montana, New Mexico, Oklahoma, Texas, Utah, and Wyoming; and (2) between points named in (1) above, on the one hand, and, on the other, points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant seeks no duplicating authority.

HEARING: May 3, 1971, in Room 5-A15-17, New Federal Building and Courthouse, 1100 Commerce Street, Dallas, TX.

No. MC 106644 (Sub-No. 115), filed March 15, 1971. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road Northwest, Post Office Box 916, Atlanta, GA 30301. Applicant's representative: K. Edward Wolcott, Post Office Box 916, Atlanta, GA 30301. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Antipollution systems equipment and parts; liquid cooling and vapor condensing systems equipment and parts; environmental control and protective systems equipment and parts; equipment, materials, and supplies*, used in the construction and installation of antipollution and environmental control and protective systems and liquid cooling and vapor condensing systems, (1) between points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas; and (2) between points named in (1) above, on the one hand, and, on the other, points in the United States (except Hawaii). NOTE: Applicant is authorized as a contract carrier under MC 104724 and Subs; therefore, dual operations may be involved. Applicant states that it could tack with its existing size and weight authority in its lead certificate, Sub 30, Sub 41, and Sub 106, but has no present intention to tack.

HEARING: May 3, 1971, in Room 5-A15-17, New Federal Building and Courthouse, 1100 Commerce Street, Dallas, TX.

No. MC 107993 (Sub-No. 18) (Republication), filed February 10, 1971, published in the FEDERAL REGISTER of March 11, 1971, and republished this issue to reflect the hearing information. Applicant: J. J. WILLIS TRUCKING COMPANY, a corporation, Post Office Box 2112, Odessa, TX 79760. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, DC 20004. Authority sought to

operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Antipollution systems equipment and parts; liquid cooling and vapor condensing systems equipment and parts; environmental control and protective systems equipment and parts; and equipment, materials, and supplies* used in the construction or installation of antipollution and environmental control and protective systems, and liquid cooling and vapor condensing systems, (1) between points in Arizona, Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Texas, Utah, and Wyoming; and (2) between points named in (1) above, on the one hand and, on the other, points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

HEARING: May 3, 1971, in Room 5-A15-17, New Federal Building and Courthouse, 1100 Commerce Street, Dallas, TX.

No. MC 113459 (Sub-No. 64) filed March 22, 1971. Applicant: H. J. JEFFRIES TRUCK LINE, INC., Post Office Box 94850, 4720 South Shields Boulevard, Oklahoma City, OK 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Pollution control systems, and pollution control system parts*; (2) *machinery, equipment, materials, and supplies*, incidental to, used in, or in connection with, the manufacture, installation, removal, operation, repair, servicing, and maintenance of pollution control systems, and pollution control system parts, between points in Texas, Louisiana, Arkansas, New Mexico, Kansas, Nebraska, Colorado, Wyoming, Montana, Utah, Arizona, Oklahoma, South Dakota, North Dakota, Minnesota, Iowa, Missouri, Illinois, Wisconsin, Michigan, Indiana, Kentucky, Ohio, Pennsylvania, and New York. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

HEARING: May 3, 1971, in Room 5-A15-17, New Federal Building and Courthouse, 1100 Commerce Street, Dallas, TX.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc.71-5185 Filed 4-13-71; 8:48 am]

[Notice 27]

#### MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

APRIL 9, 1971.

The following publications are governed by the new Special Rule 247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.



The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

#### MOTOR CARRIERS OF PROPERTY

No. MC 126642 (Sub-No. 1) (Republication) filed November 16, 1970, published in the FEDERAL REGISTER issue of December 17, 1970, and republished this issue. Applicant: BLACK HILLS MOVERS, INC., 610 East Omaha Street, Rapid City, SD 57701. Applicant's representative: Raymond K. Tyler (same address as applicant). The modified procedure has been followed and an order of the Commission, Operating Rights Board, dated March 19, 1971, and served April 6, 1971, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, of used household goods between points in that portion of South Dakota west of the Missouri River, restricted to the transportation of shipments having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such shipments. Because it is possible that other parties who have relied upon the notice in the FEDERAL REGISTER of the application as originally published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority without the requested limitation indicated in the findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 127571 (Sub-No. 3) (republication) filed September 4, 1970, published in the FEDERAL REGISTER issue of October 1, 1970, and republished this issue. Applicant: GARY C. BULMAN, doing business as BULMAN TRUCKING SERVICE, Waukon, Iowa 52172. Applicant's representative: William L. Fairbank, Hubbell Building, Des Moines, Iowa 50309. The modified procedure has been followed and an order of the Commission, Operating Rights Board, dated March 23, 1971, and served April 6, 1971, finds; that operation by applicant, in interstate or foreign commerce, as a contract carrier by motor vehicle, over irregular routes, of (1) cheese, from Elkader and Waukon, Iowa, to points in Wisconsin,

and (2) butter, from Waukon, Iowa, to Plymouth, Wis., under a continuing contract with Meadowland Dairy Association, of Waukon, Iowa, will be consistent with the public interest and the national transportation policy. Because it is possible that other parties, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the findings in this order, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate protest or other pleading.

No. MC 41255 (Sub-No. 49) (notice of filing of petition to modify certificate), filed March 23, 1971. Petitioner: GLOSSON MOTOR LINES, INC., Lexington, N.C. Petitioner's representative: Frank B. Hand, Jr., 740 15th Street NW., Washington, DC 20005. Petitioner holds authority in No. MC 41255 (Sub-No. 49) to conduct operations as a motor common carrier, over irregular routes, transporting: Juices and beverages, except commodities in bulk, from points in Florida, to points in North Carolina, South Carolina, and Georgia, with no transportation for compensation on return except as otherwise authorized, restricted to the transportation of shipments in vehicles equipped with mechanical refrigeration, and restricted to the transportation of shipments destined to points in North Carolina, South Carolina, and Georgia. The purpose of this petition is to seek modification of the Certificate to the extent that the following restriction be eliminated from the authority: "The authority granted herein is restricted to the transportation of shipments in vehicles equipped with mechanical refrigeration." Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of such publication in the FEDERAL REGISTER.

No. MC 126034 (Sub Nos. 1, 3, and 4). (Notice of Filing of Petition for Waiver of Rule 1.101(e), for Reconsideration, and for Modification of Certificates), filed March 22, 1971. Petitioner: BUCKS COUNTY CONSTRUCTION COMPANY, Pennell, PA 19047. Petitioner's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. This petition is directed to petitioner's interstate operating authority, as contained in its certificates of public convenience and necessity No. MC-126034, Sub No. 1, MC-126034, Sub No. 3, and MC-126034, Sub No. 4, which authorize the transportation of: *Sub No. 1, Machinery, including pumps, condensers, dynamos, motors, and parts, between Philadelphia, Pa., on the one hand, and on the other, Wilmington, Del., and points in New Jersey. Between points in Philadelphia, Pa. Sub No. 2, Machinery*

*and boilers, and factory equipment, together with stocks and supplies when part of the movement of a factory, between points in New Jersey, on the one hand, and, on the other, Sayre and Erie, Pa., Aberdeen, Md., and Martinsburg, W. Va., and points in Connecticut, Massachusetts, New York, the District of Columbia, and those in Pennsylvania on and east of the Susquehanna River. Sub No. 4, Construction machinery and equipment, between points in Pennsylvania, New Jersey, and Delaware within 40 miles of Philadelphia, Pa., including Philadelphia. Petitioner is here seeking similar relief, as accorded other heavy-specialized motor carriers in the past. Petitioner would have the pertinent commodity description in its Sub No. 1 certificate be modified so as to read as follows: (1) Commodities, the transportation of which, because of their size or weight, requires the use of special equipment (except boats) and related machinery parts and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment; and (2) of self-propelled articles, each weighing 15,000 pounds or more, and related machinery tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); and including pumps, condensers, dynamos, motors, and parts. And the pertinent commodity descriptions in its Sub No. 3 certificate be amended to:*

"(1) Commodities, the transportation of which, because of their size or weight, requires the use of special equipment (except boats) and related machinery parts and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment; and (2) of self-propelled articles, each weighing 15,000 pounds or more, and related machinery tools, parts, and supplies moving in connection therewith (restricted to the commodities which are transported on trailers); and (3) and boilers and factory equipment, together with stocks and supplies when part of the movement of a factory." And the pertinent commodity descriptions in its Sub No. 4 certificate to be amended to: "(1) Commodities, the transportation of which, because of their size or weight, requires the use of special equipment (except boats) and related machinery parts and related contractors' materials and supplies when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment; and (2) of self-propelled articles, each weighing 15,000 pounds or more, and related machinery tools, parts, and supplies moving in connection therewith (restricted to commodities which are transported on trailers); and including (3) construction machinery and equipment." Any interested person desiring to participate may file an original and six copies of his written representations,



views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 127400 (Sub-No. 1), (Notice of Filing of Petition for Modification, and Amendment of Permit to Reflect Additional Contracting Shipper), filed March 17, 1971. Petitioner: CAPUANO DELIVERY SERVICE, INC., Valley Stream, N.Y. Petitioner is authorized in No. MC 127400 (Sub-No. 1), to conduct operations as a motor contract carrier, over irregular routes, transporting: "Household appliances, pool tables, gyms, plastic pools, and sporting equipment, and traded-in merchandise of the foregoing described commodities, between New York, N.Y., and points in Nassau, Suffolk, and Westchester Counties, N.Y., and Newark and Woodbridge, N.J., on the one hand, and, on the other, points in Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester Counties, N.Y., points in Fairfield and New Haven Counties, Conn., and points in Bergen, Essex, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties, N.J., limited to a transportation service to be performed, under a continuing contract, or contracts, with S. Klein Department Stores, Inc., and its subsidiary corporations, located at points in New York, East Farmingdale, Commack, Yonkers, and West Hempstead, N.Y., and Newark and Woodbridge, N.J., Good Neighbor Stores Inc., and its affiliate companies, located at points in New York, Syosset, Bethpage, and New Hyde Park, N.Y., Sunset Appliance Stores, of New York, N.Y., Argus Radio and Appliance, Inc., of New York, N.Y., Queensborough Radio & Television Corp., of New York, N.Y."

The purpose of this petition is to add to the list of shippers for whom operations may be performed, the name "Abraham & Strauss," of Brooklyn, N.Y. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 129924 (Sub-No. 1), (Notice of Filing of Petition for Modification of Existing Permit), filed March 19, 1971. Petitioner: WILLIAM F. McVEIGH, JR., doing business as McVEIGH TRANSPORTATION, 1122 East Grant Boulevard, Corona, CA 91720. Petitioner's representative: Donald Murchison, Suite 400, Glendale Federal Building, 9454 Wilshire Boulevard, Beverly Hills, CA 90212. Petitioner holds a permit in No. MC 124129 Sub 1, authorizing operations over irregular routes, the transportation of: *Vegetable oil base food products, food curing, preserving, seasoning, and flavoring compounds, and baked tart and pie shells*, in vehicles equipped with mechanical refrigeration, from Los Angeles, Calif., to points in Arizona, Idaho, New Mexico, Nevada, Oregon, Texas, Utah, and Washington, with no transportation for compensation on return except as

otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Presto Food Products, Inc. of Los Angeles, Calif. That by instant petition, petitioner seeks waiver of Rule 101(e), and, modification to said permit by adding to the motor transportation service authorized to be performed for present shipper, compounds used in the manufacture of vegetable oil base products, from Kansas City, Mo., to plantsite of Presto Food Products, Inc., Los Angeles, Calif. No other changes in permit are sought including restriction thereto.

Any interested person desiring to participate may file an original and six copies of his written representations, views or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 133720 (Sub-No. 2) (Notice of Filing of Petition To Add Additional Shipper), filed March 26, 1971. Petitioner: SHAWANO TERMINAL WAREHOUSE, INC., Post Office Box 67, Shawano, WI 54166. Petitioner holds a Permit in No. MC 133720 (Sub-No. 2) to conduct operations as a motor contract carrier, transporting, over irregular routes, uncrated caskets, casket shells, and related supplies, from Shawano, Wis., to points in Alger, Baraga, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Marquette, Menominee, and Ontonagon Counties, Mich., with no transportation for compensation on return except as otherwise authorized, under a continuing contract, or contracts, with Batesville Casket Co., Inc. By the instant petition, petitioner seeks to add the Belmont Casket Manufacturing Co., Inc., of Columbus, Ohio, as an additional contracting shipper. Any interested person desiring to participate may file an original and six copies of his written representations, views, or argument in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

#### APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240.)

#### MOTOR CARRIERS OF PROPERTY

No. MC-F-11128. Authority sought for purchase by DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, IN 46621, of the operating rights of MCKINLEY AUTO TRANSPORT, INC., Post Office Box 5819, 114 Stanton Avenue, Pittsburgh, PA and for acquisition by PAUL A. MAVIS, also of South Bend, Ind. 46621, of control of such rights through the purchase. Applicants' attorneys: A. C. Leslie, 721 Park Avenue, Pittsburgh, PA 15229 and

Charles Pieroni, 4000 West Sample Street, South Bend, IN 46621. Operating rights sought to be transferred: *New trailers* designated to be drawn by passenger automobile, in initial movements, in truckaway service, and return with *damaged and rejected shipments*, as a common carrier over irregular routes, from Hastings and Williamston, Mich., to points in the United States, except points in Alaska and Hawaii; *automobiles*, in initial movements, in driveaway service, from Kalamazoo, Mich., to points in the United States except points in Alaska, Hawaii, California, Idaho, Nevada, Oregon and Washington; *taxicabs and buses*, in driveaway service, between Kalamazoo, Mich., on the one hand, and, on the other, Chicago, Ill., Minneapolis, Minn., Pittsburgh, Pa., New York, N.Y., and Boston, Mass.; *used, wrecked, and reconditioned taxicabs*, in driveaway service, between Kalamazoo, Mich., and points within 1 mile thereof, on the one hand, and, on the other, points in the United States except those in Alaska, Hawaii, California, Idaho, Nevada, Oregon and Washington; *buses, taxicabs, tractors, and trailers*, in initial movements, in driveaway and truckaway service, and *bodies and cabs*, from Kalamazoo, Mich., and points within 1 mile thereof, to points in the United States except those in Alaska, Hawaii, California, Idaho, Nevada, Oregon, and Washington; *trailers* designed to be drawn by passenger automobiles, in initial movements, in truckaway service, from Berrien Springs, Mich., to points in the United States, except points in Alaska and Hawaii; *trucks*, in both initial and secondary movements, in driveaway service, from Kalamazoo, Mich., and points within 1 mile thereof, to points in the United States except those in Alaska, Hawaii, California, Idaho, Nevada, Oregon, and Washington; *trucks*, in secondary movements, in driveaway service, from Kalamazoo, Mich., and points within 1 mile thereof, to points in California, Idaho, Nevada, Oregon, and Washington; *bus and truck chassis*, in initial movements, in driveaway and truckaway service, from Kalamazoo, Mich., and points within 1 mile thereof, to points in the United States except those in Alaska, Hawaii, California, Idaho, Nevada, Oregon, and Washington; *passenger automobiles*, in initial movements, in truckaway service, from Kalamazoo, Mich., to points in the United States except points in Alaska, California, Hawaii, Idaho, Nevada, Oregon and Washington. Vendee is authorized to operate as a *common carrier* in all States in the United States (except Hawaii). Application has not been filed for temporary authority under section 210a(b).

No. MC-F-11129. Authority sought for purchase by PARAMOUNT MOVERS, INC., 231 North Lancaster Street, Dallas, TX 75203, of a portion of the operating rights of SHAMROCK VAN LINES, INC. (L. E. CREEL III, trustee in bankruptcy), 3525 Southland Center, Dallas, TX 75201, and for acquisition by CARL DAVIDSON, 1108 Cuatro Cerros



Terrace Southeast, Albuquerque, NM 87122, of control of such rights through the purchase. Applicants' attorneys: James W. Hightower, 136 Wynnewood Professional Building, Dallas, TX 75224 and Leroy Hallman, 4555 First National Bank Building, Dallas, TX 75202. Operating rights sought to be transferred: *Household goods*, as a *common carrier* over irregular routes, between Gulfport, Miss., and points within 35 miles thereof, on the one hand, and, on the other, points in Alabama, Florida, Georgia, and Louisiana, between points in Georgia, on the one hand, and, on the other, points in Alabama, Virginia, Tennessee, North Carolina, South Carolina, and Florida. Vendee is authorized to operate as a *common carrier* in Missouri, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Oklahoma, Nebraska, Georgia, New York, Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, Vermont, Florida, Kentucky, Minnesota, North Carolina, Alabama, Michigan, Maryland, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, Texas, Louisiana, and the District of Columbia. Application has been filed for temporary authority under Section 210a(b).

No. MC-F-11130. Authority sought for purchase by TOWNE SERVICES HOUSEHOLD GOODS TRANSPORTATION CO., INC., Post Office Box 6527, San Antonio, TX 78209, of a portion of the operating rights Shamrock Van Lines, Inc. (L. E. Creel, III, trustee in bankruptcy), Post Office Box 5447, Dallas, TX 75222, and for acquisition by Roy M. McNair, 408 Burr-Duval, San Antonio, TX, of control of such rights through the purchase. Applicants' attorney and representative: Herbert Burstein, 30 Church Street, New York, NY 10007 and L. E. Creel, III, Southland Life Center, Dallas, TX 75202. Operating rights sought to be transferred: *Household goods* as defined by the Commission, as a *common carrier* over irregular routes, between certain specified points in Texas, on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, and Oklahoma, between Wichita Falls, Tex., on the one hand, and, on the other, points in Oklahoma, between points in Oklahoma and certain specified points in Texas, between points in those parts of North Carolina, South Carolina, and Virginia within 450 miles of Charlotte, N.C., between points in Montana, on the one hand, and, on the other, points in Idaho, Oregon, Washington, California, and Nevada, between points in Montana on and west of U.S. Highway 89, on the one hand, and, on the other, points in Wyoming, Colorado, Utah, Arizona, and North Dakota, between points in Oklahoma, on the one hand, and, on the other, points in Arkansas, between points in Texas, on the one hand, and, on the other, points in Arkansas, between points in Cuyahoga County, Ohio, on the one hand, and, on the other, points in Ohio, Pennsylvania, and New York, between points in Cuyahoga

County, Ohio, on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, between points in Arkansas, Louisiana, Oklahoma, and Texas; *household goods* as defined by the Commission, and emigrant movables, between certain specified points in Texas, on the one hand, and, on the other, points in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, between points in Saline County, Ark., on the one hand, and, on the other, points in Louisiana, Mississippi, Oklahoma, Tennessee, and Texas; used household goods and used office fixtures, between points in Arkansas, on the one hand, and, on the other, points in Alabama, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, North Carolina, and South Carolina; *imported wool*, from Norfolk, Va., Charleston, S.C., and Butner, N.C., to Clarksville, Va.; *uncrated slot-car raceway systems, and uncrated components, parts, and equipment* for slot-car raceway systems, from the plantsites of American Associated Industries, located in Los Angeles and Orange Counties, Calif., to points in the United States, including Alaska and Hawaii, but excluding points in Arizona, Washoe County, Nev., and El Paso County, Tex.; and under Brokerage License No. MC-12336, *household goods* as defined by the Commission, between points in Montana, on the one hand, and, on the other, points in the United States, except Alaska and Hawaii. Vendee is authorized to operate as a *common carrier* in Texas, Illinois, Louisiana, Missouri, New Mexico, Oklahoma, Mississippi, Arkansas, Alabama, Florida, and Georgia. Application has been filed for temporary authority under Section 210a(b).

No. MC-F-11131. Authority sought for purchase by M. BRUENGER & CO., INC., 6330 North Broadway, Wichita, KS 67219, of a portion of the operating rights of THE LUPER TRANSPORTATION COMPANY, 350 East 21st Street, Wichita, KS 67214, and for acquisition by M. BRUENGER, 2924 Menlo, Wichita, KS, and in turn by, ARK VALLEY PRODUCE COMPANY, INC., 123 South Rock Island, Wichita, KS, of control of such rights through the purchase. Applicants' attorney: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Operating rights sought to be transferred: *Meats, meat products and meat by-products, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, as a *contract carrier* over irregular routes, from Wichita, Kans., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee (except Memphis, Tenn.), with restriction. Vendee is authorized to

operate as a *common carrier* in California, Missouri, Oklahoma, Texas, Kansas, Louisiana, Arizona, New Mexico, Washington, Florida, Utah, Colorado, Nevada, Mississippi, Oregon, and Idaho. Application has been filed for temporary authority under Section 210a(b). Note: No. MC-118142 Sub-No. 36, is a matter directly related.

No. MC-F-11132. Authority sought for purchase by CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025, of the operating rights of JAMES H. CARR AND CHARLES A. CARR, doing business as CARR BROS. OXNARD TRUCKING SERVICE, 1260 Saviers Road, Oxnard, CA 93030, and for acquisition by CONSOLIDATED FREIGHTWAYS, INC., International Building, 601 California Street, San Francisco, CA 94108, of control of such rights through the purchase. Applicants' attorney and representative: Donald Murchison, Glendale Federal Building, Suite 400, 9454 Wilshire Boulevard, Beverly Hills, CA 90212 and John P. Kelly, 175 Linfield Drive, Menlo Park, CA 94025. Operating rights sought to be transferred: *General commodities*, except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, motor vehicles, livestock, commodities requiring special equipment, and commodities in vehicles equipped with mechanical refrigeration, as a *common carrier* over regular routes, between Los Angeles, Calif., and San Luis Obispo, Calif., serving the off-route point of Ojai, Calif., between Los Angeles, Calif., and Ventura, Calif., between Ventura, Calif., and Fillmore, Calif., between Las Cruces, Calif., and Pismo Beach, Calif., serving Vandenberg Air Force Base as an off-route point, serving all intermediate points and certain off-route points; and *frozen foods*, over irregular routes, from Oxnard and Ventura, Calif., to points in the Los Angeles, Calif., and the Los Angeles Harbor, Calif., commercial zone, as defined by the Commission. Vendee is authorized to operate as a *common carrier* in California, Oregon, Washington, Illinois, Minnesota, Wisconsin, Montana, Colorado, Utah, Wyoming, Idaho, Indiana, Nevada, Ohio, Iowa, Michigan, Arizona, and Kansas, Maryland, North Dakota, South Carolina, Georgia, Alabama, Kentucky, North Carolina, New York, Massachusetts, Oklahoma, Missouri, Texas, Louisiana, Pennsylvania, South Dakota, New Mexico, Nebraska, West Virginia, Mississippi, New Jersey, Connecticut, Alaska, and the District of Columbia. Application has not been filed for temporary authority under Section 210a(b).

No. MC-F-11133. Authority sought for purchase by RELIABLE TRUCK LINES, INC., 402 Maplewood Avenue, Nashville, TN 37210, of a portion of the operating rights of A-OK MOTOR LINES, INC., SAMUEL KAUFMAN, trustee in bankruptcy, Post Office Box 1186, Montgomery, AL 36102, and for acquisition by



GARLAND PARSEL, 4201 Jackson Highway, Sheffield, AL 35660, of control of such rights through the purchase. Applicant's attorney: Clarence Evans, 1800 Third National Bank Building, Nashville, TN 37219. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-121218 Sub-No. 1, covering the transportation of commodities generally, as a common carrier in interstate commerce, within the State of Alabama. Vendee is authorized to operate as a *common carrier* in Alabama and Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11134. Authority sought for purchases by COOPER TRANSFER CO., INC., Post Office Box 496, Brewton, AL 36426, of a portion of the operating rights of A-OK MOTOR LINES, INC., SAMUEL KAUFMAN, trustee in bankruptcy, Post Office Box 1186, Montgomery, AL 36102, and for acquisition by AAA MOTOR LINES, INC., and in turn by JOHN H. DOVE, both of Box 1328, Dothan, AL 36301, of control of such rights through the purchase. Applicant's attorneys: A. Alvis Layne, 915 Pennsylvania Building, Washington, DC 20004 and Phineas Stevens, 700 Petroleum Building, Jackson, MS 39205. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-121218 Sub-2, covering the transportation of general commodities, as a common carrier in interstate commerce, within the State of Alabama. Vendee is authorized to operate as a *common carrier* in Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, and Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11135. Authority sought for purchase by ALAN MOTOR LINES, INC., 10 Morton Street, East Rutherford, NJ 07073, of a portion of the operating rights of WILLIAMS RIGGS, doing business as RIGGS MOTOR FREIGHT, LILLIAN RIGGS, administratrix of the estate of William S. Riggs, 96 East Brighthurst Street, Philadelphia, PA 19144, and for acquisition by MICHAEL GAUDIO, NICHOLAS T. GAUDIO, LEONARD GAUDIO, DOMENICK GAUDIO, VINCENT GAUDIO, and MICHAEL BATTISTA, all also of East Rutherford, NJ 07073, of control of such rights through the purchase. Applicants' attorneys: William Biederman, 280 Broadway, New York, NY 10007 and Anthony D. Pirillo, Jr., 42 South 15th Street, Philadelphia, PA 19102. Operating rights sought to be transferred: *General commodities*, excepting among others, dangerous explosives, household goods and commodities in bulk, as a common carrier over regular routes, as a *common carrier*, between Philadelphia, Pa., and New York, N.Y., serving to and from the intermediate points of Newark and Trenton, N.J., and the off-route points of New Brunswick, N.J., those in New Jersey within 20 miles of New York, N.Y., and those in the New

York, N.Y., commercial zone, as defined in 1 M.C.C. 665; and *pipe and machinery*, over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, Wilmington, Del., Baltimore, Md., and points in New Jersey and the District of Columbia. Vendee is authorized to operate as a *common carrier* in New York and New Jersey. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11136. Authority sought for purchase by CARGO-IMPERIAL FREIGHT LINES, INC., 23 South Essex Avenue, Orange, NJ 07051, of a portion of the operating rights of McARDLE & CASAZZA TRUCKING CO., INC., 374 South Pearl Street, Albany, NY 12202, and for acquisition by COOPER-JARRETT, INC., and in turn by R. E. COOPER, JR., also of Orange, N.J. 07051. Applicants' attorney: Irving Klein, 280 Broadway, New York, NY 10007. Operating rights sought to be transferred: *General commodities*, excepting among others, dangerous explosives, household goods and commodities in bulk, as a *common carrier* over regular routes, between Albany, N.Y., and Scotia, N.Y., between Albany, N.Y., and Waterford, N.Y., serving all intermediate points in the above routes and certain off-routes in New York. Vendee is authorized to operate as a *common carrier* in New York, Connecticut, and Rhode Island. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11138. Authority sought for purchase by JOHNSON MOTOR LINES, INC., 2426 North Graham Street, Post Office Box 10877, Charlotte, NC 28201, of the operating rights of BRIDGEPORT CARTAGE SERVICE, INC., 920 Union Avenue, Bridgeport, CT 06607, and for acquisition by H. BEALE ROLLINS, Sixth Floor, Title Building, Baltimore, Md. 21202, of control of such rights through the purchase. Applicants' attorney: Donald E. Cross, 917 Munsey Building, 1329 E Street NW., Washington, DC 20004. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-121208 Sub-1, covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of Connecticut. Vendee is authorized to operate as a *common carrier* in Massachusetts, Maryland, Pennsylvania, New Jersey, Delaware, Virginia, District of Columbia, North Carolina, South Carolina, Georgia, New York, Rhode Island, Connecticut, Alabama, Florida, Louisiana, and Mississippi. Application has not been filed for temporary authority under section 210a(b). NOTE: MC-106401 Sub 32, is a matter directly related.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.  
[FR Doc.71-5186 Filed 4-13-71; 8:49 am]

## NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

APRIL 9, 1971.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

State Docket No. MC 4479 (Sub-No. 10), filed January 22, 1971. Applicant: KNOXVILLE-MARYVILLE MOTOR EXPRESS, INC., 1910 University Avenue, Knoxville, TN 37921. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, TN 37219. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, except those of unusual value, household goods, commodities in bulk, and those requiring special equipment, (1) between Madisonville, Tenn., and Chattanooga, Tenn., as follows: From Madisonville over U.S. Highway 411 to its junction with U.S. Highway 64; thence over U.S. Highway 64 to its junction with U.S. Highway 11; thence over U.S. Highway 11 to Chattanooga and return over the same route, serving all intermediate points, (2) between Loudon, Tenn., and Chattanooga over U.S. Highway 11, serving all intermediate points and (3) between Knoxville, Tenn., and Chattanooga, Tenn., over I-75, as an alternate route for operating convenience only, and all connecting roads and highways between U.S. Highway 11 and I-75 located between Knoxville and Chattanooga, Tenn. All of said authority to be used in conjunction with applicant's existing authority. Applicant requests that the following authority be included with above route description: "Between Knoxville and Jellico, Tenn., over U.S. Highway 25-W, and also over interstate Highway 75, serving all intermediate points on both routes not presently authorized. Said authority to be used in conjunction with all of applicant's other authority." Both intrastate and interstate authority sought. HEARING: April 21, 1971, at the Commission's Court Room, C-1 Cordell Hull Building, Nashville, TN, at 9:30 a.m.



Requests for procedural information including the time for filing protests concerning this application should be addressed to the Tennessee Public Service Commission, Cordell Hull Building, Nashville, TN 37219, and should not be directed to the Interstate Commerce Commission.

State Docket No. Appl. 24875—Extension, filed March 24, 1971. Applicant: CHARLES McGHEE, doing business as T & W TRUCK LINE, Post Office Box 2, Olney Springs, CO 81062. Applicant's representative: Robert G. Shepherd, Jr., 420 Denver Club Building, Denver, CO 80202. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities*, over regular routes, on schedule, between Pueblo and Ordway, over U.S. Highways 50 and 50 By-Pass and Colorado Highway 71, serving all intermediate points (except the Pueblo Army Ordnance Depot) and the off-route point of Rocky Ford, Colo.; with authority to tack or interline traffic moving under the above requested authority. Both intrastate and interstate authority sought.

HEARING: 10 a.m., June 22, 1971, at Southern Colorado Power Division Office, 801 Chestnut, Rocky Ford, CO. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Utilities Commission of the State of Colorado, 500 Columbine Building, 1845 Sherman Street, Denver, CO 80203, and should not be directed to the Interstate Commerce Commission.

State Docket No. Appl. 24883—Extension, filed March 30, 1971. Applicant: ERMON L. TYLER, doing business as FOWLER TRUCK LINE, Post Office Box 225, Fowler, CO 81039. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, WY 82001. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *Freight*, on schedule, between Pueblo, Colo., and Manzanola, Colo. Both intrastate and interstate authority sought.

HEARING: 10 a.m., June 23, 1971, at 407 Columbine Building, 1845 Sherman Street, Denver, CO 80203. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Public Utilities Commission of the State of Colorado, 500 Columbine Building, 1845 Sherman Street, Denver, CO 80203, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD,  
Secretary.

[FR Doc 71-5187 Filed 4-13-71; 8:49 am]

[Notice 277]

### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

APRIL 8, 1971.

The following are notices of filing of applications for temporary authority

under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

#### MOTOR CARRIERS OF PROPERTY

No. MC 8948 (Sub-No. 96 TA), filed April 1, 1971. Applicant: WESTERN GILLETTE, INC., 2550 East 28th Street, Post Office Box 58267, Los Angeles, CA 90058. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *New furniture and new household furnishings*, from points in California to points in Clark County, Nev., *refused or rejected shipments on return*, for 180 days. Supporting shippers: There are approximately 38 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Philip Yaleowitz, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 30837 (Sub-No. 431 TA), filed April 1, 1971. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200 39th Avenue, Post Office Box 160, 53141, Kenosha, WI 53140. Applicant's representative: Al Barber (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tool trailers*, from York, Pa., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: A. B. Chance Co., Pitman Manufacturing Co. Division, Post Office Box 446, York, PA 17405. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 41116 (Sub-No. 45 TA), filed April 1, 1971. Applicant: FOGLEMAN TRUCK LINE, INC., 1724 West Mill Street, also Post Office Box 1504, Crowley, LA 70526. Authority sought to operate as a *contract carrier*, by motor

vehicle, over irregular routes, transporting: (1) *Paper and paper products, products produced by manufactures and converts of paper and paper products*, and (2) *materials and supplies* used in the manufacture and distribution of commodities described in (1) above (except commodities in bulk and commodities which because of size or weight require the use of special equipment), between the sites of the plant or storage facilities of Boise Southern Co. in Beauregard Parish, La., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Minnesota, Nebraska, and Wisconsin, for 180 days. Supporting shipper: Boise Cascade Corp., Post Office Box 7747, Boise, ID 83707, Mr. Charles G. Wise, Manager, Transportation Commerce. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-4009 Federal Building, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 103993 (Sub-No. 626 TA), filed April 1, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Ralph H. Miller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobile, in initial movements and *buildings* in sections, on undercarriages from Aberdeen, N.C., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Dawson Homes, Inc., Leola, Pa., and Aberdeen, N.C. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 107295 (Sub-No. 498), filed April 1, 1971. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal panels, metal insulated panels, insulation, metal windows and doors and frames therefor; and accessories necessary for the installation and completion of the named commodities*, from the plantsites and facilities of Varco-Pruden at Pine Bluff, Ark., to points in the United States (except Alaska, Arkansas, and Hawaii), for 180 days. Supporting shipper: Varco-Pruden, Pine Bluff, Ark. Send protests to: Harold Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 476, 325 West Adams Street, Springfield, IL 62704.

No. MC 108393 (Sub-No. 45 TA), filed April 5, 1971. Applicant: SIGNAL DELIVERY SERVICE, INC., 930 North York Road, Room 214, Hinsdale, IL 60521. Applicant's representative: EUGENE L. COHN, Suite 2255, One North La Salle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes,



transporting: *Electrical and gas appliances, parts of electrical and gas appliances and equipment, materials and supplies used in the manufacture, distribution and repair of electrical and gas appliances*, for Whirlpool Corp., between Danville, Ky., on the one hand, and, on the other, Cincinnati, Cleveland, Clyde, Columbus, Findlay, and Marion, Ohio; Chicago, Ill., Knoxville and Nashville, Tenn.; Evansville and Indianapolis, Ind., and Benton Harbor, Detroit, Grand Rapids, and St. Joseph, Mich., from Danville, Ky., to Chattanooga and Memphis, Tenn.; Huntington, W. Va.; Peoria, Ill.; Saginaw, Mich.; St. Louis, Mo., and Milwaukee, Wis., from Canton, Dayton, Eaton, Mansfield, Middletown, Prospect, and Toledo, Ohio, Murfreesboro, Tenn.; Anderson, Ind., and Charlotte, Mich., to Danville, Ky., under contract with Whirlpool Corp., for 180 days. Supporting shipper: Mr. William C. Cunningham, Director of Corporate Traffic, Whirlpool Corp. Benton Harbor, MI 49022. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 115162 (Su' No. 220 TA), filed April 1, 1971. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products, emulsified petroleum sizing, paints and gasoline additives*, all in containers, from Beaumont, Tex., to points in Alabama, Florida, Georgia, Kentucky, Mississippi, and Tennessee, and *empty containers* on return from all above destinations to Port Arthur, Tex., for 180 days. Supporting shipper: Mobile Oil Corp., Post Office Box 900, Dallas, TX 75221. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, AL 35203.

No. MC 115162 (Sub-No. 221 TA), filed April 1, 1971. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fiberboard, wood fiberboard faced or finished with decorative and/or protective material, and accessories and supplies used in the installation thereof* (except commodities in bulk), from Moncure, N.C., to points in Alabama and Florida, for 180 days. Supporting shipper: Evans Products Co., 2200 East Devon Avenue, Des Plaines, IL 60018. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, AL 35203.

No. MC 119619 (Sub-No. 49 TA), filed April 1, 1971. Applicant: DISTRIBUTORS SERVICE CO., 2000 West 43d

Street, Chicago, IL 60609. Applicant's representative: Arthur J. Piken, Suite 1515, One Lefrak City Plaza, Flushing, NY 11368. Authority sought operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: 1 (a) *Meats, meat products, meat byproducts, and articles distributed by meat packing-houses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), (b) from the plantsites and storage facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Kansas, Nebraska, Missouri, Iowa, Wisconsin, Minnesota, Indiana, Ohio, Michigan, Pennsylvania, New York, Maine, New Hampshire, Rhode Island, Vermont, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida and the District of Columbia. 2 (a) *Such commodities* as are used by meat packers in the conduct of their businesses when destined to and for use by meat packers, as described in section D of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (b) from the destination described in 1(b) above, to the plantsites and storage facilities of Illini Beef Packers, Inc. at or near Joslin, Ill., for 180 days. Supporting shipper: Herman C. Jacobsen, Illini Beef Packers Inc., 221 North La Salle Street, Chicago, IL 60601. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 119880 (Sub-No. 46 TA), filed April 1, 1971. Applicant: DRUM TRANSPORT, INC., Box 2056, 616 Chicago Street, East Peoria, IL 61611. Applicant's representative: B. N. Drum (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from Peoria, Ill., to Los Angeles, El Segundo, and Carson, Calif., for 180 days. Supporting shipper: Kentucky Brands, 3200 Olympic Boulevard, Santa Monica, CA 90404. Send protests to: District Supervisor Raymond E. Mauk, Bureau of Operations, Interstate Commerce Commission, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 123392 (Sub-No. 29 TA), filed April 5, 1971. Applicant: JACK B. KELLEY, INC., 3801 Virginia Street, Amarillo, TX 79109. Applicant's representative: Weldon M. Teague (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid nitrogen, liquid oxygen, and liquid argon*, in bulk, between points in Florida, Georgia, South Carolina, North Carolina, Tennessee, Alabama, Mississippi, Louisiana, and Texas, for 150 days. Supporting shipper: P. Wong, Vice President,

Operations, American Cryogenics, Inc., No. 1 Embarcadero Center, San Francisco, CA 94111. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1012 Herring Plaza, 317 East Third Street, Amarillo, TX 79101.

No. MC 126514 (Sub-No. 30 TA), filed April 1, 1971. Applicant: HELEN H. SCHAEFFER AND EDWARD P. SCHAEFFER, 5200 West Bethany Home Road, Glendale, AZ 85301, also mail: Post Office Box 392, Phoenix, AZ 85001. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Advertising matter, books, calendars, post cards, printed matter, display racks*, from Dexter Press, Inc., W. Nyack, N.Y., to Cambria, Anaheim, Buena Park, Colton, Covina, Los Angeles, Monterey Park, North Hollywood, Pacific Grove, Palm Springs, Sacramento, San Diego, San Francisco, Santa Ana, Santa Barbara, Stockton, and Tahoe, Calif., for 150 days. Supporting shipper: Dexter Press, Inc. Route 303, West Nyack, N.Y. 10994. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 3427 Federal Building, Phoenix, AZ 85025.

No. MC 127539 (Sub-No. 20 TA), filed April 1, 1971. Applicant: PARKER REFRIGERATED SERVICE, INC., 3533 East 11th Street, Tacoma, WA 98421. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, WA 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meat products*, from Spokane, Wash., to Stockton, Alameda, San Francisco, Oakland, and Los Angeles, Calif., and Portland, Oreg., for 150 days. Supporting shipper: Hygrade Food Products Corp., Terminal Annex Box 2567, Spokane, WA 99201. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, WA 98101.

No. MC 128866 (Sub-No. 20 TA), filed April 5, 1971. Applicant: B & B TRUCKING, INC., Mail: Post Office Box 128, 9 Brade Lane, Cherry Hill, NJ 08034. Applicant's representative: J. Michael Farrell, Federal Bar Building, Washington, D.C. 2006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum food containers*, from the plantsites of Penny Plate, Inc., at Cherry Hill, N.J., and Searcy, Ark., to the plantsite of Tennessee Foods, Inc., Knoxville, Tenn., for 150 days. Supporting shipper: Penny Plate, Inc., Post Office Box 458, Haddonfield, NJ 08034. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.



No. MC 129665 (Sub-No. 3 TA), filed April 1, 1971. Applicant: CITY BEVERAGES, INC., 725 Saar Street West, Kent, WA 98031. Applicant's representative: F. M. Basel (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat byproducts*, from Wallula Heights, Wash., to points in Oregon and California, for 180 days. Supporting shipper: Cudahy Co., 100 West Clarendon, Phoenix, Ariz. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, WA 98101.

No. MC 133966 (Sub-No. 8 TA), filed April 1, 1971. Applicant: NORTH EAST EXPRESS, INC., Post Office Box 1303, Wilkes-Barre, PA 18703. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *common car-*

*rier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Berlin, N.H., to points in New York, New Jersey, Pennsylvania, Ohio, and Maryland, for 150 days. Supporting shipper: EMCA, Inc. Berlin, N.H. 03570. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, PA 18503.

No. MC 134182 (Sub-No. 5 TA), filed April 5, 1971. Applicant: MILK PRODUCERS MARKETING COMPANY, doing business as ALL-STAR TRANSPORTATION, Second and West Turnpike Road, Post Office Box 505, Lawrence, KS 66044. Applicant's representative: Warren H. Sapp, 450 Professional Building, Kansas City, MO 64106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products and articles distributed by meat packing-*

*houses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite of Iowa Beef Packers, Inc., at or near Emporia, Kans., to points in Connecticut, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, and the District of Columbia, for 150 days. NOTE: Carrier does not intend to tack the authority here applied for to other authority held by it, or to interline with other carriers. Supporting shipper: Iowa Beef Packers, Inc., Dakota City, Nebr. 68731. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Building, Topeka, KS 66603.

By the Commission.

[SEAL]

ROBERT L. OSWALD,  
Secretary.

[FR Doc.71-5188 Filed 4-13-71; 8:49 am]



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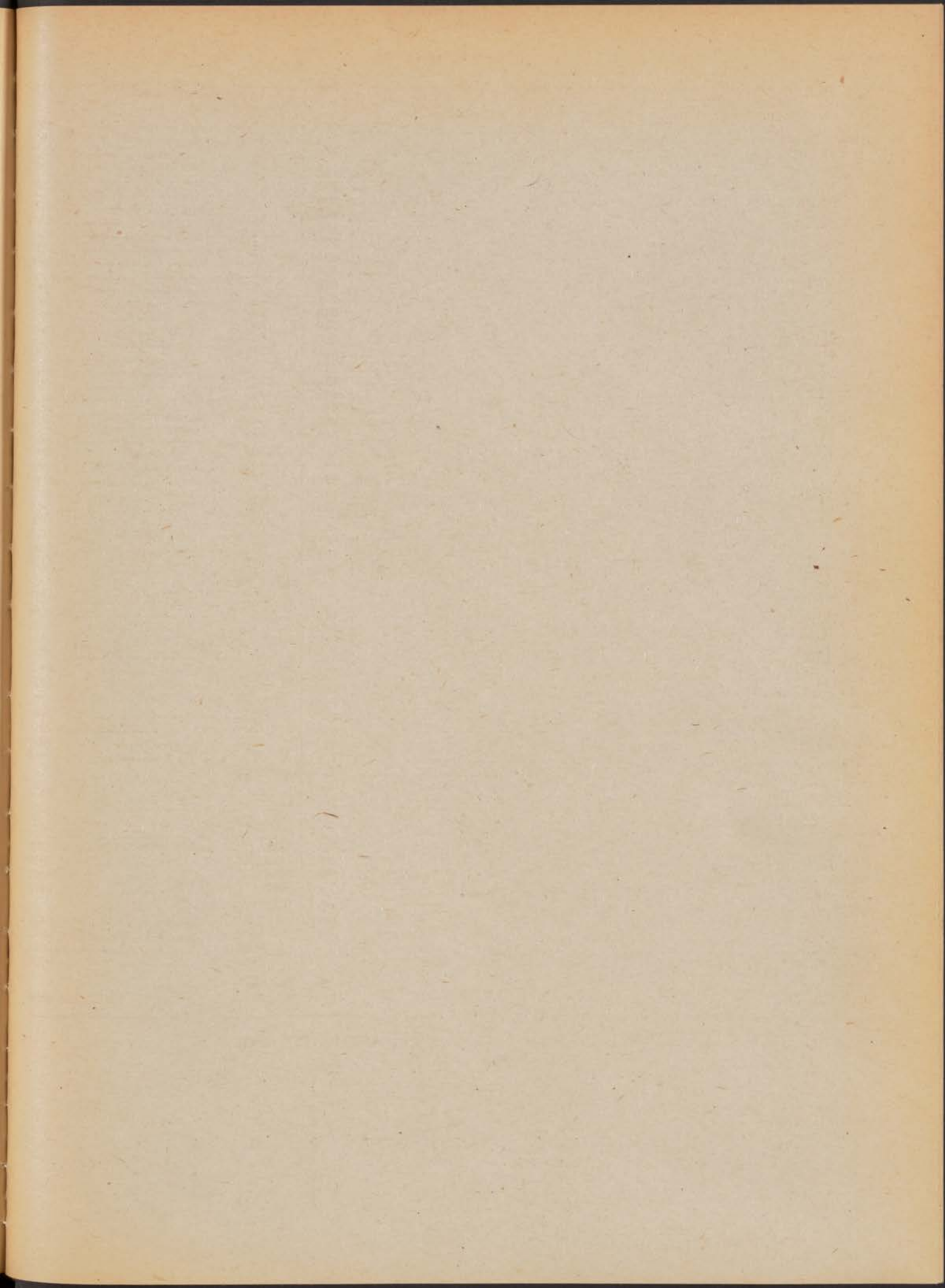


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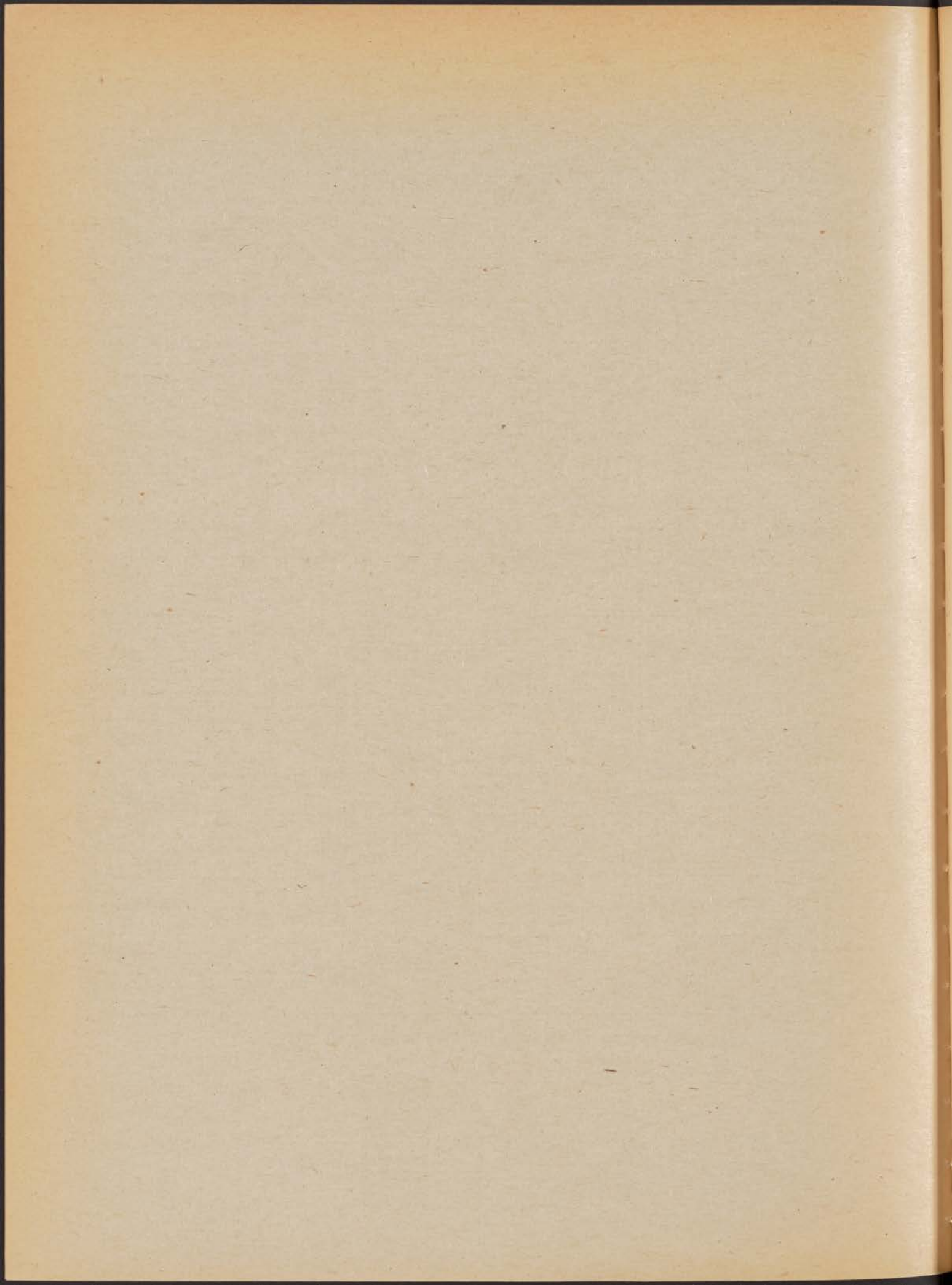
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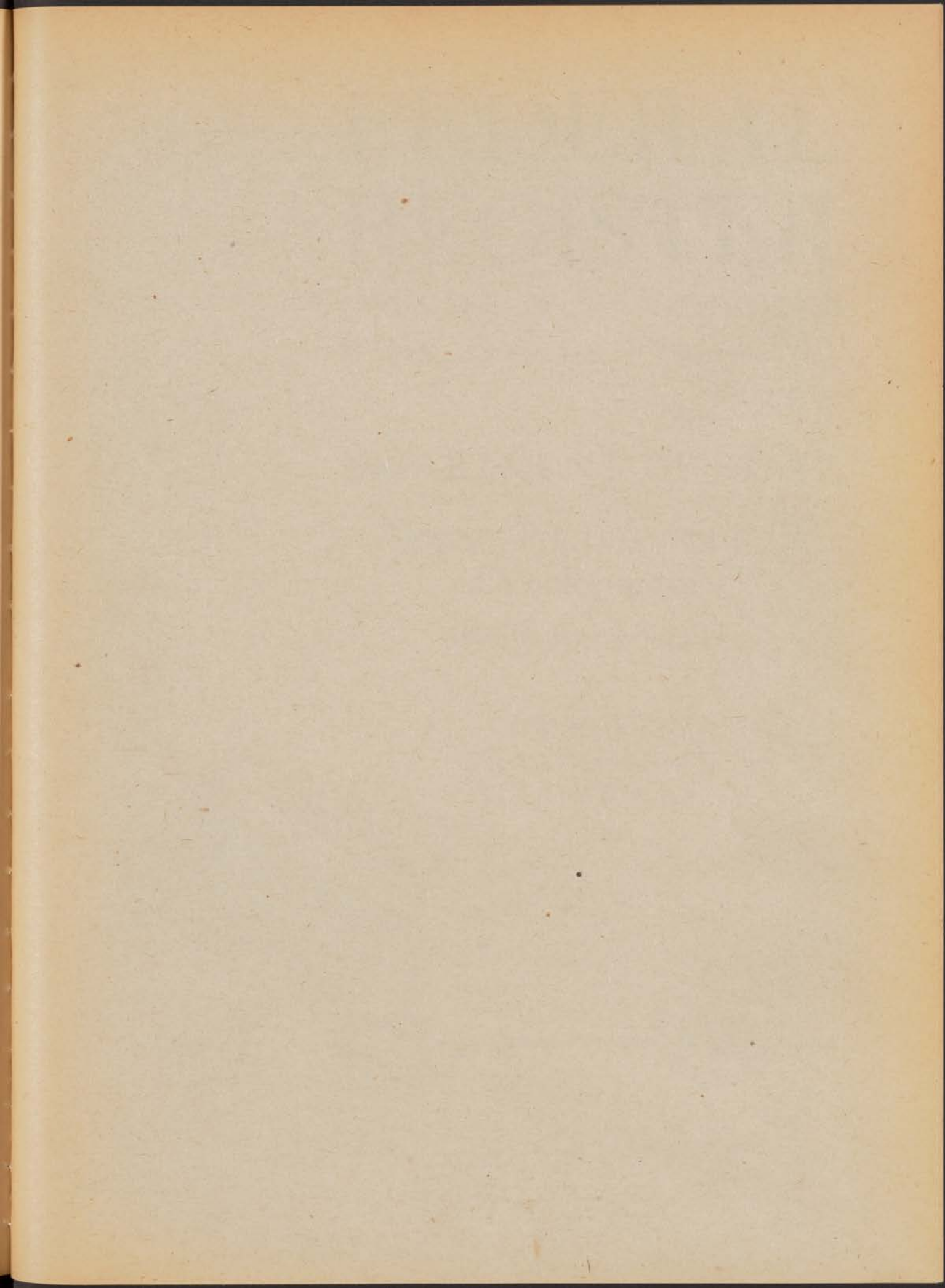




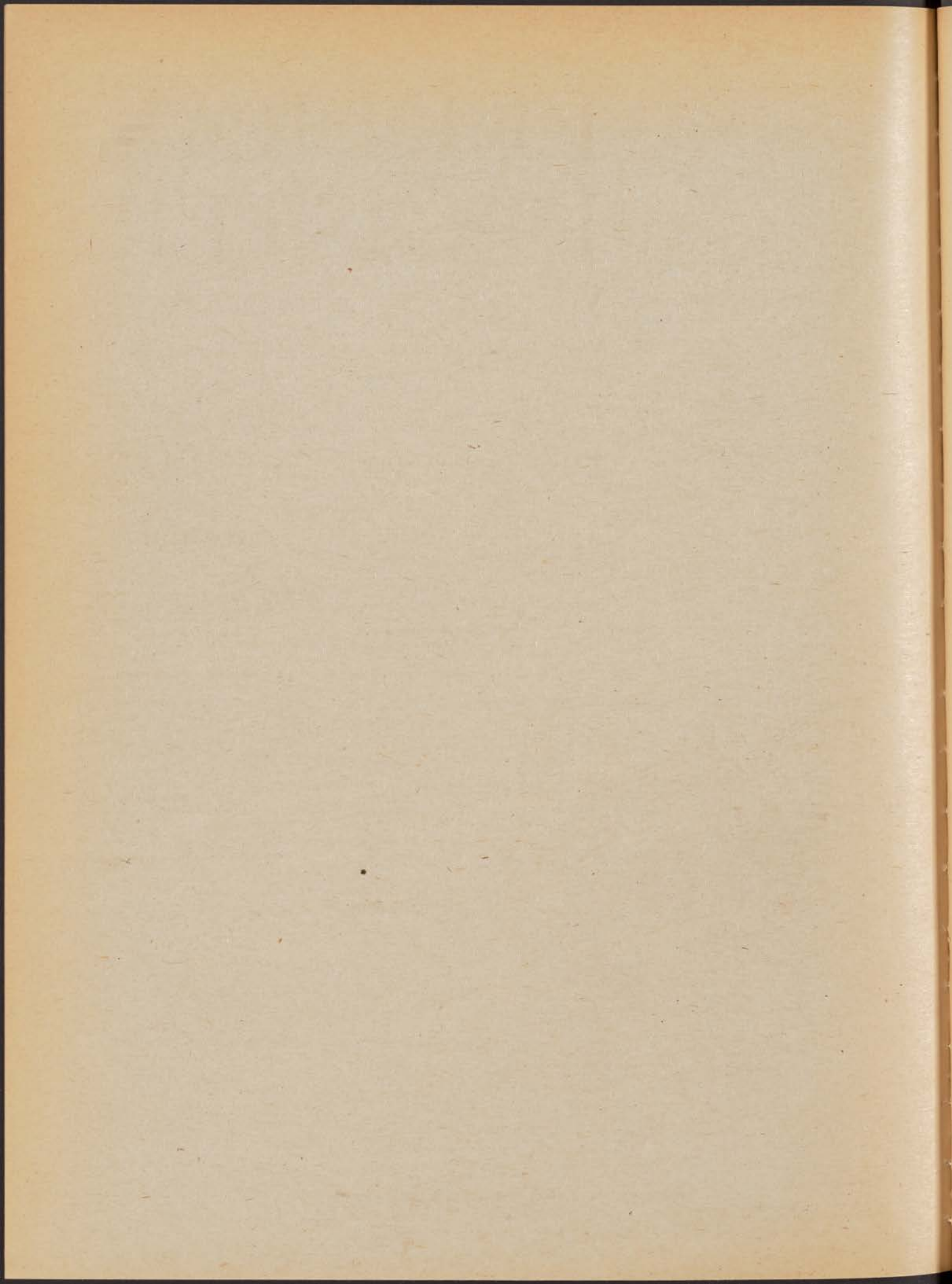














# FEDERAL REGISTER

VOLUME 36 • NUMBER 72

Wednesday, April 14, 1971 • Washington, D.C.

PART II

DEPARTMENT OF STATE

Agency for International  
Development

[A.I.D. Regulation 1]

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COMMODITY  
TRANSACTIONS  
FINANCED BY  
A.I.D.





## Title 22—FOREIGN RELATIONS

### Chapter II—Agency for International Development, Department of State

[A.I.D. Reg. 1]

#### PART 201—RULES AND PROCEDURES APPLICABLE TO COMMODITY TRANSACTIONS FINANCED BY A.I.D.

Part 201 of Chapter II, Title 22 (A.I.D. Reg. 1), is revised to read as follows:

##### Subpart A—Definitions and Scope of This Part

- Sec.  
201.01 Definitions.  
201.02 Scope and application.

##### Subpart B—Conditions Governing the Eligibility of Procurement Transactions for A.I.D. Financing

- 201.10 Purpose.  
201.11 Eligibility of commodities.  
201.12 Eligibility of incidental services.  
201.13 Eligibility of delivery services.  
201.14 Eligibility of bid bonds and performance guaranties.  
201.15 U.S.-flag vessel shipping requirement.

##### Subpart C—Procurement Procedures—Responsibilities of Importers

- 201.20 Purpose.  
201.21 Notice to supplier.  
201.22 Formal competitive bid procedures.  
201.23 Other procurement procedures.  
201.24 Solicitation of bids and quotations.  
201.25 Advance and progress payments for custom-made commodities.  
201.26 Bid bonds and performance guaranties.  
201.27 Expenditure of marine insurance loss payments.

##### Subpart D—Responsibilities of Suppliers

- 201.30 Purpose.  
201.31 Suppliers of commodities.  
201.32 Suppliers of delivery services.  
201.33 Prior review of proposed sales.

##### Subpart E—General Provisions Relating to A.I.D. Financing of Commodities and Commodity-Related Services

- 201.40 Purpose.  
201.41 Audit and inspection.  
201.42 Reexport of A.I.D.-financed commodities.  
201.43 Diversion clause.  
201.44 Vesting in A.I.D. of title to commodities.  
201.45 Termination or modification of a loan, grant, or implementing document.  
201.46 Compensation to supplier if shipment is prohibited.  
201.47 Use of marine insurance loss proceeds.

##### Subpart F—Payment and Reimbursement

- 201.50 Purpose.  
201.51 Methods of financing.  
201.52 Required documents.  
201.53 Final date for presentation of documents.

##### Subpart G—Price Provisions

- 201.60 Purpose and applicability of this subpart.  
201.61 Meaning of terms in this subpart.  
201.62 Responsibilities of borrower/grantee and of supplier.  
201.63 Maximum prices for commodities.  
201.64 Application of the price rules to commodities.

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201.65 Commissions, service payments, and discounts.  
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201.69 Commodity price subject to escalation.

##### Subpart H—Rights and Responsibilities of Banks

- 201.70 Purpose.  
201.71 Terms of letters of credit.  
201.72 Making payments.  
201.73 Limitations on the responsibilities of banks.  
201.74 Additional documents for A.I.D.  
201.75 Termination or modification.

##### Subpart I—Rights and Remedies of A.I.D., and Waiver Authority

- 201.80 Purpose.  
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201.82 Rights of A.I.D. against suppliers.  
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201.84 Limitation on period for making refund requests.  
201.85 Waiver and amendment authority.  
201.86 Continuation in effect of certain prior issuances.

##### Appendix A—Supplier's Certificate and Agreement with the Agency for International Development (A.I.D. 282 (1-1-67))

##### Appendix B—Instructions for Notice of Proposed Procurement.

##### Appendix C—Certificate and Agreement With the Agency for International Development Concerning Commission and Service Payments Associated With Commodity Sales Financed With Foreign Assistance Funds. (A.I.D. 283 (1-16-67))

##### Appendix D—Application for Approval of Commodity Eligibility. (A.I.D. 11 (10-16-70))

AUTHORITY: The provisions of this Part 201 issued under sec. 621, 75 Stat. 424; 22 U.S.C. 2381.

#### Subpart A—Definitions and Scope of This Part

##### § 201.01 Definitions.

As used in this part, the following terms shall have the meanings indicated below:

(a) *The Act*. "The Act" means the Foreign Assistance Act of 1961, as amended from time to time.

(b) *A.I.D.* "A.I.D." means the Agency for International Development or any successor agency, including, when applicable, each US AID.

(c) *A.I.D. geographic code*. "A.I.D. geographic code" means a code in the A.I.D. Geographic Code Book which designates a country, a group of countries, or an otherwise defined area. Principal A.I.D. geographic codes are described in § 201.11(b)(4) of this part.

(d) *AID/W*. "AID/W" means the A.I.D. in Washington, D.C. 20523, including any office thereof.

(e) *Approved applicant*. "Approved applicant" means the person or organization designated by the borrower/grantee to establish credits with banks in favor of suppliers or to instruct banks to make payments to suppliers, and includes any agent acting on behalf of such approved applicant.

(f) *Bank* "Bank" means a banking institution organized under the laws of the United States, or any State, territory, or possession thereof, or Puerto Rico or the District of Columbia.

(g) *Borrower/grantee*. "Borrower/grantee" means the government of any cooperating country, or any agency, instrumentality or political subdivision thereof, or any private entity to which A.I.D. directly makes funds available by loan or grant.

(h) *Commodity*. "Commodity" means any material, article, supply, goods, or equipment.

(i) *Commodity-related services*. "Commodity-related services" means delivery services and/or incidental services.

(j) *Cooperating country*. "Cooperating country" means the country receiving the A.I.D. assistance subject to provisions of this Part 201.

(k) *Delivery*. "Delivery" means the transfer to, or for the account of, an importer of the right to possession of a commodity, or the rendering to, or for the account of, an importer of any commodity-related service.

(l) *Delivery services*. "Delivery services" means any service customarily performed in a commercial export transaction which is necessary to effect a physical transfer of commodities to the cooperating country. Examples of such services are the following: Export packing, local drayage in the source country (including waiting time at the dock), ocean and other freight, loading, heavy lift, wharfage, tollage, switching, dumping and trimming, lighterage, insurance, commodity inspection services, and services of a freight forwarder. "Delivery services" may also include work and materials necessary to meet A.I.D. marking requirements.

(m) *Implementing document*. "Implementing document" means any document issued by A.I.D. which authorizes the use of A.I.D. funds for the procurement of commodities and/or commodity-related services and which specifies conditions which will apply to such procurement.

(n) *Importer*. "Importer" means any person or organization, governmental or otherwise, in the cooperating country who is authorized by the borrower/grantee to use A.I.D. funds under this Regulation for the procurement of commodities, and includes any borrower/grantee who undertakes such procurement.

(o) *Incidental services*. "Incidental services" means the installation or erection of A.I.D.-financed equipment, or the training of personnel in the maintenance, operation and use of such equipment.

(p) *Purchase contract*. "Purchase contract" means any contract or similar arrangement under which a supplier furnishes commodities and/or commodity-related services financed under this part.

(q) *Source*. "Source" means the country from which a commodity is shipped to the cooperating country, or the cooperating country if the commodity is located therein at the time of the purchase.



Where, however, a commodity is shipped from a free port or bonded warehouse in the form in which received therein, "source" means the country from which the commodity was shipped to the free port or bonded warehouse.

(r) *Supplier*. "Supplier" means any person or organization, governmental or otherwise, who furnishes commodities and/or commodity-related services financed under this Part 201.

(s) *Supplier's Certificate*. "Supplier's Certificate" means AID Form 282, "Supplier's Certificate and Agreement with the Agency for International Development", including the "Invoice-and-Contract Abstract" on the reverse of such form (Appendix A to this Part 201), or any substitute form which may be prescribed in the letter of commitment, request for the opening of a special letter of credit, or other pertinent implementing document.

(t) *United States*. "United States" means the United States of America, any State, territory or possession thereof, Puerto Rico and the District of Columbia.

(u) *US AID*. "US AID" means the A.I.D. mission or representative to any cooperating country.

(v) *Certificate Concerning Commissions*. "Certificate Concerning Commissions" means the Certificate and Agreement with the Agency for International Development Concerning Commissions and Service Payments Associated with Commodity Sales Financed with Foreign Assistance Funds" (A.I.D. Form 283) which appears as Appendix C to this part.

(w) *Commodity Approval Application*. "Commodity Approval Application" means the Application for Approval by the Agency for International Development of Commodity Eligibility (A.I.D. Form 11) which appears as Appendix E to this Part 201.

(x) *Schedule B*. "Schedule B" means "Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States" issued and amended from time to time by the U.S. Bureau of the Census, Department of Commerce, and published in 15 CFR 30.92.

**§ 201.02 Scope and application.**

The appropriate implementing document will indicate whether and the extent to which this Part 201 shall apply to the procurement of commodities or commodity-related services or both. Whenever this Part 201 is applicable, those terms and conditions of this part will govern which are in effect on the date of issuance of an irrevocable letter of credit under which payment is made or is to be made from funds made available under the Act, or, if no such letter of credit has been issued, on the date payment instructions for payment from funds made available under the Act are received by the paying bank.

(a) The borrower/grantee is responsible for compliance with the applicable provisions of this part by importers and suppliers and for assuring that importers and suppliers are informed of the extent to which this part applies.

(b) Subpart B sets forth conditions governing the eligibility for A.I.D.-financing the transactions covering commodities and commodity-related services.

(c) Subpart C prescribes procedures which importers shall follow in purchasing commodities.

(d) Subpart D sets forth the responsibilities of suppliers.

(e) Subpart E contains provisions relating to

(1) The diversion of shipments and the vesting in A.I.D. of title to commodities;

(2) The effect of termination or modification of any loan, grant or implementing document; and

(3) A.I.D. audit and inspection rights.

(f) Subpart F describes the financing process and prescribes the documents which shall be submitted to banks and to A.I.D.

(g) Subpart G contains the price tests which shall be met and limitations on amounts and types of payments which A.I.D. will finance.

(h) Subpart H defines the rights and responsibilities of banks.

(i) Subpart I sets out the rights and remedies which are reserved to A.I.D. and provides for the waiver under special circumstances of the provisions of this Part 201.

(j) Unless otherwise indicated, references in this Part 201 to subparts or to sections relate to subparts or sections of this Part 201.

**Subpart B—Conditions Governing the Eligibility of Procurement Transactions for A.I.D. Financing**

**§ 201.10 Purpose.**

This subpart sets forth requirements for A.I.D. financing applicable to transactions for the procurement of commodities and/or commodity-related services.

**§ 201.11 Eligibility of commodities.**

To qualify for A.I.D. financing, a commodity procurement transaction shall satisfy the following requirements:

(a) *Description and condition of the commodity*. The commodity shall conform to the description in the implementing document. Unless otherwise authorized by AID/W in writing, the commodity shall be unused, and may not have been disposed of as surplus by any governmental agency.

(b) *Source*—(1) *General rule*. The source of the commodity shall be a country authorized in the implementing document by name or by reference to an A.I.D. geographic code. In addition, the commodity shall have been mined, grown, or through manufacturing, processing, or assembly produced in a source country authorized in the implementing document.

(2) *Exceptions*. A produced commodity will not be eligible for A.I.D. financing if

(i) It contains any component from countries other than free world countries as described in A.I.D. Geographic Code 935; or

(ii) It contains components which were imported into the country of production from such free world countries other than authorized source countries; and

(a) Such components were acquired by the producer in the form in which they were imported; and

(b) The total cost of such components (delivered at the point of production) amounts to more than 50 percent, or such other percentage as A.I.D. may prescribe, of the lowest price (excluding the cost of ocean transportation and marine insurance) at which the supplier makes the commodity available for export sale (whether or not financed by A.I.D.).

(c) For the purpose of calculating eligible components under this subdivision, "authorized source countries" shall include the cooperating country itself whenever A.I.D. has authorized procurement from a geographic code other than A.I.D. Geographic Code 000, 001, or 002, and shall include all A.I.D. Geographic Code 941 countries whenever A.I.D. has authorized procurement from A.I.D. Geographic Code 910.

(3) *Waiver provision*. AID/W may from time to time waive or modify the requirements of subparagraph (2) (ii) of this paragraph if in its view such action is necessary to achieve A.I.D.'s objective of conformity with normal industry practices.

(4) *Identification of principal geographic code numbers*. The A.I.D. Geographic Code Book sets forth the official description of all geographic codes used by A.I.D. in authorizing or implementing documents to designate authorized source countries or areas. The following are summaries of the principal codes:

Code 000—The States of the United States, the District of Columbia, areas of U.S.-associated sovereignty (including trust territories), and the Ryukyu Islands under U.S. control.

Code 940—"The Americas": The United States and areas of U.S.-sovereignty (excluding the Ryukyu Islands) and all independent countries in the Americas south of the United States, except the cooperating country itself and Cuba.

Code 901—"Limited Free World": Any area or country in the Free World, excluding the cooperating country itself and the following developed countries: Australia, Austria, Belgium, Canada, Denmark, France, Germany (Fed. Rep.), Italy, Japan, Luxembourg, Monaco, Netherlands, New Zealand, Norway, South Africa, Spain, Sweden, Switzerland, and the United Kingdom.

Code 899—"Free World": Any area or country excluding the cooperating country itself and the following countries: Albania, Bulgaria, China (Mainland) and other Chinese Communist-controlled Areas, Cuba, Czechoslovakia, Estonia, East Germany, Hungary, North Korea, Latvia, Lithuania, Outer Mongolia, Poland, Romania, North Vietnam, and the Union of Soviet Socialist Republics (USSR).

Code 935—"Special Free World": Any area or country in the Free World, including the cooperating country itself.

Code 941—"Selected Free World": Any independent country in the Free World, except Algeria, Andorra, Australia, Austria, Belgium, West Berlin, Canada, Cyprus,



Denmark, Finland, France, West Germany, Greece, Hong Kong, Iceland, Iraq, Ireland, Israel, Italy, Japan, Kuwait, Liechtenstein, Luxembourg, Malta, Monaco, Netherlands, New Zealand, Norway, Portugal, Southern Rhodesia, San Marino, Somali Republic, South Africa, Spain, Sudan, Syria, Sweden, Switzerland, United Arab Republic, United Kingdom, Vatican City, Yemen, Yugoslavia, and the cooperating country itself.

Code 910—"Selected Less Developed Countries": India, Morocco, Pakistan, the Philippines, Taiwan, South Korea, Singapore, and Tunisia. Code 000 shall also be included within this Code.

(c) *Date of shipping documents.* The documents required as evidence of shipment under § 201.52(a)(4) shall show that the date of shipment was within the shipping period, if any, specified in the implementing document.

(d) *Medium of transportation.* Shipment shall not be effected.

(1) By a transportation medium owned, operated or under the control of any country not included within A.I.D. Geographic Code 935; or

(2) On a vessel which A.I.D. has designated ineligible; or

(3) Under any ocean or air charter which has not received prior approval by AID/W.

(e) *Marine insurance.* If A.I.D. determines that the government of a cooperating country, by statute, decree, rule, or regulation, discriminates with respect to A.I.D.-financed procurement against any marine insurance company authorized to do business in any State of the United States, then any A.I.D.-financed commodity shipped to the cooperating country shall be insured against marine risks and such insurance shall be placed in the United States with a company or companies authorized to do a marine insurance business in a State of the United States. "Discrimination" within the meaning of this paragraph may be found to exist whenever the effect of governmental action by a cooperating country is to hinder an importer in entering into a c.i.f. contract with a U.S. supplier or in instructing a U.S. supplier to place marine insurance in the United States.

(f) *Timely submission of documents.* All documents required under § 201.52 to be submitted by a supplier in order to receive payment or reimbursement shall be submitted to A.I.D. or to a designated bank, whichever is appropriate, on or before the terminal date specified in the letter of commitment, the request for the opening of a special letter of credit, or other implementing document.

(g) *U.S. Treasury Department regulations.* Procurement transactions shall comply with the requirements of the Foreign Assets Control Regulation and Cuban Assets Control Regulation of the U.S. Treasury Department.

(h) *Commodities shipped out of free port or bonded warehouse.* No commodity shipped out of a free port or bonded warehouse is eligible for A.I.D. financing if it was shipped to the free port or bonded warehouse without com-

pliance with the requirements set forth in paragraphs (d) (1) and (2) of this section or if it was shipped from the free port or bonded warehouse without compliance with the requirements set forth in paragraphs (d) (1), (2) and (3) of this section.

(i) *Purchase price.* The purchase price for the commodity shall satisfy the requirements of Subpart G.

(j) *Purchases from eligible suppliers.* Commodities procured with funds made available under this Part 201 shall be purchased from eligible suppliers. A supplier shall not be eligible to receive A.I.D. funds if:

(1) The supplier has been suspended or debarred by A.I.D. pursuant to A.I.D. Regulation 8, Part 208 of this chapter; or

(2) The supplier has been placed by A.I.D. on prior review and approval pursuant to § 201.33 of this part and A.I.D. has not, in fact, given its prior approval to the supplier for the furnishing of specific goods; or

(3) The Supplier is not an individual, resident in a country included in the authorized source code; a nonresident citizen of a country included in the authorized source code; a corporation or partnership organized under the laws of a country included in the authorized source code; or a controlled foreign corporation (within the meaning of section 957 et seq. of the Internal Revenue Code) as attested by current information on file with the Internal Revenue Service of the United States (on IRS Form 959, 2952, 3646, or on substitute or successor forms) submitted by shareholders of the corporation.

(k) *Determination of commodity eligibility.* The commodity shall be approved in writing by A.I.D. for each sale transaction as eligible for A.I.D. financing. Such approval shall be indicated on the Commodity Approval Application submitted to A.I.D. by the supplier.

#### § 201.12 Eligibility of incidental services.

Incidental services may be financed under the same implementing document which makes funds available for the procurement of equipment if

(a) The supplier does not procure such services with local currency in the cooperating country; and

(b) Such services are specified in the purchase contract relating to the equipment.

#### § 201.13 Eligibility of delivery services.

Delivery services will be financed by A.I.D. in the manner provided in this section.

(a) *General.* Delivery services which relate to A.I.D.-financed commodities may be financed under the implementing document which authorizes the purchase of the commodities or under a separate implementing document.

(b) *Conditions and limitations.*—(1) *Transportation costs.* Unless otherwise authorized, A.I.D. will not finance transportation costs

(i) For shipment beyond the point of entry in the cooperating country; or

(ii) On any aircraft or ocean vessel under flag registry of the cooperating country or of any country not included within the geographic code authorized by A.I.D. for the transaction, except when such cost is part of the total cost on a through bill of lading paid to a carrier under flag registry of a country included within the geographic code authorized by A.I.D. for the transaction; or

(iii) On any vessel designated by A.I.D. as ineligible to carry A.I.D.-financed cargo; or

(iv) On any liner vessel for which the rate applicable to the commodity shipped and applying to both A.I.D.-financed and non-A.I.D.-financed cargo has not been filed (a) with the Federal Maritime Commission for any voyages originating in the United States (whether or not such filing is required by the Federal Maritime Commission), or (b) with AID/W (Resources Transportation Division) for voyages originating outside the United States; or

(v) Under any ocean or air charter covering full or part cargo (whether for a single voyage, consecutive voyages, or a time period) which has not received prior approval by AID/W (Resources Transportation Division); or

(vi) Which are attributable to brokerage commissions which exceed the limitations specified in § 201.65(1) or to address commissions, dead freight, or demurrage.

(2) *Inspection services.* A.I.D. will finance inspection of A.I.D.-financed commodities if such inspection is performed by independent inspectors at the request of the importer and is either customary in export transactions for the commodity involved or is necessary to determine conformity of the commodities to the contract.

(3) *Insurance.* (i) Unless otherwise authorized, A.I.D. will finance premiums for marine insurance including war risk on A.I.D.-financed commodities only if

(a) The insurance is placed within a country included in the authorized geographic code: *Provided*, That if the authorized geographic source code is any other than A.I.D. Geographic Code, 000, 001, or 002, the cooperating country itself shall be recognized as an eligible source; and

(b) Such insurance is placed either in accordance with the terms of the commodity purchase contract or by, or on the written instructions of, the importer; and

(c) Insurance coverage relates only to the period during which the commodities are in transit to the cooperating country, except that it may include coverage under a so-called "warehouse-to-warehouse" clause; and

(d) The premiums do not exceed the limitations contained in § 201.68; and

(e) The insurance provides that loss payment proceeds shall be paid in U.S. dollars.

(ii) Within 15 days after payment of an amount exceeding \$6,000 in value by a supplier of marine insurance to the assured or to his assignee under any marine



insurance policy financed by A.I.D. pursuant to this part, the supplier of marine insurance notifies A.I.D., Office of the Controller, of the amount and date of the payment, a description of the commodity, the A.I.D. number, name of carrier, vessel, and voyage number (alternatively, flight or inland carrier run number), date of the bill of lading, the identity and address of the assured, and the identity and address of any assignee of the assured to whom payment has actually been made.

(iii) Within the meaning of § 201.11(e) as well as of this subparagraph, insurance is "placed" in a country only if payment of the insurance premium is made to, and the insurance policy is issued by, an insurance company office located in said country.

#### § 201.14 Eligibility of bid bonds and performance guaranties.

The cost of any bid bond posted by a successful bidder or of any guaranty of performance posted by a supplier is eligible for financing under the implementing document to the extent that the principal amount of the bond or guaranty does not exceed the amount customary in international trade for the type of transaction and commodity involved: *Provided*, That the bid bond and guarantee of performance must be payable in U.S. dollars and must conform to the requirements of the invitation for bids or the contract, as applicable.

#### § 201.15 U.S.-flag vessel shipping requirement.

(a) *General requirement.* At least 50 percent of the gross tonnage of all commodities financed with A.I.D. dollar funds and transported to the cooperating country on ocean vessels shall be transported on privately owned U.S.-flag commercial vessels. The foregoing requirement shall apply separately for any dry bulk carrier shipments, dry cargo liner shipments, and tanker shipments from each of the following geographical areas:

- (1) United States;
- (2) Europe and Africa;
- (3) Near East and South Asia;
- (4) Latin America and Canada; and
- (5) Far East.

(b) *Responsibility of borrower/grantee.* The borrower/grantee shall be responsible for assuring compliance with the requirements of paragraph (a) of this § 201.15 and for imposing upon sub-borrowers, contractors and importers such requirements regarding shipping arrangements with suppliers as will assure discharge of this responsibility. Such compliance shall be achieved during each U.S. fiscal year (July 1-June 30) as well as each quarterly period thereof, or during such other period or periods as may be specified by A.I.D. in agreements or implementing documents.

(c) *Nonavailability of U.S.-flag vessels.* Upon application of the borrower/grantee, AID/W (Resources Transportation Division) will determine and advise the borrower/grantee whether or not a privately owned U.S.-flag commercial

vessel is available for a specific shipment of commodities at fair and reasonable rates. Such determination and advice of nonavailability does not relieve the borrower/grantee of the obligation to comply with the requirements of paragraphs (a) and (b) of this section except to the extent that A.I.D. after reviewing shipments by the borrower/grantee during the fiscal year, quarterly period thereof, or other relevant time period, determines that such compliance has not been possible. Any such determination and advice will not in any way affect the eligibility for A.I.D. financing of transportation costs on foreign flag vessels.

(d) *Privately owned U.S.-flag commercial vessels.* For purposes of this section the term "privately owned U.S.-flag commercial vessels" shall not include any vessel which, subsequent to September 21, 1961, shall have been either built outside the United States, rebuilt outside the United States, or documented under any foreign registry until such vessel shall have been documented under the laws of the United States for a period of 3 years.

### Subpart C—Procurement Procedures—Responsibilities of Importers.

#### § 201.20 Purpose.

This subpart prescribes procurement procedures which shall apply to an importer whenever a commodity procurement is to be financed by A.I.D.

#### § 201.21 Notice to supplier.

The importer is responsible for providing the supplier with the following information (either through the invitation for bids or otherwise):

- (a) Notice that the transaction is to be financed by A.I.D. under this Part 201;
- (b) The identification number of the implementing document; and
- (c) All additional information prerequisite to A.I.D. financing and contained in the instructions from the borrower/grantee to the importer (for example, eligible source of commodity, periods during which deliveries must be made, shipping provisions, and documentation requirements).

#### § 201.22 Formal competitive bid procedures.

If the implementing document requires, or if the importer elects procurement through formal competitive bid procedures, the following minimum requirements shall apply:

(a) *Contents of the invitation for bids.* Every invitation for bids and every attachment or amendment to an invitation shall be in the English language. The invitation shall contain the following:

(1) *Statement of requirements.* The invitation shall state specifically that formal competitive bid procedures apply. The terms and conditions which apply to the procurement shall be clearly indicated, including any factors other than price to be used in evaluation. Commodity specifications shall be stated in terms of U.S. standards, in a nonrestrictive

manner, and in sufficient detail to permit maximum response from prospective suppliers.

(2) *Statement regarding submission of bids.* Invitations for bids shall state the applicable invitation number, the address to which bids are to be sent, the closing hour and date for submission and the date, hour, and place for public opening of bids. If additional drawings, details, or regulations or forms are necessary for bidding, the invitation shall state where such material may be obtained.

(3) *Statement regarding this Part 201.* Invitations for bids shall expressly indicate the extent to which any resulting contract is subject to the requirements of this Part 201.

(4) *Statement regarding late bids.* The invitation for bids shall state that no bid received at the address designated in the invitation after closing hour and date for submission will be considered for award unless its late arrival at that address is attributable to mishandling of the bid documents by the purchaser or any of his agents directly associated with receiving or processing bids. In no case will the purchaser consider a bid which was not received at the place of public opening before the award was made.

(b) *Advertising the invitation for bids.* The invitation for bids shall be advertised in the manner described in § 201.24(a)(1).

(c) *Handling bids.* Bids received shall be held intact and sealed and shall be safeguarded against disclosure of contents prior to bid opening. The bids shall be opened publicly as specified in the bid invitation, and all properly submitted bids shall be considered. Direct submission of a bid by a prospective supplier, rather than through an agent or other representative of the supplier in the cooperating country, shall not be cause for rejection.

(d) *Awards.* Every award shall be made to that responsible bidder whose bid, conforming to the invitation for bids, is lowest in price, unless another bid is demonstrably more advantageous to the importer because of any factor (other than price) set forth in the invitation for bids as a factor to be considered in the evaluation of bids.

(e) *Submission of award information to A.I.D.* The importer shall complete Form A.I.D. 11-83 "Abstract of Bids", identifying thereon the successful bidder, and noting any two or more identical bids or any evidence of suspected collusion. If the lowest bid has not been accepted, the importer shall justify the award and shall append to the Abstract a statement of reasons for rejecting all lower bids. The Abstract and any justification statement shall be sent in triplicate to the Office of the Controller, A.I.D., Washington, D.C. 20523, to arrive within 20 days after the award of the contract.

#### § 201.23 Other procurement procedures.

(a) *General requirements.* In the absence of a clear statement concerning



the applicability of formal competitive bid procedures, a solicitation by an importer requesting an offer or quotation from a supplier to furnish commodities shall be understood as a representation to accomplish the procurement pursuant to negotiated arrangements. Procurement on a negotiated basis shall accord with good commercial practice. Specifications shall be expressed in terms of U.S. standards and shall be in the English language. All solicitations of quotations and offers shall be made uniformly to a reasonable number of prospective suppliers.

(b) *Notification as adequate solicitation.* If the notification requirements of § 201.24(a)(2) apply, such notification shall be deemed an adequate solicitation of quotations and offers, and all supplementary solicitations shall be consistent with such notification.

(c) *Notice of quotations and offers received.* A.I.D. may require that an importer furnish an abstract in the English language and identify thereon all offers or quotations received, the offer accepted or order placed, the price, the quantity, the name and address of all persons submitting offers or quotations and of their principals, if any (including manufacturers or processors of the commodity).

#### § 201.24 Solicitation of bids and quotations.

(a) *Notification requirements.* Except as paragraph (b) or (c) of this section may apply, the importer shall comply with the minimum notification requirements set forth in this paragraph (a). He may take such additional steps to notify prospective suppliers as are consistent with prudent procurement.

(1) *Under formal competitive bid procedures.* Invitations for bids must be advertised in the following manner:

(i) *Submission to A.I.D.* Three copies of the invitation for bids must be sent to the Office of Small Business, A.I.D., Washington, D.C. 20523, and 50 copies of the invitation shall be sent to a place in the United States designated by the borrower/grantee and agreed to by A.I.D. Invitations must be available to prospective suppliers free of charge, unless otherwise authorized by the Office of Small Business, AID/W. All copies must be accompanied by a complete set of any additional drawings, details, applicable Government regulations, and other pertinent data necessary to the preparation of bids, or make reference to such additional documents as are readily available to the public or are available for public inspection.

(ii) *Time of submission.* Copies of the invitation for bids must be furnished sufficiently in advance of the bid-closing date to permit adequate preparation of bids. Unless a longer period is prescribed by the Office of Small Business, AID/W, or upon application of the importer a lesser period is authorized by such Office, the required copies shall be sent so as to arrive in the Office of Small Business, AID/W, at least 45 days in advance of the bid-closing date.

(2) *Under other procurement procedures.* In procurement other than by

formal competitive bids, the solicitation of quotations and offers must include the following: The importer shall submit, in triplicate, to the Office of Small Business, A.I.D., Washington, D.C. 20523, a notice of proposed procurement, which shall include commodity specifications in terms of U.S. standards, and other procurement data, in the English language and in the format set out in "Instructions for Notice of Proposed Procurement" (Appendix B to this Part 201). No importer, importer's agent or representative, or anyone acting in his behalf, shall accept any offer or place any order or agree to accept any offer or place any order until 45 days after the expected arrival of such form at the Office of Small Business, AID/W, in the course of mail. The Office of Small Business may require a longer period or, upon application of the importer, authorize a lesser period.

(3) *Resubmission of notifications to A.I.D.* A.I.D. may require the revision and resubmission to A.I.D. of any invitation for bids which does not comply with the requirements of § 201.22(a) or of subparagraph (1) of this paragraph or of any notice of proposed procurement which does not comply with the requirements of subparagraph (2) of this paragraph. In such cases the importer shall effect changes necessary to assure compliance with the applicable requirements. The bid-closing date or the date before which an order may not be placed or accepted will be extended as A.I.D. (Office of Small Business) may instruct. A.I.D. (Office of Small Business) may, when it determines it necessary, return to the importer for revision or resubmission the invitation for bids or the notice of proposed procurement. In such cases the revised invitation or notice must be resubmitted in accordance with all the requirements of this paragraph for original submission to A.I.D.

(b) *Exemption for small value procurement.* Any commodity procurement undertaken by an importer under a single import license or other authority where the estimated landed cost of all purchases made by him under a single Schedule B subsection (2 digits) is less than \$5,000 is exempted from the notification requirements of paragraph (a) of this section. This exemption does not apply to procurement undertaken in amounts of less than \$5,000 for the purpose, or with the effect, of evading the requirements of paragraph (a) of this section.

(c) *Waiver provisions.* A.I.D. may waive any notification requirement in the following situations:

(1) *Procurement under certain special supplier-importer relationships.* (i) A supplier may apply for a waiver for the benefit of a named importer if

(a) The procurement concerns a registered brand name commodity

(1) Which is for resale by the importer;

(2) For which the importer is a regularly authorized distributor or dealer of the supplier; and

(3) For which the supplier is the sole distributor; or

(b) The procurement concerns a commodity

(1) Which is for resale by the importer;

(2) For which the importer is a regularly authorized distributor or dealer of the supplier; and

(3) For which the supplier is the manufacturer or the manufacturer's regularly authorized exporter for the destination involved; or

(c) The procurement concerns a commodity

(1) Which is procured for manufacture, processing or assembly, and resale of the end-product by the importer;

(2) For which the importer is a regularly authorized distributor or dealer of the supplier; and

(3) For which the supplier is the manufacturer or the manufacturer's regularly authorized exporter for the destination involved; or

(d) The commodity is procured under such other commercial relationship which appears to A.I.D. to merit a waiver from the notification requirements.

(i) Applications for waiver shall be sent by the supplier to the Office of Small Business, A.I.D., Washington, D.C. 20523, and shall include the following:

(a) The name and address of the importer who serves as the authorized distributor or dealer;

(b) The specific commodities covered by the supplier-importer agreement;

(c) Certification concerning the nature and duration of the commercial relationship between the supplier and the importer, supported by a copy or abstract of the pertinent provisions of any underlying written agreement between the supplier and the importer; and

(d) If the supplier is not the manufacturer of the commodity, a statement containing the pertinent provisions of any underlying agreement between the supplier and the manufacturer.

(iii) The waiver, if granted, will be forwarded in duplicate to the supplier. The supplier is responsible for forwarding one copy of the waiver to the importer and for advising the Office of Small Business, AID/W, of any change in his agreement with the importer which may affect the waiver granted by A.I.D.

(2) *Proprietary procurement.* (i) Procurement where A.I.D. has determined that, in order to assure the interchangeability or standardization of equipment, or because of special design requirements, or for any similar reason, purchase of a commodity by reference to a particular specification, trade name, or designation is necessary.

(ii) Application for waivers shall be made in writing to A.I.D. by the importer and shall include supporting justification together with the recommendations of the borrower/grantee. In the absence of other instructions, such applications shall be submitted to the US AID for transmittal to AID/W. Notice of approval or rejection of any such application of a waiver will normally be transmitted to the importer through the US AID.



(3) *Emergency procurement.* (i) Commodity procurement necessary to avoid a serious delay in project completion or in a plant's production, or to avoid a substantial increase in the cost thereof, if the procurement cannot be effected within the time limitations prescribed by paragraph (a) of this section for notification procedures.

(ii) A request for an emergency procurement waiver shall be made by the importer to the US AID. The request shall state the facts justifying such emergency procurement and shall bear the endorsement of the borrower/grantee. Emergency procurement requires the prior written approval of the US AID.

(4) *Special situations.* (i) Procurement in special situations, if AID/W has determined that it would be impracticable or inconsistent with the purposes of the Act to require adherence to the notification procedures prescribed in paragraph (a) of this section.

(ii) A request for a special situation waiver shall be made by the importer to the US AID. The request shall justify the procurement and shall bear the endorsement of the borrower/grantee. In the absence of other instructions, the US AID shall transmit the request to AID/W for decision.

**§ 201.25 Advance and progress payments for custom-made commodities.**

(a) Advance or progress payments prior to shipment may be made with A.I.D. funds if the procurement involves any commodity made to the special specifications of the importer and if prior written approval to make such payments has been obtained from A.I.D. by the importer, through the borrower/grantee, or if such payments are authorized in the implementing document. Any request for A.I.D. approval may be submitted either to AID/W or to the US AID for transmittal to AID/W. A.I.D. will consider any such request only if

(1) The total purchase price exceeds \$100,000;

(2) Each payment is at least 10 percent of such price; and

(3) The total of all payments prior to shipment does not exceed 80 percent of the purchase price.

(b) A.I.D. may require the supplier to post in A.I.D.'s favor either a guaranty of performance or a prepayment bond equal to the amount of the contract. A.I.D. may impose such further conditions as it deems appropriate.

**§ 201.26 Bid bonds and performance guaranties.**

Whenever the importer requires the posting of a bid bond or performance guaranty, the type of bond or guaranty (certified check, irrevocable letter of credit, bank bond, bank guaranty, or surety bond,) shall be at the option of the bidder or supplier. Posted bid bonds shall be returned to unsuccessful bidders promptly after an award is made. Unless converted to a required guaranty of performance, any bid bond posted by the successful bidder shall also be returned promptly. Performance guaranties (as

distinguished from commodity warranties of quality or performance) shall be canceled no later than 30 days after completion of the contract performance guaranteed.

**§ 201.27 Expenditure of marine insurance loss payments.**

If the importer receives directly or indirectly any marine insurance loss payment under a marine insurance policy financed pursuant to this part, the importer shall use such loss proceeds to procure from a source specified in the implementing document which originally provided the A.I.D. funds commodities which have not been designated by A.I.D. to the borrower/grantee as ineligible for A.I.D. financing.

**Subpart D—Responsibilities of Suppliers**

**§ 201.30 Purpose.**

This subpart establishes the responsibilities of suppliers who furnish commodities and/or commodity-related services. The subpart also establishes procedures for prior review by A.I.D. of relevant contract data.

**§ 201.31 Suppliers of commodities.**

(a) *Performance of the sales contract.* The supplier of commodities shall comply with the terms and conditions of his contract with the importer and of any letter of credit under which he secures payment.

(b) *Responsibilities relating to eligibility of commodities.* The supplier shall fulfill his responsibilities under § 201.11 by assuring that

(1) The commodity conforms to the description contained in his contract and letter of credit and, unless otherwise authorized by A.I.D. in writing, the commodity is unused and has not been disposed of as surplus by any governmental agency;

(2) The source of the commodity complies with the provisions of § 201.11(b), relating to source as required by his contract or letter of credit;

(3) The provisions of § 201.11(d) relating to the medium of transportation are complied with to the extent that the supplier arranges such transportation;

(4) All documents required by § 201.52 to be submitted by the supplier to receive payment are submitted by him on or before the terminal date specified in the letter of credit, or, if there is no letter of credit, in his contract;

(5) The provisions of the U.S. Treasury Department Foreign Assets Control Regulation and Cuban Assets Control Regulation are complied with; and

(6) The purchase price of the commodity meets the requirements of Subpart G applicable to the supplier.

(c) *Responsibilities relating to eligibility of delivery services.* The supplier of commodities shall be responsible for assuring that any delivery services obtained by him for his own or for the importer's account comply with the requirements (other than those relating to freight rates) of § 201.13 and, if required by A.I.D., for assuring that any

shipping documents obtained by him contain an appropriate diversion clause pursuant to § 201.43. The supplier shall deliver to A.I.D. any shipping documents available to him whenever such delivery is requested by A.I.D.

(d) *Commodity marking—(1) Affixation of emblem and identification number.* The supplier shall be responsible for assuring that all commodities and their shipping containers, whether shipped from the United States or from any other source country, carry the official A.I.D. (clasped hands) emblem and, in addition, in the case of commodities furnished to countries participating in the Alliance for Progress, the Alliance for Progress (flaming torch) emblem. Emblems shall be affixed by metal plate, decalcomania, stencil, label, tag, or other means, depending upon the type of commodity or shipping container and the nature of the surface to be marked. The emblem placed on the commodities shall be as durable as the trademark, company or brand name affixed by the producer; the emblem on each shipping container shall be affixed in a manner which assures that the emblem will remain legible until the container reaches the consignee. Upon each shipping container the last set of digits of the identification number of the pertinent implementing document shall be marked in characters at least equal in height to the shipper's marks.

(i) *Size of emblems.* The size of an emblem may vary depending upon the size of the commodity and the size of the package or shipping container. The emblem shall in every case be large enough to be clearly visible at a reasonable distance.

(ii) *Design and color of emblems.* Emblems shall conform in design and color to samples available from AID/W (Office of Small Business) and from the US AID.

(2) *Exception to requirement for affixation of emblems.* To the extent compliance is impracticable, affixation shall not be required for

(i) Raw materials shipped in bulk (including grain, coal, petroleum, oil, and lubricants);

(ii) Vegetable fibers packaged in bales; and

(iii) Semifinished products which are not packaged in any way.

(3) *Waiver.* If compliance with the marking requirement is found to be impracticable with respect to other commodities not excepted by subparagraph (2) of this paragraph (d), the supplier (or, when appropriate, the borrower/grantee) may request AID/W (Office of Small Business) for a waiver.

(4) *Display of emblems on ships.* The official A.I.D. (clasped hands) emblem, and, in addition, in the case of shipments to countries participating in the Alliance for Progress, the Alliance for Progress (flaming torch) emblem shall be prominently displayed on all ships during loading and unloading when their cargoes consist entirely of A.I.D.-financed goods. Ship charterers shall insert in charter party agreements instructions



relating to the display of A.I.D. emblems.

(e) *Export licenses.* The supplier shall assure that all necessary export licenses are obtained.

(f) *Airmail distribution of shipping documents.* In addition to customary commercial document distribution the supplier shall, at the time of loading the commodities or as soon as practicable thereafter, airmail one set of the following documents to the Controller, US AID, c/o American Embassy in the capital city of the cooperating country to which shipment is being made, or to such other address as is designated to him: a nonnegotiable copy of the ocean or charter party bill of lading or other shipping document, supplier's invoice, and packing list. The supplier shall indicate on each such document the number of the applicable implementing document, if known to the supplier.

(g) *Adjustment refunds, credits, and allowances.* All adjustments in the purchase price in an A.I.D.-financed transaction in favor of the importer arising out of the terms of the contract or the customs of the trade shall be made by the supplier in the form of a dollar payment to A.I.D. Any such payment shall be transmitted to the Office of the Controller, A.I.D., Washington, D.C., and shall be accompanied by a statement explaining the adjustment and shall specify the name and address of the importer, the date and amount of the original invoice, and the identification number of the implementing document, if known, under which the original transaction was financed. A.I.D. will advise the borrower/grantee of such adjustment refunds received. Despatch earned by the supplier, other than despatch earned at the port of loading on c.i.f. and c. & f. shipments, shall be refunded to A.I.D. in accordance with the provision of § 201.67(a) (5).

(h) *Vesting in A.I.D. of title to commodities.* The supplier shall be responsible for compliance with the provisions of § 201.44 applicable to him.

(i) *Termination or modification of A.I.D. financing.* The supplier shall be responsible for compliance with the provisions of § 201.45 applicable to him.

#### § 201.32 Suppliers of delivery services.

(a) *Performance of the service contract.* The supplier of delivery services financed by A.I.D. shall comply with the terms and conditions of his contract to supply delivery services.

(b) *Emblems.* A supplier of ocean transportation services shall assure that the A.I.D. emblem and, where applicable, the Alliance for Progress emblem are prominently displayed, during loading and unloading, on any ship whose cargo consists entirely of A.I.D.-financed commodities.

(c) *Adjustments in the price of delivery services.* The supplier of delivery services shall pay to the Controller, A.I.D., Washington, D.C. 20523, all adjustments in the purchase price in favor of the importer (or person purchasing the ocean transportation services) arising out of the terms of the contract or

the customs of the trade. Any such payment shall be accompanied by a statement explaining the adjustment and shall specify the name and address of the importer or other person for whom the adjustment is made, the date and amount of the original invoice, and the identification number of the implementing document, if known, under which the original transaction was financed.

(d) *Marine insurance reporting requirement.* With respect to any loss payment exceeding \$6,000 in value which a supplier of marine insurance makes under a marine insurance policy financed pursuant to this part, the supplier of marine insurance shall, within 15 days of making such payment, report to AID/W, Office of the Controller, the amount and date of the payment, a description of the commodity, the A.I.D. identification number, name of the carrier, vessel, and voyage number (alternatively, flight or inland carrier run number), date of the bill of lading, the identity and address of the assured, and the identity and address of any assignee of the assured to whom payment has actually been made.

#### § 201.33 Prior review of proposed sales.

A.I.D. may require that a supplier submit to A.I.D. for prior review any proposed sale of commodities or of commodity-related services which is to be financed by A.I.D. Upon being notified by A.I.D. that such prior review will be required, the supplier shall submit to A.I.D. for review all proposed transactions of the type covered by the notification in accordance with instructions contained therein. The supplier shall also provide any further information, documentation, or certification which A.I.D. may specify after review of a proposed transaction. A.I.D. will notify the supplier of any special documents or certifications which the supplier must submit in order to obtain payment under such transactions and will forward to the banks appropriate amendments to letters of commitment or to requests for the opening of a special letter of credit.

#### Subpart E—General Provisions Relating to A.I.D. Financing of Commodities and Commodity-Related Services

##### § 201.40 Purpose.

This subpart sets forth certain provisions of general application to transactions subject to this part.

##### § 201.41 Audit and inspection.

The borrower/grantee shall maintain records adequate to document the arrival and disposition in the cooperating country of all commodities financed by A.I.D. and to identify the importer (or the first purchaser or transferee if the commodity is imported by the borrower/grantee) for a period of 5 years following the date of payment or reimbursement by A.I.D. or for such other period as A.I.D. and the borrower/grantee agree. In addition, the borrower/grantee or the importer shall, to the extent either exer-

cises control or custody over the commodities, permit A.I.D. or any of its authorized representatives at all reasonable times during the 5-year or other agreed period to inspect the commodities at any point, including the point of use and to inspect all records and documents pertaining to such commodities.

##### § 201.42 Reexport of A.I.D.-financed commodities.

Unless specifically authorized by A.I.D., commodities imported into a cooperating country under A.I.D. financing may not be exported in the same or substantially in the same form from the cooperating country. In the event of any unauthorized reexport, the borrower/grantee shall pay promptly to A.I.D., upon demand, the entire amount reimbursed or such lesser or greater amount as A.I.D. may deem appropriate under the circumstances of the particular transaction. Such an amount shall in no event, however, exceed the greater of either the amount reimbursed or the amount realized from the reexport.

##### § 201.43 Diversion clause.

A.I.D. may require that charter parties, bills of lading, or other ocean shipping documents covering A.I.D.-financed commodities contain a clause substantially as follows:

A.I.D. may at any time prior to unloading prescribe a different port of discharge from among the ports covered by the applicable conference tariff. Diversion charges shall apply in accordance with the tariff. Deviation insurance and extra handling costs actually incurred shall be reimbursed.

##### § 201.44 Vesting in A.I.D. of title to commodities.

(a) *Vesting upon order of A.I.D.* A.I.D. may direct that title to A.I.D.-financed commodities in transit to a cooperating country shall be vested in A.I.D. if in the opinion of A.I.D. such action is necessary to assure compliance with the provisions or purposes of any act of Congress.

(1) *Rights of A.I.D. upon vesting of title.* In accordance with instructions by A.I.D., the borrower/grantee, supplier, and bank shall transfer such negotiable bills of lading, suppliers' invoices, packing lists, inspection certificates or other designated documents relating to the commodities as are in, or may come into, their possession.

(2) *Diversion of commodities.* A.I.D. may direct the master or operator of a vessel or an inland carrier carrying the commodities to divert them away from the port or other destination specified in the shipping documents and to deliver them at such other destination as A.I.D. may designate.

(b) *Financial responsibility of A.I.D. under vesting order.* (1) A.I.D. will reimburse a supplier who has not already received payment under the sales contract for all commodities with respect to which A.I.D. has taken title under a vesting order.

(2) A.I.D. will assume the responsibility for any extra costs (including the costs of marine insurance and handling)



which are incurred as a result of a diversion. With respect to liner shipments, such costs shall not exceed diversion charges as per tariff, and shall include only those deviation insurance and extra handling costs which are actually incurred.

(3) A.I.D. shall incur no liability to the borrower/grantee, the importer, or to the approved applicant by reason of any order which vests in A.I.D. title to commodities, or by reason of any request for the diversion of commodities.

**§ 201.45 Termination or modification of a loan, grant or implementing document.**

(a) *Effect of termination or modification.* (1) Except as provided in subparagraph (2) of this paragraph, the availability of A.I.D. funds to finance the procurement of commodities and commodity-related services shall terminate or shall be modified, whenever and to the same extent that the implementing document, letter of commitment or special letter of credit which relates to such delivery is terminated or modified by operation of provisions contained in the document or by the exercise of rights otherwise reserved to A.I.D.

(2) Unless the supplier and A.I.D. agree otherwise, to the extent that the supplier has received an irrevocable letter of credit from a bank under an A.I.D. letter of commitment, the purchase contract shall be affected only to the extent necessary to comply with any vesting order issued by A.I.D. in accordance with § 201.44.

(b) *Responsibilities of parties after termination or modification of A.I.D. financing.* Upon termination or modification of A.I.D. financing of commodities or commodity-related services, the supplier, importer and approved applicant shall make such arrangements as are necessary to obtain the cancellation or modification of any letter of credit in favor of the supplier.

**§ 201.46 Compensation to supplier if shipment is prohibited.**

(a) *Payment to supplier.* A.I.D. shall make appropriate payment to a supplier for the value of A.I.D.-financed commodities available for immediate shipment from the United States if all the following conditions are satisfied:

(1) Shipment is prohibited by order of the U.S. Government and such order has general application to all shipments to the cooperating country.

(2) Payment may not be made by the bank under the terms of the letter of credit or payment instructions.

(3) The supplier is unable to dispose of the commodities without loss.

(4) The supplier tenders to A.I.D. a negotiable warehouse receipt covering the commodities in question and presents to A.I.D. such other documentation required by § 201.52 as may be appropriate under the circumstances.

(b) *Other settlement.* In lieu of accepting title to the commodities, A.I.D. may negotiate with the supplier such

other settlement as may be fair and equitable under the circumstances.

**§ 201.47 Use of marine insurance loss proceeds.**

The borrower/grantee shall pay promptly to A.I.D. a sum equal to the proceeds received by an importer or his assignee in settlement of a marine insurance claim under a marine insurance policy financed pursuant to this part if such proceeds are not expended in the manner provided by § 201.27 within a reasonable period after receipt by the importer.

**Subpart F—Payment and Reimbursement**

**§ 201.50 Purpose.**

This subpart describes:

(a) The methods by which A.I.D. will make payment or reimbursement for commodities and commodity-related services which have been furnished;

(b) The documentation required to be submitted to A.I.D. for the purpose of obtaining such payment or reimbursement; and

(c) The terminal date for presentation of documents which A.I.D. requires as a condition for reimbursement.

**§ 201.51 Methods of financing.**

In procurement subject to this Part 201 the following methods of financing may be employed by A.I.D. In each case, the method of financing shall be consistent with provisions in the pertinent implementing documents.

(a) *Direct reimbursement.* Upon presentation to A.I.D. of the documents specified in § 201.52, a borrower/grantee will be reimbursed for the cost of commodities and commodity-related services procured by the borrower/grantee directly or procured by other importers with the authorization of the borrower/grantee, if such commodities or services are eligible under the implementing document and under this Part 201 for A.I.D. financing.

(b) *Letter of commitment to a bank.* At the request of the borrower/grantee, A.I.D. will issue a letter of commitment to a bank for a specified amount in dollars. Reimbursement to a bank will be in accordance with the terms of such letter of commitment for sight payments made for the account of an approved applicant. Any such payment by a bank made in anticipation of a letter of commitment and falling within the scope of payments authorized by such letter when issued will be deemed to be a payment to be reimbursed by A.I.D. thereunder.

(1) *Requests for letters of commitment.* Requests for the issuance of letters of commitment shall be in the English language and shall be submitted to A.I.D. by the borrower/grantee in duplicate. They shall contain the following:

(i) Identification of the implementing document;

(ii) The dollar amount of the letter of commitment;

(iii) The name and address of the bank to which the letter of commitment is to be issued;

(iv) The name and address of the approved applicant;

(v) The expiration date to be stated in the letter of commitment, which shall be not later than the final date specified in the implementing document for submission of documentation to the bank as a basis for disbursement against the letter of commitment, except that, if a terminal shipping date is provided in the implementing document, the expiration date shall be the last day of the month following the month in which the terminal shipping date occurs; and

(vi) Identification of the items to be financed under the letter of commitment (including Schedule B identification).

(2) *Approved applicant's request to bank—(i) Form and effect of request.* An approved applicant may apply to the bank holding a letter of commitment for the issuance, confirmation, or advice of a commercial letter of credit for the benefit of a supplier, or may instruct the bank to make payments at sight to such supplier, or may instruct the bank to make payments at sight to or for the account of the borrower/grantee

(ii) *Borrower/grantee assignment under letter of commitment.* The borrower/grantee's request to A.I.D. for a letter of commitment shall be deemed notification to A.I.D. of assignment of any rights to receive reimbursement for the specified funds under the related implementing document. A.I.D. by issuance of the letter of commitment shall be deemed to have consented to such assignment. Any such assignment or consent shall inure to the benefit of the bank's legal successors and assignees.

(iii) *Requirements imposed by bank.* The borrower/grantee and the approved applicant shall be deemed to have consented to imposition by the bank upon the beneficiary of any letter of credit or payment instruction of such requirements as the bank deems necessary in order to comply with its applicable obligations to A.I.D. Such consent shall be deemed an express condition incorporated in any request of the approved applicant under subparagraph (2)(i) of this paragraph.

(3) *Reimbursement of bank.* Upon presentation to A.I.D. of the documents described in § 201.52, A.I.D. will reimburse the bank for any amounts paid by it in dollars to or on behalf of the approved applicant pursuant to a letter of commitment, subject, however, to compliance by the bank with the requirements of Subpart H. Such documents in the normal course should be presented to A.I.D. promptly. Bank charges will be eligible for reimbursement if authorized in the letter of commitment. Reimbursement will be made by check within 30 days.

(c) *Special letter of credit.* Upon application of the borrower/grantee, A.I.D. may request a bank to open a special letter of credit, revocable or irrevocable, for a designated beneficiary.



(1) *Financing instructions.* The beneficiary of the special letter of credit may instruct the bank to issue subsidiary letters of credit, or to make payments at sight, to designated parties or may claim reimbursement from the bank for payments which it has made to suppliers upon submission to the bank of the documents required under § 201.52. When issuing subsidiary letters of credit to parties designated by the beneficiary of the special letter of credit, the bank will instruct such parties to make reference in their documents to the A.I.D. reference number indicated in the A.I.D. request for the opening of a special letter of credit.

(2) *Reimbursement of bank.* Upon presentation to A.I.D. of the documents described in § 201.52, A.I.D. will reimburse the bank for any amounts paid by it in dollars pursuant to the letter of credit, subject, however, to compliance by the bank with the requirements of Subpart H. Such documents in the normal course should be presented to A.I.D. promptly. Bank charges will be eligible for reimbursement if authorized in the A.I.D. request for the opening of a special letter of credit. Reimbursement will be made by check within 30 days.

(3) *Availability of documents.* The bank shall make available to A.I.D., upon request, a copy of each subsidiary letter of credit issued; a copy of each payment instruction or request; and a copy of each document in its possession received by it against payment.

(d) *Bank charges under letter of commitment or special letter of credit.* (1) To claim reimbursement for commissions, transfers or other charges, not including interest on advances, the bank shall submit Voucher SF 1034 and shall attach thereto a copy of the payment advice which identifies the costs being billed.

(2) To claim reimbursement for interest on advances, the bank shall claim reimbursement on Voucher SF 1034, attaching thereto

(i) The monthly statement of advance account established under the letter of commitment or special letter of credit, in duplicate, showing

(a) The opening balance;

(b) The date and amount of such charge attributable to the letter of commitment or special letter of credit, indicating the number of the letter of commitment or special letter of credit, subsidiary letter of credit, or payment instruction or request under which the charge was made;

(c) The date and amount of each A.I.D. reimbursement to the bank, indicating either the A.I.D. bureau voucher number or the number of the letter of commitment or special letter of credit, subsidiary letter of credit, or payment instruction or request under which the payment was made; and

(d) The closing balance;

(ii) The bank's monthly advice of charge, in duplicate, showing

(a) The outstanding balance in the advance account on each day of the period covered; and

(b) The amount of interest charged during the period.

(3) *Certification.* Each claim for reimbursement shall have endorsed thereon or attached thereto a certification by an authorized representative of the bank that the charges for which payment is being claimed are in accordance with the schedule of charges agreed on between the bank and the approved applicant or beneficiary.

(4) *Report.* The bank shall render a report as of the end of each calendar month to AID/W (Office of the Controller) and to the approved applicant or beneficiary. The report shall contain the following information based upon actual paid invoices and paid bank charges:

(i) The balance as of the end of the previous reporting period;

(ii) Increases or decreases during the current reporting period in the authorized amount of the letter of commitment or special letter of credit;

(iii) Total payments made during the current reporting period; and

(iv) The balance as of the close of the current reporting period.

(e) *Letter of commitment to a supplier.* At the request of a borrower/grantee, A.I.D. may issue a letter of commitment to a supplier assuring payment by A.I.D. of specified amounts to cover the cost of commodities and commodity-related services. The letter of commitment to a supplier will identify the sales contract to which it relates and the implementing document under which it is issued.

#### § 201.52 Required documents.

(a) *Commodities and commodity-related services.* Claims for reimbursement or payment with respect to commodities and commodity-related services shall be supported by the documents listed in subparagraphs (1) through (8) of this paragraph or by such other documents as may be required in the implementing document, letter of commitment, or request for the opening of a special letter of credit. Each document shall indicate the identification number of the applicable implementing document, letter of commitment, or request for the opening of a special letter of credit.

(1) *Voucher.* Voucher SF 1034 with three copies, to be prepared by the borrower/grantee, by the approved applicant, or by the bank as assignee or agent for the approved applicant.

(2) *Supplier's invoice.* (i) One copy of the supplier's detailed invoice showing the following:

(a) The name and address of the importer;

(b) The quantity and the description of each item shipped, in sufficient detail for ready identification;

(c) The total gross sales price;

(d) The total net sales price (determined by deducting from the total gross sales price the amounts required to be deducted under § 201.65(g));

(e) The sales price for each item net of all trade discounts to which the importer is entitled;

(f) The delivery terms (e.g., f.o.b., f.a.s., c.i.f., and c. & f.);

(g) The dollar amount of any incidental services which are not included in the price of the commodity and for which reimbursement is claimed;

(h) The dollar amount of all delivery services obtained by the supplier of the commodity for the importer's account which are not included in the price of the commodity and for which reimbursement is claimed;

(i) To the extent that the commodity price includes transportation cost as defined in § 201.61(c) or other commodity-related services, a description of such services and the dollar amounts attributable to such services; and

(j) Unless a Supplier's Certificate covering marine insurance is submitted, the name and address of the supplier of such insurance and the dollar cost thereof.

(ii) Each invoice shall be marked "PAID" by the supplier, or alternatively, the bank may certify by an endorsement on or attachment to the invoice that payment has been made in the amount shown on the invoice.

(3) *Charter party.* A copy (or photostat) of any charter party under which shipment is made, submitted (i) by the commodity supplier whenever A.I.D. finances any portion of the dollar price of a commodity sale under c.&f. or c.i.f. delivery terms, or (ii) by the supplier of ocean transportation whenever A.I.D. finances the freight under any freight reimbursement arrangement. If shipment is made under a consecutive voyage or time charter and the person or organization seeking reimbursement or payment has previously submitted to A.I.D. a copy (or photostat) of said charter party in support of a prior claim for reimbursement or payment, such person or organization may, in lieu of further submission of the charter party, certify to the fact of prior submission.

(4) *Evidence of shipment.* (i) A copy (or photostat) of the bill of lading (ocean, charter party, airway, railway, barge, or truck) or parcel post receipt evidencing shipment from the point of export in the source country or a free port or bonded warehouse. The bill of lading shall indicate the carrier's complete statement of charges including all relevant weights, cubic measurements, rates and additional charges, whether or not freight is financed by A.I.D. Any bills of lading submitted for reimbursement of ocean freight on shipments from other than U.S. ports shall bear the following manually signed carrier's certification:

The applicable ocean freight tariff rates have been filed with Resources Transportation Division, A.I.D., Washington, D.C. 20523.

The freight charges shown hereon identify the rate and weight or measurement basis by which the ocean freight amount collected for the commodity shipped hereunder was calculated; such charges are exclusive of all credits, allowances, discounts, rebates, and other payments or benefits of any kind given or to be given by the carrier to or for the account of the commodity supplier, importer, or their agents.

(ii) When the commodity is transported to the importing country under its own power (e.g. as in the case of a



fishing vessel), A.I.D. will require a certificate signed by the importer (or his authorized agent), submitted in lieu of a bill of lading, certifying that the commodity has been received in satisfactory condition and has been accepted by the importer.

(5) *Documentation on shipment to a free port or bonded warehouse.* (i) In the case of commodities shipped from a free port or bonded warehouse, the supplier shall:

(a) Provide as an attachment to a copy of the invoice a copy of the bill of lading (bearing a notation of the freight cost) covering the shipment of the commodity into the free port or bonded warehouse, or

(b) If such a bill of lading is not available to the supplier, provide the following information and certify to its accuracy to the best of his knowledge and belief: the country or area from which the commodities were shipped to such free port or bonded warehouse; the name and flag of the vessel which transported the commodities from the source country to the free port or bonded warehouse; the cost of the freight on such shipment; and the free port or bonded warehouse to which shipment was made from the source country, or

(c) With respect to commodities which have been commingled in the warehouse in such a way that shipments out of the warehouse cannot be related to particular shipments into the warehouse, the supplier shall certify to the best of his knowledge and belief that a portion of the commodities was transported to the free port or bonded warehouse on vessels under the flag registry of a country included within the geographic code authorized by A.I.D. for the transaction, and the quantity for which A.I.D. financing is sought does not exceed that amount.

(ii) In the event a supplier cannot comply with the requirements of subdivision (i) of this subparagraph, it will be assumed, in the absence of evidence to the contrary, that the commodity was transported to the free port or bonded warehouse by a vessel under the flag registry of a country under A.I.D. Geographic Code 935 other than the United States.

(6) *Supplier's certificates.* An original and two copies of the Supplier's Certificate executed by

(i) The supplier of the commodity for the cost of the commodity and any commodity-related services furnished by the commodity supplier;

(ii) The carrier for the cost of ocean or air transportation;

(iii) The insurer for the cost of marine insurance if such cost exceeds \$50.

(7) *Certificate Concerning Commissions.* With respect to any shipment to an importer in a country designated in § 201.65 (a), one signed original executed by the commodity supplier of the Certificate Concerning Commissions.

(8) *Commodity Approval Application.* One signed original of the Commodity Approval Application executed by the

commodity supplier and countersigned by A.I.D. In the case of claim for reimbursement or payment of partial shipment presented subsequent to submission of the original Commodity Approval Application, one reproduced copy of the original countersigned Commodity Approval Application, appropriately certified as such by the supplier.

(c) *Execution of certificates.* (1) The original of each Supplier's Certificate, Certificate Concerning Commissions, and Commodity Approval Application shall be signed by hand and shall bind the person or organization in whose behalf the execution is made.

(2) The Supplier's Certificate covering the cost of marine insurance may be executed on behalf of the marine insurer by an insurance broker or by a commodity supplier if the commodity supplier is the assured under an open cargo insurance policy issued by the marine insurer and is authorized under such policy to bind the marine insurer by issuing insurance certificates or policies in favor of importers. In each such case, the insurance broker or commodity supplier shall indicate on the Supplier's Certificate the name and address of the insurance company which is acting as the supplier of marine insurance and shall describe himself below his signature as a commodity supplier issuing a certificate under an open cargo insurance policy or as an insurance broker.

§ 201.53 Final date for presentation of documents.

(a) *Direct reimbursement.* Prescribed documents shall be presented to A.I.D. by the borrower/grantee no later than the terminal date specified in the implementing document.

(b) *Letter of commitment to bank or special letter of credit.* Prescribed documents shall be presented by the bank to A.I.D. and shall cover (1) payments or negotiations made under letters of credit expiring no later than the expiration date stated in the letter of commitment or the request for the opening of a special letter of credit, or (2) payments to a supplier, the approved applicant, or, at the request of an approved applicant, to a person other than the supplier, made no later than such expiration date.

#### Subpart G—Price Provisions

§ 201.60 Purpose and applicability of this subpart.

This subpart prescribes rules relating to prices, discounts, commissions, credits, allowances, and other payments. These rules shall be observed in the procurement of commodities and commodity-related services financed under this part. The rules implement and supplement the requirements of the Act relating to prices in such procurement. The general purpose of these rules is to assure the prudent use of A.I.D. funds.

(a) *Statutory price limitations.* (1) Section 804(a) of the Act provides:

Funds made available under this Act may be used for procurement outside the United States \* \* \* only if the price of any com-

modity procured in bulk is lower than the market price prevailing in the United States at the time of procurement, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

(2) Section 604(b) of the Act provides:

No funds made available under this Act shall be used for the purchase in bulk of any commodities at prices higher than the market price prevailing in the United States at the time of purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

(b) *Transactions covered.* The rules and conditions prescribed by this subpart apply to all A.I.D.-financed transactions subject to this regulation whether or not the commodities are purchased in bulk.

(c) *Compliance.* Compliance with this Subpart G and with any additional price requirement contained in the implementing document shall be a condition to the financing by A.I.D. of procurement transactions under this part. Post-audit of transactions will be made by A.I.D. to determine whether there has been such compliance.

§ 201.61 Meaning of terms in this subpart.

(a) *Time of purchase.* "Time of purchase" means that period encompassing the date the purchase price is fixed during which prices in comparable sales remain substantially constant.

(b) *The date the purchase price is fixed.* "The date the purchase price is fixed" means the date on which the parties agree on the price. If, however, the parties establish the price as of any other date which is subsequent to the date of such agreement and not later than the date of delivery, the term means such other date regardless of whether it precedes, coincides with or follows the legally effective date of the purchase contract.

(c) *Transportation cost.* "Transportation cost" means the cost of all transportation by land, sea, or air from the port of export to the destination in the cooperating country, plus the cost of marine insurance, if any, covering such transaction. (NOTE: Such costs are financed by A.I.D. only to the extent provided in § 201.13.)

(d) *Purchase price.* "Purchase price" means the total amount which the purchaser agrees to pay or make available to or for the benefit of the supplier (including any person or organization designated by the supplier to receive such payment) for any commodity or commodity-related service which is wholly or partly financed by A.I.D. Any commission, service payment, or any other credit, allowance, or benefit paid by the supplier or his representative to any person in connection with any A.I.D.-financed transaction shall be deemed to be included within the "purchase price" for that transaction.

(e) *Comparable sale.* (1) "Comparable sale" means any sale of or bona fide offer to sell the same commodity, or (in the absence of such a sale or offer to sell) any sale of or offer to sell a similar



commodity which, with respect to the quantity, quality, grade, period of delivery, supply area, terms of sale, or class or purchaser, either

(i) It is not sufficiently different from the sale being tested to result customarily in a price different from the price in the sale being tested; or

(ii) Can be related to the sale being tested through application of a customary price differential.

(2) A sale which is otherwise comparable to another sale is not rendered non-comparable by virtue of its being made out of a free port or bonded warehouse. The fact that a sale is made out of a free port or bonded warehouse shall not cause that sale to differ from otherwise comparable sales with respect to terms of sale, supply area, or period of delivery.

(f) *Comparable export sale.* "Comparable export sale" means any "comparable sale" in export transactions.

(g) *Comparable domestic sale.* "Comparable domestic sale" means any "comparable sale" not in export transactions.

(h) *Export differential.* "Export differential" means the customary difference in price between domestic sales and otherwise comparable export sales.

(i) *Class of purchaser.* "Class of purchaser" means any group of purchasers which is separately identifiable and which is distinguishable from other purchasers on the basis of quantity purchased, distribution function or established trade practice.

(j) *Period of delivery.* "Period of delivery" means the length of time between the date of the purchase contract and the date by which delivery is to be completed.

(k) *Supply area.* "Supply area" means

(1) The source country; or

(2) If the commodity is customarily sold at different prices (exclusive of transportation costs) from different geographical areas within a source country, the specific geographic area within the source country from which the commodity is shipped to the cooperating country.

(l) *Similar commodity.* "Similar commodity" means a commodity which

(1) Is functionally interchangeable with the commodity in the sale being tested; and

(2) Affords the purchaser substantially equivalent serviceability.

(m) *Producer.* "Producer" means any person who grows, mines, manufactures, processes, or assembles a commodity in the form in which it is exported.

(n) *Commission.* "Commission" means any payment or allowance by a supplier to any person for the contribution which that person has made to securing the sale for the supplier or which that person makes to securing on a continuing basis similar sales for the supplier.

(o) *Commission employee.* "Commission employee" means any employee or officer of the supplier who has contributed to securing the sale and who is paid a salary which is directly or indirectly calculated as, or related to, a percentage of the amount of the sale.

(p) *Local currency.* "Local currency" means the currency of the cooperating country.

(q) *Local service organization.* "Local service organization" means any person who in the cooperating country performs services in connection with the A.I.D.-financed commodities.

(r) *Opening bank.* "Opening bank" means the bank which has opened the letter of credit in the cooperating country in favor of the supplier.

(s) *Regular place of business.* "Regular place of business" means a permanent business establishment such as an office, sales outlet, or other fixed place of business, but does not include a mere postal address or box number or any casual or temporary use of facilities for the sole or principal purpose of rendering a commission eligible for A.I.D. financing.

(t) *Representative of the importer.* "Representative of the importer" means any entity affiliated with the importer by ownership or management ties.

(u) *Resident of the United States.* "Resident of the United States" means any natural person who maintains a permanent household in the United States; who pays or who is subject to the income tax requirements, if any, of the State in which he maintains his household; and who is physically present for at least 60 days of the year in the United States.

(v) *Sales agent.* "Sales agent" means any person who is neither the importer nor a commission employee and who has contributed to securing the sale or to securing similar sales on a continuing basis for the supplier.

(w) *Service payment.* "Service payment" means with respect to services performed in connection with commodities financed under this part any payment or allowance by the supplier to any person, whether or not a sales agent, but not including a commission, payment or allowance for incidental or delivery services, or a salary payment to any officer or employee of the supplier.

(x) *State.* "State" means the District of Columbia, Puerto Rico, or any State territory or possession of the United States.

(y) *U.S. firm.* "U.S. firm" means

(1) A corporation which has been organized under the laws of any State of the United States, which maintains a regular place of business in the United States, and which is at least 51 percent beneficially owned by citizens of the United States or U.S. firms or both; or

(2) A sole proprietorship in which the sole proprietor is both a citizen and resident of the United States; or

(3) A partnership or association in which the majority of partners or association members are both citizens and residents of the United States.

#### § 201.62 Responsibilities of borrower/grantee and of supplier.

(a) *Responsibilities of borrower/grantee and importer.* The borrower/grantee shall insure that the importer

(1) Procures in accordance with the conditions set forth in § 201.24, and in either § 201.22 or § 201.23, whichever is applicable, and

(2) Except as provided otherwise in § 201.22(d), pays no more than the lowest available competitive price, including transportation cost, for the commodity.

(b) *Responsibility of supplier.* In accordance with the provisions contained in the Supplier's Certificate which the supplier executes in order to receive payment, the supplier is responsible for compliance with the provisions of this Subpart G other than paragraph (a) of this section.

#### § 201.63 Maximum prices for commodities.

(a) *U.S. prevailing market price—U.S. source.* The purchase price for a commodity the source of which is the United States shall not exceed the market price prevailing in comparable export sales in the United States at the time of purchase adjusted for differences in the transportation cost: *Provided, however,* That if there are no such comparable export sales, then the purchase price, excluding transportation cost, may not exceed the market price prevailing in comparable domestic sales in the United States at the time of purchase, adjusted upward or downward by the appropriate export differential.

(b) *U.S. prevailing market price—non-U.S. source.* The purchase price, including transportation cost, for a commodity the source of which is not the United States shall be lower than the market price prevailing in comparable export sales in the United States at the time of purchase including transportation cost: *Provided, however,* That if there are no such comparable export sales in the United States, then the purchase price from the source outside the United States, including transportation cost, must be lower than the market price prevailing in comparable domestic sales in the United States at the time of purchase, adjusted upward or downward by the appropriate export differential and transportation cost.

(c) *Supplier's comparable export price—U.S. and non-U.S. sources.* (1) The purchase price, excluding transportation cost, shall not exceed prices generally charged by the supplier in comparable export sales from the source country at the time of purchase.

(2) The requirement in subparagraph (1) of this paragraph shall not apply to the purchase price

(i) In any sale under formal competitive bid procedures; or

(ii) In any sale of a commodity generally traded on an organized commodity exchange.

(3) "Comparable export sales" for the purpose of this paragraph shall not include sales

(i) Under formal competitive bid procedures; or

(ii) Of a commodity by a supplier to affiliates if the supplier as a general practice sells the commodity to affiliates at prices lower than the prices he charges to nonaffiliates.

(d) *Source country prevailing market price—non-U.S. source.* The purchase price, excluding transportation cost, shall not exceed the market price prevailing



in the source country in comparable export sales at the time of purchase: *Provided, however, That, if there are no such comparable export sales, then the purchase price, excluding transportation cost, shall not exceed the market price prevailing in comparable domestic sales in the source country at the time of purchase adjusted upward or downward by the appropriate export differential.*

(e) *Price test in the absence of comparable sales at time of purchase—U.S. and non-U.S. sources—(1) Sale by supplier who is not the producer.* The purchase price shall not exceed the sum of—

(i) The lower of the following: The price paid by the supplier for the commodity or the price charged by the producer in the original sale of that specific commodity; and

(ii) A markup over the amount allowed in subdivision (i) of this subparagraph, which may not exceed the lower of the following: The markup over direct cost that is usual and customary in sales by the supplier of the same commodity, if any, or the most similar commodity, or, the markup over direct cost that is usual and customary in such sales by the competitors of the supplier; and

(iii) To the extent not included in subdivision (i) of this subparagraph, an amount not to exceed the cost at prevailing rates of those expenses recognized in paragraph (a) of § 201.64 and actually incurred in moving the commodities supplied from the point of purchase to a position alongside or on board the vessel or other export conveyance at point of export.

(2) *Sale by a supplier who is the producer.* The purchase price shall not exceed a price established in accordance with the customary pricing practices of the supplier for other products of the same general class as the commodity sold.

(f) *Additional rule for sugar.* In addition to being subject to the other price limitations contained in this section, the purchase price for sugar shall not exceed the world price as derived from the daily market quotations on the New York Sugar Exchange for No. 8 Contract spot, f.o.b. and stowed, adjusted for differences in quality, bagging, transportation cost, and other appropriate considerations.

(g) *Additional rule for crude oil, petroleum fuels, and lubricants.* In addition to being subject to the other price limitations of this section, the purchase price, including transportation cost, for crude oil, petroleum fuel, or lubricants procured from a non-U.S. source shall not exceed the prevailing price, including transportation cost, at which such commodity is available at the time of purchase in quantities similar to the contract amount from the same or from any other eligible source for otherwise comparable export sales. This limitation shall not apply to the purchase price of such a commodity procured under formal competitive bid procedures. "Comparable export sales" for the purpose of this paragraph shall not include sales under formal competitive bid procedures.

(h) *Additional rules for sales through or out of a free port or bonded warehouse.* (1) The purchase price including transportation costs to a cooperating country of a commodity which has passed through a free port or bonded warehouse shall not exceed:

(i) The maximum price f.o.b. or f.a.s. source country eligible for A.I.D. financing under the foregoing provisions of this § 201.63; plus

(ii) Transportation costs calculated on the basis of the prevailing ocean freight rate for direct shipments from the source country to the cooperating country on the type and flag of vessel on which the commodity actually moved for the greater portion of its voyage from the source country through the free port or bonded warehouse to the cooperating country.

(2) The purchase price of a commodity f.o.b. or f.a.s. a free port or bonded warehouse shall not exceed the maximum price established in paragraph (1) of this § 201.63(h) minus transportation costs from the free port or bonded warehouse to the cooperating country calculated on the basis of the prevailing ocean freight rate from the free port or bonded warehouse to the cooperating country for the type and flag of vessel on which the commodity actually moved between those points.

#### § 201.64 Application of the price rules to commodities.

(a) *Calculation of commodity prices on a common basis.* In testing whether the purchase price of a commodity exceeds the price in comparable export sales or in comparable domestic sales, as applicable under § 201.63 (a), (c), (d), and (e), it is necessary to insure that the price being tested as well as the prices being used as a test or measurement are calculated on the basis of delivery alongside or on board the vessel or other export conveyance. Such prices will include, therefore, in addition to the price of the commodity at an internal point in the source country, transportation from that point to the port of export in the source country, and to the extent not already included in the price at the internal point, inspection, export packing, forwarder's fees at customary rates, the cost of placing the commodities on board the vessel or export conveyance (unless this cost is covered in the export freight), and other necessary costs customary in the trade.

(b) *Calculation of commodity prices which involve transportation costs.* (1) In testing a purchase price which includes transportation cost (customarily known as a c. & f. or c.i.f. price) for compliance with the requirements of § 201.63 (a), (c), (d), and (e), A.I.D. will subtract from such price transportation cost as calculated by reference to the freight rate (for the type and flag of vessel on which the commodity was shipped) prevailing on the date of the purchase price is fixed. In the absence of evidence to the contrary, the actual transportation cost paid by the supplier shall be presumed to be the transportation cost calculated in accordance with the formula contained in the foregoing sentence.

(2) In testing a purchase price involving transportation cost for compliance with § 201.62 and § 201.63 (b), (f), and (g), the test or measurement prices shall be

(i) Prices based upon transportation by a U.S.-flag carrier if the price tested involves transportation by a U.S.-flag carrier; or

(ii) Prices based upon transportation by either a U.S.-flag carrier or a foreign-flag carrier, whichever is lower, if the price tested involves transportation by a foreign-flag carrier.

(c) *Calculation of amount eligible for financing when shipment is through or out of a free port or bonded warehouse.*

(1) In the case of a shipment to a cooperating country which has passed through a free port or bonded warehouse, A.I.D. will finance no more than the lower of the following:

(i) The maximum price described in § 201.63(h) (1), or

(ii) The maximum price described in § 201.63(h) (1) (i) plus any transportation costs into or out of the free port or bonded warehouse which can be documented in accordance with § 201.52(a) (5) (i) as having been incurred on a carrier flying the flag of a country included in the geographic code authorized by A.I.D. for the transaction.

(2) In the case of a shipment f.o.b. or f.a.s. a free port or bonded warehouse, A.I.D. will finance no more than the lower of the following:

(i) The maximum price described in § 201.63(h) (2), or

(ii) The maximum price described in § 201.63(h) (1) (i) plus any transportation costs into the free port or bonded warehouse which can be documented in accordance with § 201.52(a) (5) (i) as having been incurred on a carrier flying the flag of a country included in the geographic code authorized by A.I.D. for the transaction.

(d) *Determination of prevailing market price.* In the determination of any prevailing market price for any commodity, relevant published and other price information will be considered.

#### § 201.65 Commissions, service payments, and discounts.

(a) *General.* This section sets forth the rules which govern the eligibility of commissions, service payments, certain other payments, credits, allowances or benefits for A.I.D., financing, and disallows discounts for A.I.D. financing. All paragraphs of this § 201.65 except paragraphs (b), (c), (d), and (e) apply to all transactions governed by this Part 201. Paragraphs (b), (c), and (d) of this § 201.65 apply only with respect to shipments to Laos, Cambodia, and Vietnam. A supplier to Laos, Cambodia, or Vietnam who in any particular situation is precluded under paragraph (b), (c), or (d) of this § 201.65 from making a dollar commission or service payment may make a local-currency commission or service payment using the two-invoice procedure described in paragraph (e) of this § 201.65.



(b) *Commission to sales agents.* Unless otherwise authorized by A.I.D., a commission paid or payable by a supplier to or for the benefit of a sales agent in connection with any sale subject to this part will be eligible for A.I.D. financing only if—

(1) The sales agent performed no part of the services relating to the commission outside the United States, and the sales agent maintains a regular place of business in the United States; or

(2) The sales agent whose services relate to the commission is a U.S. firm, and any officer, employee, partner, or association member of the sales agent who has performed outside the United States any part of the services relating to the commission is both a citizen and resident of the United States.

(c) *Commission to commission employees.* Unless otherwise authorized by A.I.D., a commission paid or payable by a supplier to or for the benefit of a commission employee in connection with any sale subject to this part will be eligible for A.I.D. financing only if—

(1) The commission employee performed no part of the services relating to the commission outside the United States; or

(2) The commission employee whose services relate to the commission is both a citizen and resident of the United States.

(d) *Service payments.* Unless otherwise authorized by A.I.D., a service payment in connection with any sale subject to this part will not be eligible for A.I.D. financing if any portion thereof has been paid or is payable by the supplier to or for the benefit of a local service organization.

(e) *Payments by opening bank in local currency—(1) General.* Under arrangements between A.I.D. and the governments of certain cooperating countries a supplier may, if he wishes, request the opening bank on the Certificate Concerning Commissions to pay a commission in local currency directly to the sales agent or commission employee or to make a service payment on behalf of the supplier in local currency directly to a local service organization. Under this procedure, the sales agent, commission employee, or local service organization will be paid by the opening bank with local currency funds deposited by the importer with the opening bank.

(2) *Contents of invoice.* A supplier who wishes to arrange a commission or service payment in local currency in accordance with this procedure shall show on his invoice the gross value of the shipment, all the deductions required by this section and the net invoice amount. The draft on the U.S. bank which the supplier presents may not exceed the net amount shown on his invoice. The supplier shall also provide on his invoice—

(i) *Commission information.* An amount expressed in dollars to be paid in a local currency equivalent to the sales agent or commission employee as commission; the name and address of the sales agent or commission employee; and the dollar sales price to be financed with A.I.D. funds, exclusive of commission.

(ii) *Service payment information.* An amount expressed in dollars to be paid in a local currency equivalent to a local service organization as a service payment; the name and address of the local service organization; and the dollar sales price to be financed with A.I.D. funds, exclusive of the service payment.

(3) *Contents of sealed envelope.* The supplier shall place in a sealed envelope one signed copy of the Certificate Concerning Commissions and shall signify thereon his adherence to Certification H. The sealed envelope shall be physically attached to the suppliers invoice. The supplier shall place on the outside of the envelope the name and address of the opening bank. If the supplier does not wish to have the amount of commission or service payment made known to the importer, he may place in the sealed envelope a second set of invoices. This second set will be made out for the gross value of the shipment, and, unlike the first set submitted to the U.S. bank as a required document, will not contain a deduction for the commission or service payment which the opening bank is to pay on behalf of the supplier. If a second set of invoices is placed in the sealed envelope, the supplier shall note on each such copy the words "For the importer" and shall note on each copy of the invoice which he submits to the U.S. bank as a basis for payment the words "Only for A.I.D. and the opening bank."

(4) *Execution of Certificate Concerning Commissions.* As a requirement for receiving payment, the supplier shall execute one signed original of the Certificate Concerning Commissions. This original will be forwarded by the U.S. bank to A.I.D. By executing Certification H on the Certificate Concerning Commissions the supplier undertakes to make a commission or service payment in no other manner in connection with the sale described on the Invoice-and-Contract Abstract. Appended to Certification H is a request to the opening bank to make the requested payment in local currency on behalf of the supplier to the sales agent, commission employee, or local service organization. This request reaches the opening bank through the signed copy of the Certificate Concerning Commissions which the supplier has placed in the sealed envelope.

(5) *Payment by opening bank.* Without responsibility for itself, for A.I.D. or for the U.S. bank, the opening bank will honor the request of the supplier contained in Certification H of the Certificate Concerning Commissions by withholding from the importer the supplier's invoice for the net amount and substituting in lieu thereof the supplier's invoice for the gross amount contained in the sealed envelope. The opening bank will convert the commission or service payment which the supplier has indicated in dollars on the Certificate Concerning Commissions, on the Invoice-and-Contract Abstract, and on his invoice into a local currency equivalent (at the official rate of exchange) and will pay over the resulting sum on behalf

of the supplier to the sales agent, commission employee, or local service organization.

(6) *No multiple or split commissions.* Unless otherwise authorized by A.I.D., a supplier who pays a commission in local currency may not claim A.I.D. financing for any dollar commission in connection with the same transaction.

(f) [Reserved]

(g) *Required deductions from invoice amount.* To arrive at the net amount eligible for A.I.D. financing, there shall be deducted from the gross amount of the supplier's invoice submitted under paragraph (a) (2) of § 201.52—

(1) All trade discounts to which the importer is entitled; and

(2) All commissions, service payments, other payments, credits, allowances and benefits to the extent they are ineligible for dollar financing under this section.

(h) *Commissions, service payments, and other payments or benefits to importers, purchasing agents, and others.* A commission, service payment or other payment, credit, allowance or benefit of any kind in connection with any sale subject to this part shall not be eligible for A.I.D. financing if paid or payable by the supplier—

(1) To or for the benefit of the importer; or

(2) To or for the benefit of a purchasing agent or other agent or representative of an importer, even though such purchasing agent or other agent or representative may also have an agreement with a supplier to represent the supplier; or

(3) To any third party in connection with a sale by the supplier to his dealer, distributor, or established agent in the cooperating country.

(i) *Commissions and service payments attributable to A.I.D. financing.* In connection with commodities financed under this part every commission paid or payable by a supplier to or for the benefit of a sales agent or commission employee and every service payment payable by a supplier to or for the benefit of a local service organization shall be presumed conclusively to have been paid or to be paid from A.I.D. funds, whether or not such commission or service payment is reported to A.I.D. on the Supplier's Certificate or is deducted on the supplier's invoice, and shall thereby be subject to the eligibility requirements of this section. This presumption shall not apply whenever—

(1) The supplier arranges for a commission to be paid to a sales agent or commission employee or arranges for a service payment to be paid to a local service organization through the opening bank under the procedure described in paragraph (e) of this § 201.65; or

(2) The importer, on behalf of the supplier, pays in local currency a commission directly to a sales agent or commission employee or makes a service payment in local currency directly to a local service organization.

(j) *Maximum commission or service payment.* A commission or service payment shall not exceed the amount which



the supplier customarily pays in connection with similar transactions or the amount which is customary in the trade.

(k) *Report of commissions, service payments and other payments or benefits.* All commissions, service payments, other payments, credits, allowances or benefits of any kind, whether or not eligible for financing under this part, made by the supplier in connection with A.I.D.-financed sales to or for the benefit of a sales agent, commission employee, the importer, or any representative of the importer shall be fully reported on the Invoice-and-Contract Abstract of the Supplier's Certificate required under § 201.52(a)(6).

(l) *Brokerage commission.* In connection with ocean freight services A.I.D. will finance a brokerage commission only if—

(1) Such commission does not exceed 2½ percent of the ocean freight charge;

(2) Such commission is payable to an individual resident in a country included in the authorized source code; a non-resident citizen of a country included in the authorized source code; or a corporation or partnership organized under the laws of a country included in the authorized source code; and

(3) The names of all persons receiving such commissions appear on the face of the charter party.

(m) *Address commissions.* An address commission to or for the benefit of a charterer shall be deemed a discount on the stated freight rate or freight charge which the supplier of transportation services shall deduct from the cost of transportation financed by A.I.D. If the supplier of the commodity is the charterer, he shall refund to A.I.D. any address commission received by him. If the supplier of the commodity is not the charterer, the borrower/grantee shall be responsible for making a refund to A.I.D. of any such commissions received by the charterer.

#### § 201.66 Side payments.

Any payment which an importer makes to a supplier, whether or not indicated on the supplier's invoice and whether or not financed by A.I.D., in connection with an A.I.D.-financed transaction shall be disclosed by the supplier on the Supplier's Certificate and shall be considered as part of the actual purchase price in applying the rules of this Subpart G.

#### § 201.67 Maximum freight charges.

(a) *Ocean freight rates.*—(1) *Similar shipments.* "Similar shipments" means shipments which are similar with respect to type of commodity, commodity rate classification, quantity, vessel flag category, choice of ports, and other pertinent factors. In determining whether shipments are similar, no effect shall be given to the identity of the shipper or to the circumstance that the shipment is or is not financed by the Government of the United States.

(2) *Maximum charter rates.* (1) A.I.D. will not finance ocean freight under any charter which has not been submitted to and received prior approval by

AID/W. A.I.D. will not approve a charter if the freight rate exceeds

(a) The rate prevailing for similar shipments;

(b) The lowest rate charged by the carrier for similar shipments on the same voyage; or

(c) The "guideline" rate established by the Maritime Administration for use of U.S. Government agencies in determining whether rates are fair and reasonable for the cargo, vessels, and transportation concerned.

(ii) In determining the rate prevailing for similar shipments, recognized sources of charter market rate information will be consulted and, if necessary, will be supplemented by other information which contributes to a realistic determination of the prevailing charter rate.

(3) *Effect of A.I.D. approval of a charter.* A.I.D. prior approval of a charter shall be confirmed by A.I.D. in writing and shall then be final except in cases where the freight rate exceeds the lowest rate charged by the supplier for similar shipments on the same voyage or where A.I.D.'s prior approval is based on false or misleading representations made to A.I.D. by the charterer or ocean carrier.

(4) *Maximum liner rates.* A.I.D. will not finance ocean freight for a cargo liner shipment at a rate which exceeds

(i) The conference contract rate or the conference noncontract rate, whichever is lower;

(ii) The rate named in any tariff or other rate listing for the same destination and commodity on file at (a) the Federal Maritime Commission for voyages originating in the United States, or (b) the Resources Transportation Division, AID/W, for voyages originating outside the United States; or

(iii) The lowest rate charged by the carrier for similar shipments on the same voyage.

(5) *Despatch.* (1) The borrower/grantee, or the supplier with respect to despatch earned by the supplier, shall be responsible for refunding to A.I.D. all despatch earned.

(a) At the port of unloading on c.i.f. or c. & f. shipments, or

(b) At the port of unloading or unloading on f.o.b. or f.a.s. shipments, to the extent that despatch exceeds demurrage incurred on the same voyage.

(ii) Refunds of despatch, supported by the vessel's signed lay time statement(s), must be transmitted to the Controller, A.I.D., Washington, D.C. 20523, within 90 days after date of discharge of the cargo on which the despatch was earned.

(b) *Air freight rates.* A.I.D. will not finance air freight which exceeds the applicable rate on file at the Civil Aeronautics Board, Washington, D.C.

#### § 201.68 Maximum prices for commodity-related services.

The price for an A.I.D.-financed commodity-related service other than ocean or air transportation shall not exceed (a) the prevailing price, if any, for the same or similar services; or (b) the price paid

to the supplier under similar circumstances by other customers.

#### § 201.69 Commodity price subject to escalation.

If a purchase contract contains a price escalation clause, A.I.D. will finance

(a) The purchase price of the commodity before operation of the price escalation clause if at the time of purchase such price does not exceed the applicable price limitations contained in this subpart; and

(b) That portion of the commodity price attributable to the operation of the price escalation clause if such clause

(1) Is applied to a base price which qualifies for A.I.D.-financing under paragraph (a) of this section.

(2) Uses a formula based on variations in a cost factor which is reasonably related to the price of the commodity subject to escalation and is readily determinable;

(3) Provides for downward as well as upward adjustment of the price; and

(4) Accords with recognized trade practice.

#### Subpart H—Rights and Responsibilities of Banks

##### § 201.70 Purpose.

This subpart sets forth the rights and responsibilities of banks with regard to reimbursement under a letter of commitment or a special letter of credit opened pursuant to an A.I.D. request. Banks will not be held responsible for the requirements of Subparts B, C, D, E (excluding § 201.44(a)(1)), and Subpart G except insofar as provisions of these subparts are included in this Subpart H or in a letter of commitment or a request for the opening of a special letter of credit issued by A.I.D. to a bank.

##### § 201.71 Terms of letters of credit.

(a) *Letters of credit under letters of commitment.* Any letter of credit issued, confirmed or advised under an A.I.D. letter of commitment and any agreement relating to such letter of credit or to instructions for payment issued by an approved applicant may not be inconsistent with or contrary to the terms of the letter of commitment. In particular, the description of commodities or services in any such letter of credit or agreement may not be inconsistent with the description and Schedule B identification set forth in the letter of commitment. Any such letter of credit or agreement may be modified or extended at any time in such manner and to such extent as is acceptable to the approved applicant and the bank: *Provided*, That such modification or extension may not be inconsistent with or contrary to the terms of the letter of commitment. In the case of any inconsistency or conflict between the terms and conditions of the letter of commitment and the instructions of the approved applicant, the terms and conditions of the letter of commitment shall control.

(b) *Special letters of credit.* Any special letter of credit or subsidiary letter of credit issued thereunder at the instruction of the beneficiary of such special letter of credit and any agreement



relating to such special letter of credit or subsidiary letter of credit or to instructions for payment issued by the beneficiary, or any party designated by him, must not be inconsistent with or contrary to the terms of the A.I.D. request for the opening of a special letter of credit. In the case of any inconsistency or conflict between the terms and conditions of such request and instructions of the beneficiary, or any party designated by him, the terms and conditions of such request shall control.

(c) *Payment address.* Unless instructed by A.I.D. to the contrary, the bank shall not open, confirm, or advise any letter of credit and shall not issue or make payment under any payment instruction to a beneficiary or payee with a payment address (as provided by the importer or by the Approved Applicant to the opening or paying bank or by the opening bank to the confirming or advising bank) outside a country included in the authorized geographic source code.

#### § 201.72 Making payments.

(a) *Collection of documents.* The bank shall be responsible for obtaining the documents specified in Subpart F and in the letter of commitment or the request for the opening of a special letter of credit when making payment under a letter of credit or pursuant to instructions of an approved applicant.

(b) *Examination of documents other than Supplier's Certificate.* The bank shall examine the documents (other than the Supplier's Certificate, the Certificate Concerning Commissions, and the Commodity Approval Application) to be submitted to A.I.D. in accordance with good commercial practice to determine whether such documents comply with the requirements of subparagraphs (1) through (7) of this paragraph in the following particulars, and no other.

(1) *Shipment.* The documents submitted as evidence of the shipment of commodities under § 201.52(a)(4) shall be dated within the shipping period, if any, specified in the letter of commitment or the request for the opening of a special letter of credit.

(2) *Source of commodities.* The documents submitted in connection with the claim for reimbursement on commodities may not indicate that the source of the commodities is inconsistent with the A.I.D. geographic code designation contained in the letter of commitment or the request for the opening of a special letter of credit.

(3) *Destination.* The documents submitted shall indicate that the destination of the commodities, by shipment, transshipment, or reshipment, is the cooperating country named in the letter of commitment or the request for the opening of a special letter of credit.

(4) *Description.* The documents shall describe and identify the commodities or services in a manner which, according to good commercial practice, is not inconsistent with the description contained in the letter of credit or payment instructions issued under a letter of commitment or a request for the open-

ing of a special letter of credit. The bank shall not be required to determine whether the supplier's invoice meets the detailed requirements of § 101.52(a)(2)(i) or whether the carrier statement of charges is indicated on the bill of lading.

(5) *Discounts and purchasing agent's commissions.* If the documents disclose that the invoice price includes either discounts or commissions payable to purchasing agents, the bank shall not make payment of such discounts and commissions. In the absence of such information, however, the bank shall not be required to make independent inquiry as to whether the invoice price includes such items.

(6) *Certifications.* Each supplier's invoice presented for payment shall contain such other certifications as may be required in the letter of commitment or the request for the opening of a special letter of credit. The bank shall accept only certifications which, to the best of its knowledge and belief, have been signed by hand.

(7) *Other requirements.* The documents submitted shall contain such other information as required by the letter of commitment or the request for the opening of a special letter of credit except that the bank shall have responsibility in this regard only to the extent specifically indicated in the letter of commitment or such request.

(c) *Acceptance of certificates.* A bank shall not accept for submission to A.I.D. the original of the Supplier's Certificate, the Certificate Concerning Commissions, or the Commodity Approval Application, unless, to the best knowledge and belief of the bank, each such original has been signed by hand by the supplier and the Commodity Approval Application has been countersigned by A.I.D.

#### § 201.73 Limitations on the responsibilities of banks.

The following general limitations on the responsibilities of banks issuing, advising, or confirming letters of credit and making payments under letters of credit or otherwise, shall apply.

(a) *Sufficiency and completeness of documents.* Any document, including the Supplier's Certificate, the Certificate Concerning Commissions, and the Commodity Approval Application, submitted by a bank to A.I.D. in support of a claim for reimbursement, shall be sufficient if it purports to be the sort required to be delivered and if it has been accepted by the bank in the ordinary course of business in good faith. Except as may be required in discharge of its responsibilities under § 201.72 (b) and (c) the bank's right of reimbursement shall not be affected by the fact that any document required to be submitted by it is incomplete or may indicate noncompliance with any provision of this part.

(b) *Reimbursement right notwithstanding certain deficiencies.* A bank's right to reimbursement from A.I.D. for payments which the bank has made will not be affected by the fact that the Certificate Concerning Commissions, the

Commodity Approval Application, or the Invoice-and-Contract Abstract on the reverse of the Supplier's Certificate may be incomplete, or may indicate noncompliance with any provision of this Part 201, the letter of commitment, a request for the opening of a special letter of credit, or any other implementing document, or may be inconsistent with other documents required for reimbursement.

(c) *Nonresponsibility of bank for truth or accuracy of statements or certifications.* The bank shall not be responsible for the truth or accuracy of any information or statement contained in any Supplier's Certificate or any other document or certification to be submitted by it to A.I.D., notwithstanding any knowledge or information in the actual or constructive possession of the bank to the contrary. The bank shall not be obligated to look beyond the documents, including any certification endorsed thereon, to be submitted by it or to make any independent investigation as to the truth or accuracy of any information or statement contained therein.

(d) *Protection of bank making payment.* Acceptance by the bank of any document in the ordinary course of business in good faith as being a genuine and valid document and sufficient in the premises, and the delivery thereof to A.I.D., shall constitute full compliance by the bank with any provision of this part, the letter of commitment or the request for the opening of a special letter of credit requiring delivery of a document of the sort that the document actually so delivered purports to be. The bank shall be entitled to receive and retain reimbursement of the amount of all payments made by it against documents so accepted, notwithstanding that such payments may be made in connection with a purchase in excess of the price calculated in accordance with the applicable provisions of Subpart G.

(e) *Payment to third persons.* The bank's right of reimbursement shall not be affected by the fact that payment is made to the approved applicant or the beneficiary of a special letter of credit or at the request of the approved applicant or such beneficiary to a person other than the supplier under the contract to which such payment relates, if the bank has complied with all other requirements of the letter of commitment or the request for the opening of a special letter of credit and has satisfied itself in good faith that the person to whom it makes payment has, in turn, made payment to the supplier.

(f) *Bank procedures with regard to certain suppliers.* In the event a bank receives written advice from A.I.D. concerning special conditions which are applicable to transactions of particular suppliers, such bank will use reasonable care to maintain procedures designed to ensure that accommodations thereafter furnished by it with respect to such suppliers by means of the issuance, confirmation, advising or transfer of letters of credit, or the making of payments not under letters of credit shall reflect such special conditions. While banks are



expected to comply with the foregoing obligation, a bank which has used reasonable care to establish and maintain such procedures will not be responsible for any inadvertent furnishing of any such accommodation not containing applicable special conditions or the making of payment thereunder. For the purpose of ascertaining whether the supplier is a person or organization subject to an A.I.D. advice concerning special conditions applicable to its transactions under this paragraph, a bank, in making payment under a letter of credit or otherwise, may consider as supplier the person or organization issuing the invoice.

(g) *Provision of implementing documents.* A bank shall not be responsible for compliance with any provision of an implementing document other than a letter of commitment or a request for the opening of a special letter of credit.

**§ 201.74 Additional documents for A.I.D.**

In addition to the documents required for reimbursement a bank shall retain in its files for a period of at least 5 years and shall make available to A.I.D. promptly upon request a copy of any of the following documents which may pertain to an A.I.D.-financed transaction:

- (a) Each letter of credit issued, confirmed, or advised by it, together with any extension or modification thereof;
- (b) Payment instructions received from the approved applicant;
- (c) Each application and agreement relating to such letter of credit or instructions for payment, together with any extension or modification thereof;
- (d) A detailed advice of the interest, commissions, expenses, or other items charged by it in connection with each such letter of credit or payment instructions.

**§ 201.75 Termination or modification.**

If A.I.D. directs that the delivery of commodities be terminated, orders that title to commodities be vested in it, or modifies any implementing document concerning the disposition of documents, A.I.D. shall give written notice thereof to the banks holding applicable letters of commitment or requests for the opening of special letters of credit and shall instruct each bank with regard to the disposition of documents. Each such bank shall be relieved of any liability whatsoever to the approved applicant for anything done or omitted to be done under instruction of A.I.D. Notwithstanding the foregoing, a bank shall comply with the instructions of A.I.D. only to the extent that it may do so without impairing or affecting any irrevocable obligation to any person or organization except an approved applicant, and in the event the bank shall incur any costs, expenses, or liabilities, including any liability to the approved applicant, it shall be repaid and reimbursed by A.I.D. in respect thereof.

**Subpart I—Rights and Remedies of A.I.D., and Waiver Authority**

**§ 201.80 Purpose.**

This subpart sets forth certain A.I.D. rights and remedies against borrower/grantees and suppliers, and prescribes certain general provisions relating to the waiver by A.I.D. of this part, and the continuation in effect of certain prior issuances.

**§ 201.81 Rights of A.I.D. against borrower/grantees.**

If any transaction financed hereunder violates the requirements of this part or any U.S. statute or any rule or regulation of A.I.D. promulgated under any such statute, A.I.D. may require the borrower/grantee to refund the amounts A.I.D. determines are attributable to such violation and may exercise any right of acceleration or termination contained in the implementing document. The borrower/grantee shall be deemed to have agreed to make such refund or accelerated payment promptly upon request by A.I.D. and shall be deemed to have consented to any modification of the implementing document determined by A.I.D. to be necessary to reflect any such refund or acceleration.

**§ 201.82 Rights of A.I.D. against suppliers.**

Without limiting the responsibility of the borrower/grantee or other parties, A.I.D. may require an appropriate refund to it by a supplier under any transaction which violates the requirements of this part, whenever in A.I.D.'s opinion the failure of the supplier to comply with the rules and other requirements of this part has contributed to such violation.

**§ 201.83 No waiver of alternative rights or remedies by A.I.D.**

No right reserved to A.I.D. in this subpart to seek a refund from a borrower/grantee, and no exercise of such right, whether or not successful, shall in any way limit or affect, under the doctrine of the election of remedies or otherwise, A.I.D.'s rights against a supplier under this Subpart I or under the laws of the United States, or of any other country or political subdivision thereof, nor shall any right or remedy herein reserved to A.I.D. against a supplier in any way derogate from or otherwise limit any other rights or remedies which may accrue to A.I.D. under such laws.

**§ 201.84 Limitation on period for making refund requests.**

A.I.D. will endeavor, but shall not be bound, to make any requests for refunds from a borrower/grantee within five years from the date of the last disbursement of A.I.D. funds for the transaction to which such request relates.

**§ 201.85 Waiver and amendment authority.**

A.I.D. may waive, withdraw, or amend at any time any or all of the provisions of this part.

*Effective date.* The foregoing version of Part 201 shall become effective on April 15, 1971.

Dated: March 31, 1971.

JOHN A. HANNAH,  
Administrator.

APPENDIX A—SUPPLIER'S CERTIFICATE AND AGREEMENT WITH THE AGENCY FOR INTERNATIONAL DEVELOPMENT

(A.I.D. 282(1-1-67))

The supplier hereby acknowledges notice that the sum indicated on the accompanying invoice as claimed to be due and owing under the terms of the contract described on the reverse hereof (hereafter referred to as "said contract") is to be paid, in whole or in part, out of funds made available by the United States under the Foreign Assistance Act of 1961, as amended, and that such payment is subject to Regulation 1 of the Agency for International Development (A.I.D.), as in effect on the date hereof (22 CFR Part 201). In consideration of the receipt of such sum, the supplier agrees with and certifies to A.I.D. as follows:

1. The undersigned is the supplier of the commodities or commodity-related services indicated in the Invoice-and-Contract Abstract on the reverse hereof, is entitled under said contract to the payment of the sum claimed, and is executing this Certificate and Agreement for the purpose of obtaining such payment from funds made available by the United States as described above.

2. The supplier will, upon the request of A.I.D. promptly make refund to A.I.D. of any amount by which the purchase price exceeds the maximum price permitted under the provisions of subpart G of A.I.D. Regulation 1 other than § 201.62(a).

3. The supplier will, upon the request of A.I.D. promptly make appropriate refund to A.I.D. in the event of—

- (a) His nonperformance, in whole or in part, under said contract, or
- (b) Any breach by him of any of his undertakings in this Certificate and Agreement, or

(c) Any false certification or representation made by him in this Certificate and Agreement or in the Invoice-and-Contract Abstract on the reverse hereof in regard to the transaction indicated therein.

4. The supplier will promptly pay to A.I.D. (Office of the Comptroller, A.I.D., Washington, D.C. 20523) any adjustment refunds, credits, or allowances payable to or for the account of the importer arising out of the terms of the said contract or the customs of the trade.

5. On the basis of information from such sources as are available to the supplier and to the best of his information and belief, any commodity supplied under said contract meets the requirements of § 201.11(b) of A.I.D. Regulation 1 as to source, country where mined, grown, or produced, and limitation on components.

6. The supplier or his agent has not compensated any person to obtain said contract except to the extent, if any, indicated on the reverse hereof.

7. The supplier or his agent has not given or received and will not give or receive side payments, "kickbacks", or any other payment or benefit whatever in connection with said transaction or any series of transactions of which said transaction is a part, other than those payments or benefits referred to in paragraphs 1 and 4 and indicated on the reverse hereof. Any commissions paid or to be paid in connection with said transaction are



shown on the reverse hereof in blocks 28 and 29.

8. If the supplier is the producer, manufacturer or processor of the commodity, said contract is not a cost-plus-percentage-of-cost contract.

9. On the basis of information from such sources as are available to the supplier and to the best of his information and belief, the purchase price is not higher than the maximum price permitted under each of the requirements of subpart G of A.I.D. Regulation 1, relating to maximum prices other than § 201.62(a).

10. The amount shown on the reverse hereof in block 9 is net of all credits, allowances, and discounts granted and payments made, by the supplier or his agent to or for the account of the importer, including all discounts and payments for quantity purchases and prompt payment customarily allowed other customers under similar circumstances.

11. The supplier will for a period of not less than five (5) years after the date hereof maintain all business records and other documents which bear on his compliance with any of the undertakings and certifications herein and will at any time requested by A.I.D. make such records and documents available to A.I.D. for examination.

12. The supplier has complied with the provisions contained and referred to in subpart D of A.I.D. Regulation 1. If the supplier has been informed by A.I.D. of a requirement for submitting to A.I.D. for prior review proposed sales to be financed through funds made available by A.I.D., the supplier has made such submission, has been notified by A.I.D. of the results of such review and has complied with all conditions and requirements specified in such notification.

13. The supplier has filled in the applicable portions of the Invoice-and-Contract Abstract on the reverse hereof, certifies to the correctness of the information shown therein, and will upon the request of A.I.D. promptly furnish to A.I.D. such additional information in such form as A.I.D. may request concerning the purchase price, the cost to the supplier of the commodities and/or commodity-related services involved, or any other facts, data, or business records relating to the supplier's compliance with his undertakings and certifications in this Supplier's Certificate and Agreement.

14. The agreement incorporated herein shall be deemed to be a contract made under the laws of the District of Columbia, U.S.A., and shall be governed by and construed in accordance with such laws.

Notes: (a) Any amendments of, or additions to, the printed provisions of this Supplier's Certificate and Agreement are improper and will not be considered a part hereof. (b) False statements herein are punishable by U.S. law. (c) The word "Copy" must be written after signature on all signed copies other than the original.

Signature of official authorized to sign for (check one): Commodity supplier ; carrier ; insurer ; date \_\_\_\_\_

#### INSTRUCTIONS

This form must be completed in the English language only and all amounts of money are to be shown in U.S. dollars.

**General—Execution of Form.** This form is designed for use with the Standard Export format. An original and two copies of this form, completed by the following, as appropriate, must accompany each invoice for which payment is requested: (a) Commodity-executed by the supplier of the commodity covering the cost of the commodity, including the cost of any commodity-related service paid by the supplier for his own or the buyer's account; (b) Transportation—executed by each carrier who is separately paid

for ocean and air freight to be financed by A.I.D.; (c) Insurance—executed by the insurer, insurance broker, or underwriter for the cost of marine insurance to be financed by A.I.D. when such cost exceeds \$50. The original must be signed by an authorized official of the supplier, who shall indicate his title thereon. Unless otherwise specified below, all numbered block MUST be appropriately completed or the letters "NA" (not applicable) entered.

**Obtaining Forms.** The forms (as well as copies of A.I.D. Regulation 1 referred to in this form) may be obtained in limited quantities from banks holding A.I.D. letters of commitment field offices of the Department of Commerce, or the Distribution Branch, Agency for International Development, Washington, D.C. 20523. Forms may be reproduced provided the reproduction is identical in content, size, color, and format.

**Invoice and Contract Abstract—Block 1:** Enter the commodity supplier's name and address.

**Block 2:** Enter the importer's name and address. Caution: On other documents in the Standard Export format, such as the Bill of Lading, the corresponding block may call for the name and address of the party to whom the carrier is to give notice of arrival. When such party is not the importer, be sure to enter the importer's name and address instead. **Block 3:** Enter name of vessel. **Block 4:** Enter flag of registry. **Block 5:** Enter port shown on Bill of Lading. **Block 6:** Insert the written description of each commodity, preceded by its appropriate U.S. Department of Commerce Schedule B number or numbers. On shipments not from the United States, these numbers should be inserted if known. For multi-item invoices, insert the descriptive words commonly employed within the trade and the appropriate Schedule B number(s). **Block 7:** Show the Bill of Lading measurement. **Block 8:** Show the Bill of Lading weight. **Block 9:** The amount shown is the net amount for which the supplier seeks payment. It must not include any credit, discount, commissions, or allowance to or for the account of the importer or his agent. Commissions paid or to be paid in connection with the transaction covered by this form to agents of supplier which are included in the amount shown in block 9 must be detailed in blocks 28 through 30.

**Block 10:** Show the country of source as defined in § 201.01 of A.I.D. Regulation 1. **Block 11:** Insert the A.I.D. 3- or 4-digit commodity code numbers, if known.

**Block 12:** Insert A.I.D. implementing document number furnished in the letter of credit or importer's instructions. **Blocks 13 and 14:** When an import license is furnished by the importer, insert the number in block 14; otherwise insert in block 13 the letter of credit number assigned by the opening bank in the importing country, if applicable.

**Block 15:** Insert the invoice date. **Block 16:** Show the shipping terms, i.e., if a commodity supplier, show "FOB (or FAS) at \_\_\_\_\_" or "CIF (or C&F) to \_\_\_\_\_"; if a supplier of ocean transportation, show "Collect" or "Prepaid".

**Blocks 17 through 19:** Insert the commodity invoice data or insurance rate, as applicable. If there is insufficient room, as in the case of multiple-item invoices, the information may be furnished (a) on an attached listing, (b) in block 21, or (c) by means of an additional copy of the invoice attached to this form. In any of these instances, appropriate reference should be made in blocks 17 through 19 as to the method by which the information is furnished, e.g., "See attached listing". **Block 20:** Enter the date of the contract. **Block 21:** Use to explain any differences between shipping terms,

quantity, and unit price as stated in the contract and as invoiced. May also be used to furnish explanation of, or additional information in connection with, any entries on the form. **Block 22:** Enter the total contract amount.

**Transportation Information—Block 23:** Check appropriate vessel types. **Block 24:** Enter as per tariff the appropriate freight rate, other freight charges, and total dollar amount of freight charges after discount. **Block 25:** Enter the Bill of Lading number. **Block 26:** Enter the Bill of Lading date.

**Insurance Information—Block 27:** Self-explanatory.

**Information as to Commissions, Credits, Allowances, Similar Payments, and Side Payments—Blocks 28 through 30.** Enter in these blocks pertinent information with reference to (a) all payments, credits, commissions, and similar allowances paid or to be paid by the supplier to or for the benefit of his agent, the importer, or the importer's agent as required by § 201.65(k) of A.I.D. Regulation 1, and (b) any side payments, not shown on the invoice, made to or to be made by the importer to the supplier, in connection with the transaction, as required by § 201.66 of A.I.D. Regulation 1. In block 30 indicate whether or not the amount is included in the invoice amount reported in block 9 by entering the amount of each payment opposite the related entry in the appropriate column "Included in Invoice" or "Not Included in Invoice". If there is insufficient room to furnish the information required in blocks 28 through 30, the blocks may be noted "Continued" or "See attached listing" and the required information shown in block 21 or furnished on a listing attached to the form. If no commissions, credits, allowances, similar payments, and side payments are involved, insert "None" in block 28. Contracts need not be submitted to A.I.D. unless specifically requested. In the case of ocean freight, however, charter parties, if any, are to be included in the reimbursement documents.

#### INVOICE-AND-CONTRACT ABSTRACT

1. Commodity supplier's name and address: \_\_\_\_\_
2. Importer's name and address: \_\_\_\_\_
3. Vessel: \_\_\_\_\_
4. Flag: \_\_\_\_\_
5. Port of exit: \_\_\_\_\_

#### COMMODITY INFORMATION

6. Schedule B number and description of commodity: \_\_\_\_\_
7. Measurement: \_\_\_\_\_
8. Gross weight: \_\_\_\_\_
9. Invoice amount after discount: \_\_\_\_\_
10. Source (country): \_\_\_\_\_
11. AID commodity code: \_\_\_\_\_
12. AID number: \_\_\_\_\_
13. Opening bank ltr. cr. number: \_\_\_\_\_
14. Import license number: \_\_\_\_\_
15. Invoice date: \_\_\_\_\_
16. Shipping terms: \_\_\_\_\_
17. Quantity: \_\_\_\_\_
18. Unit: \_\_\_\_\_
19. Unit price: \_\_\_\_\_
20. Contract date: \_\_\_\_\_
21. Specify here items and amounts that will account for any differences between contract and invoice prices: \_\_\_\_\_
22. Total contract amount: \_\_\_\_\_
23. Vessel type:  Bulk  Berth  Tanker  
 \_\_\_\_\_
24. Freight rate: \_\_\_\_\_  
Other: \_\_\_\_\_ Total \_\_\_\_\_
25. B/L number: \_\_\_\_\_
26. B/L date: \_\_\_\_\_

#### INSURANCE INFORMATION

27. Insurance premium on this shipment (if over \$50): \_\_\_\_\_



INFORMATION AS TO COMMISSIONS, CREDITS, ALLOWANCES, SIMILAR PAYMENTS, AND SIDE PAYMENTS

- 28. Name of recipients:-----
  - 29. Addresses:-----
  - 30. Amount paid or to be paid: Included in invoice:----- Not included in invoice:-----
- If certification on other side is made by carrier or insurer, type or print name and address of company:  
 Carrier:-----  
 Insurer:-----  
 Type or print name and title of official authorized to sign on the other side:-----  
 Place executed (city, State, country):-----

APPENDIX B—INSTRUCTIONS FOR NOTICE OF PROPOSED PROCUREMENT

In general, the minimum notification requirements specified in subparagraphs (2) and (3) of § 201.24(a) of A.I.D. Regulation 1 must be observed by the importer in all A.I.D.-financed procurement other than by formal competitive bids. Exceptions from these requirements are set forth in § 201.24 (b) "Exemption for small value procurement" and § 201.24(c) "Waiver provisions" of the regulation.

These minimum notification requirements are as follows:

The importer must submit to the Office of Small Business (OSB), A.I.D., a notice of proposed procurement. Until forty-five (45) days after its expected arrival there, the importer or his agent may not accept any offer or place any order, or agree to accept any offer or to place any order. The OSB may require a waiting period longer than forty-five (45) days or, upon application of the importer, authorize a shorter period. Except when submission is by cablegram, three copies are to be submitted by registered mail to the OSB.

Cablegram: OSBAID, Washington, D.C., USA

Mail: Office of Small Business, Agency for International Development, Washington, D.C. 20523, U.S.A.

The information contained in the notice shall be in the English language, and specifications shall be in terms of U.S. standards. If the notice as submitted does not comply with all the specified minimum notification requirements, it may be returned by OSB to the importer for revision and resubmission. In such cases, the revised copies must be submitted anew in accordance with the applicable requirements.

The notice of proposed procurement shall be submitted in the format set forth below. Guidance as to the information required in the individual paragraphs of the notice is contained in the notes listed following the format.

(FORMAT)

NOTICE OF PROPOSED PROCUREMENT

- A. Country----- (See Note A)
- B. Authority----- (See Note B)
- C. Subauthority----- (See Note C)
- D. Source----- (See Note D)
- E. End of waiting period----- (See Note E)
- F. Buyer----- (See Note F)
- G. Commodity----- (See Note G)
- H. Value----- (See Note H)
- I. Basis----- (See Note I)
- J. Cablegram----- (See Note J)
- K. Delivery----- (See Note K)
- L. Other----- (See Note L)

NOTE A. Designate the importing country (e.g., A. Country: India).

NOTE B. Identify, if known, the implementing document which authorizes the use of A.I.D. funds for the proposed procurement (e.g., B. Authority; 518-B-432).

NOTE C. Indicate, if applicable, the sub-authorization (SA), and/or Import License (IL) numbers (e.g., C. Subauthority: SA 1324/IL 4321).

NOTE D. Indicate the eligible source (area in which procurement may be made) as designated in the implementing document. List both the name description and the number for the A.I.D. Geographic Code (e.g., D. Source: United States, 000).

NOTE E. Indicate the calendar date by which quotations or offers must reach the importer to assure their consideration. This date must be established as being at least forty-five (45) calendar days after expected receipt of notice in AID/W (Office of Small Business) (e.g., E. End of waiting period: Aug. 16, 1964).

NOTE F. Indicate the name and complete address of the importer. This will be the person or organization who for this transaction is the purchaser. Telephone number may also be included if contact by such means is acceptable (e.g., F. Buyer: XYZ Import Company, Ltd., 14 Front Street, Bombay, India, Tel. Bombay 373781).

NOTE G. Fully describe the commodities and/or services (excluding ocean transportation and marine insurance) for which quotations or offers are desired. Specifications shall be in terms of U.S. standards and shall indicate sizes, quantities, etc. Electrical equipment shall include the power characteristics required. Data shall be in such sufficient detail as to provide an adequate basis on which suppliers can submit realistic offers. Omission of U.S. standards as herein prescribed will make the entire notice unacceptable.

NOTE H. Indicate the full dollar amount of the Import License, except when the notice covers only part of the commodities included in the License. In such cases, show on any one notice only the approximate dollar value of the commodities included. The dollar value will not be published in the Small Business Circular except in those instances where the importer does not indicate a specific quantity, but instead, desires to purchase the greatest quantity for a given sum (e.g., H. Cost: \$250,000).

NOTE I. Indicate basis on which quotations or offers are to be submitted: c.i.f. or c. & f. Port of Entry; f.a.s. or f.o.b. Port of Exit; etc. (e.g., I Basis: c.i.f. Bombay).

NOTE J. Indicate whether or not cablegram quotations will be accepted. If acceptable, show importer's cable address (e.g., J. Cablegram: Acceptable, CMMP, Bombay).

NOTE K. Indicate the date by which shipment from source country is required or desired, and the destination port, e.g., K. Delivery: Bombay, Nov. 14, 1964).

NOTE L. List any special shipping or packing instructions or other conditions and information which are applicable and not included in preceding paragraphs.

APPENDIX C—CERTIFICATE AND AGREEMENT WITH THE AGENCY FOR INTERNATIONAL DEVELOPMENT CONCERNING COMMISSION AND SERVICE PAYMENTS ASSOCIATED WITH COMMODITY SALES FINANCED WITH FOREIGN ASSISTANCE FUNDS (A.I.D. 283 (1-16-67))

Limitations on A.I.D. Financing: Paragraphs (b), (c), and (d) of § 201.65 of A.I.D. Regulation 1 (22 C.F.R. § 201.65) provide as follows:

(b) *Commission to sales agents.* Unless otherwise authorized by A.I.D., a commission paid or payable by a supplier to or for the benefit of a sales agent in connection with any sale subject to this Part 201 shall be eligible for A.I.D. financing only if—

(1) The sales agent performed no part of the services relating to the commission outside the United States, and the sales agent

maintains a regular place of business in the United States; or

(2) The sales agent whose services relate to the commission is a U.S. firm, and any officer, employee, partner or association member of the sales agent who has performed outside the United States any part of the services relating to the commission is both a citizen and resident of the United States.

(c) *Commission to commission employees.* Unless otherwise authorized by A.I.D., a commission paid or payable by a supplier to or for the benefit of a commission employee in connection with any sale subject to this Part 201 shall be eligible for A.I.D. financing only if—

(1) The commission employee performed no part of the services relating to the commission outside the United States; or

(2) The commission employee whose services relate to the commission is both a citizen and resident of the United States.

(d) *Service payments.* Unless otherwise authorized by A.I.D., a service payment in connection with any sale subject to this Part 201 will not be eligible for A.I.D. financing if any portion thereof has been paid or is payable by the supplier to or for the benefit of a local service organization.

*Instructions.* As a condition for receiving payment from foreign assistance funds, the supplier is required to check one or more of the certifications which appear as separate blocks on the reverse of this form and which apply to his transaction. The supplier shall indicate on line 4 the letter of the certification(s) to which he subscribes. If the supplier checks the block for certifications A or H, he may check no other certification. A supplier who executes certification H will also thereby request the opening bank to pay a commission or to make a service payment in local currency in accordance with the procedure described in paragraph (e) of § 201.65 of A.I.D. Regulation 1. As appropriate, the supplier may check one or more of certifications B, C, D, E, F, or G.

On line 1 below the supplier shall insert the serial or other number which he has assigned to the invoice which he submits to his bank as the basis for receiving payment. On line 2 the supplier shall insert the A.I.D. identification number of the implementing document.

- 1. Invoice No.-----
- 2. A.I.D. No.-----

CERTIFICATIONS TO A.I.D. AND REQUEST TO OPENING BANK

NO COMMISSION OR SERVICE PAYMENTS

Certification A:  The undersigned certifies on behalf of the supplier that in connection with the sale described on the accompanying Invoice-and-Contract Abstract no commission and no service payment has been paid or is payable either in dollars or in local currency.

DOLLAR COMMISSION TO A SALES AGENT

The undersigned certifies on behalf of the supplier that a dollar commission has been paid or is payable in the amount indicated on the accompanying A.I.D. Invoice-and-Contract Abstract to a sales agent; and—

Certification B:  That no part of the services relating to the commission were performed by the sales agent outside the United States; and that the sales agent maintains a regular place of business in the United States; or—

Certification C:  That the sales agent whose services relate to the commission is a U.S. firm; and that any officer, employee, partner, or association member of such U.S. firm who has performed outside the United States any part of the services relating to



the commission is both a citizen and resident of the United States.

**DOLLAR COMMISSION TO A COMMISSION EMPLOYEE**

The undersigned certifies on behalf of the supplier that a dollar commission has been paid or is payable in the amount indicated on the accompanying A.I.D. Invoice-and-Contract Abstract to a commission employee; and—

Certification D:  That no part of the services relating to the commission were performed by the commission employee outside the United States; or—

Certification E:  That the commission employee who has performed outside the United States any part of the services relating to the commission is both a citizen and resident of the United States.

**DOLLAR SERVICE PAYMENTS**

Certification F:  The undersigned certifies on behalf of the supplier that a service payment has been paid or is payable in dollars in the amount indicated on the accompanying A.I.D. Invoice-and-Contract Abstract and that such amount has neither been paid nor is payable to a local service organization.

**LOCAL CURRENCY COMMISSION OR SERVICE PAYMENT BY IMPORTER**

Certification G:  The undersigned certifies on behalf of the supplier that a commission or service payment has been paid or is payable by the importer in local currency for account of the supplier directly to the sales agent, commission employee, or local service organization in the amount indicated on the accompanying A.I.D. Invoice-and-Contract Abstract and that the amount of the commission or service payment, expressed in dollars, has been subtracted from the invoice amount for which the supplier is claiming A.I.D. financing.

**LOCAL CURRENCY COMMISSION OR SERVICE PAYMENT BY OPENING BANK**

Certification H:  The undersigned certifies on behalf of the supplier that a commission or service payment is payable in local currency in the amount indicated on the accompanying A.I.D. Invoice-and-Contract Abstract; that the amount of the commission or service payment, expressed in dollars, has been subtracted from the invoice amount for which the supplier is claiming A.I.D. financing; and that the supplier will make no commission or service payment in any other manner in connection with the transaction described on the accompanying A.I.D. Invoice-and-Contract Abstract.

Request to opening bank: The opening bank, in accordance with the procedure outlined in paragraph (e) of § 201.65 of A.I.D. Regulation 1 and in instructions issued by the central banking authority of the government of the cooperating country, is requested by the undersigned to pay on behalf of the supplier, on the basis of the information provided on line 3 of this form and on the supplier's invoice, a local currency equivalent (based upon the official exchange rate) of the amount indicated in dollars to the sales agent, commission employee, or local service organization.

**3. Commission and Service Payment Information:**

**a. Name of:**

----- sales agent -----  
----- commission employee -----  
----- local service organization -----

**b. Address of sales agent, commission employee, or local service organization -----**

**c. Gross invoice amount -----**

**d. Commission or service payment (expressed in dollars) payable by opening bank in local currency -----**

**e. Net invoice amount to be paid to supplier with A.I.D. dollars (line c minus line d) -----**

4. The undersigned has checked block letter(s) ----- and has thereby subscribed to the contents of the certification(s) set forth therein as a condition for receiving payment from funds authorized under the Foreign Assistance Act of 1961, as amended, for the sale described on the accompanying Invoice-and-Contract Abstract. The undersigned represents that, except as certified in the block(s) which he has checked on this form, no commission or service payment either in dollars or in local currency has been paid or is payable to a sales agent, commission employee or local service organization in connection with the sale described on the accompanying Invoice-and-Contract Abstract. The undersigned acknowledges that the supplier will, upon request of the Administrator of A.I.D., promptly refund to A.I.D. in dollars any sum which the supplier has paid over in violation of any certification which he has made on this form. The supplier also acknowledges that false certification may bring about the application of penalties provided by Title 18 and Title 31 of the United States Code.

-----  
(Signature)

-----  
(name of supplier (name of firm))

-----  
(Position in firm)

-----  
(Date)

Definitions: As used on this form, "commission" means any payment or allowance by a supplier to any person for the contribution which that person has made to securing the sale for the supplier or which that person makes to securing on a continuing basis similar sales for the supplier; "commission employee" means any employee or officer of the supplier who has contributed to securing the sale and who is paid a salary which is directly or indirectly calculated as, or related to, a percentage of the amount of the sale; "Invoice-and-Contract Abstract" means the reverse side of A.I.D. Form 282 (which appears as Appendix A to A.I.D. Regulation 1, 22 C.F.R. Part 201) or A.I.D. Form 18-24; "local currency" means the currency of the cooperating country; "local service organization" means any person who in the cooperating country performs services in connection with the A.I.D.-financed commodities; "opening bank" means the bank which has opened the letter of credit in the cooperating country in favor of the supplier; "regular place of business" means a permanent business establishment such as an office, sales outlet, or other fixed place of business, but does not include a mere postal address or box number or any casual or temporary use of facilities for the sole or principal purpose of rendering a commission eligible for A.I.D. financing; "resident of the United States" means any natural person who maintains a permanent household in the United States, who pays or who is subject to the income tax requirements, if any, of the State in which he maintains his household; and who is physically present for at least 60 days of the year in the United States; "sales agent" means any person who is neither the importer nor a commission employee and who has contributed to securing the sale or to securing similar sales on a continuing basis for the supplier; "service payment" means with respect to services performed in connection with the A.I.D.-financed commodities any payment or allowance by the supplier to any person, whether or not a

sales agent, but not including a commission, payment or allowance for incidental or delivery services, or a salary payment to any officer or employee of the supplier; "State" means the District of Columbia, Puerto Rico, or any State, territory or possession of the United States; "U.S. firm" means (1) a corporation which has been organized under the laws of any State of the United States, which maintains a regular place of business in the United States, and which is at least 51 percent beneficially owned by citizens of the United States or U.S. firms or both; or (2) a sole proprietorship in which the sole proprietor is both a citizen and resident of the United States; or (3) a partnership or association in which the majority of partners or association members are both citizens and residents of the United States.

**APPENDIX D—APPLICATION FOR APPROVAL OF COMMODITY ELIGIBILITY**

AID 11(10-16-70)

Budget Bureau No. 24-R0055

Approval Expires 5-31-74

TRANSACTION NO. (Assigned by A.I.D.)

**TRANSACTION IDENTIFICATION**

1. A.I.D. No. -----
2. Payment Terms:  
Letter of Credit No. -----  
Date -----  
Name and Address of U.S. Bank -----
3. Import License No. -----  
Date -----
4. Supplier's Relationship to Authorized Source Country:  
 Corporation or Partnership Organized under Source Country Laws.  
 Individual: Citizen or Resident of Source Country.  
 Controlled Foreign Corporation.  
 Other.
5. Supplier's Name and Address -----
6. Importer's Name and Address -----
7. Contract:  
Total Amount -----  
Date -----
8. Shipping Plans as of Time of Application:  
a. Partial Shipment  No  Yes \$ -----  
b. Loading Port -----  
c. Destination Port -----  
d. Month(s) of Shipment -----

**COMMODITY IDENTIFICATION**

9. Schedule B 7-Digit Code(s):  
(a) -----  
(b) -----  
(c) -----  
(d) -----  
(e) -----
10. Commodity Details:  
-----  
-----  
-----
11. Unit and Unit Price FAS/FOB Vessel (Named Port of Loading):  
-----  
-----  
-----
12. Commodity Condition:  Unused  
 Other.
13. Source:  
a. Authorized Area -----  
b. Shipped From -----  
c. Produced in -----



14. Components:  
 a. From Other than 13.a Source  Yes  No  
 b. If 14.a is "Yes," Country Imported From \_\_\_\_\_  
 c. Cost Per Unit of 14.b Components \_\_\_\_\_
15. Information about Producers and Plants:  
 a. Name of Producer(s) and Location of Plants \_\_\_\_\_  
 b. Size Class of Producer(s) Small Business  Not Small Business   
 c. Estimated Value Furnished from Each Plant \_\_\_\_\_
16. Remarks and Additional Information \_\_\_\_\_
- 17.:

SUPPLIER'S CERTIFICATIONS

As a condition for securing a determination of commodity eligibility preparatory to the receipt by the supplier of funds made available by the United States under the Foreign Assistance Act of 1961, as amended, in payment in whole or in part in the transaction described and for the commodity identified on this form, the undersigned, acting on behalf of the supplier whose name appears in block 5 above and authorized to bind the supplier, agrees with and certifies to A.I.D. as follows:

1. The supplier has contracted for the sale of the commodity described on this form to the importer whose name appears in block 6, and the supplier has either attached to this form a copy of such contract or has furnished in block 2 information concerning a letter of credit confirmed or advised in his favor under a payment obligation assumed by the importer in the sales contract.

2. The supplier has filled in the applicable portions of this form and certifies to the correctness of the information shown herein.

3. The supplier agrees that the commodity will be shipped and invoiced in accordance with the information shown herein; that if any change in commodity identification takes place after A.I.D. has approved this transaction, the supplier will resubmit this form to A.I.D. for review and further approval for financing in light of the changed commodity; and that this Commodity Approval Application which the supplier proposes to use as a basis for securing payment from A.I.D. funds, is in every respect the original or true copy of the original application approved by A.I.D. The supplier acknowledges that any commodity, other than a commodity described on this form by the supplier and approved by A.I.D. below, is ineligible for A.I.D. financing with respect to the sale transaction for which this form must be submitted as a condition for payment.

4. The supplier certifies that he is an individual resident in a country included in the authorized source code; a nonresident citizen of a country included in the authorized source code; a corporation or partnership organized under the laws of a country included in the authorized source code; or a controlled foreign corporation (within the meaning of section 957 et seq. of the Internal Revenue Code) as attested by current information on file with the Internal Revenue Service of the United States (on IRS Form 959, 2952, 3646, or any substitute or successor forms) submitted by shareholders of the corporation. If the supplier is a controlled foreign corporation without a regular place of business in the United States, the supplier appoints any shareholder or officer thereof agent for the supplier to receive service of process in the United States in connection with any dispute arising between the supplier and A.I.D. and relating to the commodity sale financed by A.I.D.

5. The supplier has not received notice directly by mail or indirectly by publication in the FEDERAL REGISTER or otherwise that A.I.D. has suspended or debarred him pursuant to A.I.D. Regulation 8 (22 CFR Part 208) or that the Treasury Department has placed his name on the Consolidated List of Designated Nationals and thereby rendered him ineligible to receive A.I.D. funds. To the best of his knowledge, the supplier has not acquired, and in any event will not acquire, for resale under A.I.D. financing the goods described on this form from any supplier suspended or debarred by A.I.D. or included on the Treasury List of Designated Nationals or from any affiliate of such a person.

6. The supplier acknowledges that this application, when approved, is not valid for shipments having a delivery date on or after the expiration date shown below.

Typed or Printed Name and Title \_\_\_\_\_  
 Signature of Authorized Representative of Supplier \_\_\_\_\_  
 Date \_\_\_\_\_

18.: A.I.D. APPROVAL

By the signature and seal which appear below, A.I.D. has given limited approval to the sale described on this form. This approval is limited strictly to a determination that the commodity which the supplier has described is of a description, condition, and source eligible for A.I.D. financing. This approval and determination of commodity eligibility does not represent an approval of the sale price and does not in any way preclude an A.I.D. refund claim based upon a detailed analysis of the transaction upon postaudit in accordance with the provisions of A.I.D. Regulation 1 (22 CFR Part 201). A.I.D. expressly reserves to itself such rights as it may have under that regulation and under such other A.I.D. forms as the supplier may be required to submit by the terms of financing documents and by the terms of Regulation 1.

Expiration Date \_\_\_\_\_  
 Approved for A.I.D. Authorized Signature \_\_\_\_\_  
 Date \_\_\_\_\_

19.: CERTIFICATE FOR PARTIAL SHIPMENT

I hereby certify that the partial shipment for which payment is being requested from A.I.D. funds is being made under the contract covered by the original validated form AID-11 of which this is a true copy.

Typed or Printed Name and Title \_\_\_\_\_  
 Signature of Authorized Representative of Supplier \_\_\_\_\_  
 Date \_\_\_\_\_

GENERAL INSTRUCTIONS

Requirement for payment: Section 201.11 (k) of A.I.D. Regulation 1 declares that a commodity sale transaction is eligible for A.I.D. financing only if A.I.D. provides a determination of the commodity eligibility on the Commodity Approval Application. Section 201.52(a) (8) of the regulation states that to secure payment in connection with any sale governed by the regulation, a supplier must submit to the paying bank the signed original of this form, countersigned by A.I.D. As appropriate, a reproduced copy of the validated form, certified as provided in the second paragraph below, is required with each subsequent claim for partial shipments made under the original validated form AID-11.

Approval by A.I.D.: To secure A.I.D. approval, a supplier must submit signed and properly executed original and one copy of the form, addressed to the Agency for International Development, Office of the Controller, Washington, D.C. 20523, or to the alternative direct mail address published in A.I.D. Small Business Memorandums. A.I.D. will indicate its approval in Block 18 of the form if the form is properly executed and if A.I.D. has no objection to financing the described commodity. If A.I.D. refuses approval, the Agency will return the form to the supplier with an explanation for the refusal. In either case, an identification number will be assigned by A.I.D. in the upper right-hand corner of the form. Any followup correspondence between the supplier and A.I.D. should refer to this number.

Partial shipments: In the event a supplier expects to make more than one shipment under a single contract, letter of credit, or collection document, he may either submit a separate form AID-11 covering each shipment, or submit a single form AID-11 covering the entire contract. In the latter case, the original A.I.D.-approved form will be presented to the paying bank with the supplier's first request for payment and a reproduced copy of the approved form, properly certified in block 19, will be presented with each request for payment for subsequent partial shipments. See detailed instructions for block 8.

Duration of A.I.D. approval: A.I.D. approval remains valid for 6 months as evidenced by the expiration date entered by A.I.D. in block 18. If the letter of credit is valid for a longer period, upon request from the supplier and submission of a copy of the letter of credit, A.I.D. will provide an approved expiration date corresponding to the expiration date of the letter of credit. If the A.I.D. approval expires prior to delivery, the supplier must reapply for approval, making reference to the transaction number assigned by A.I.D.

Timing of submission: Under letter of credit financing the application normally should be submitted subsequent to receiving confirmation or advice concerning the credit, but prior to shipment. The form may, however, be submitted prior to receipt of such credit provided that an original or true copy of the contract with the importer accompanies the application. Under any other method of financing, the application will be submitted following receipt of instructions that the transaction is to be A.I.D.-financed and must be accompanied by an original or true copy of the contract with the importer. In no case should the form be submitted prior to the time the supplier is able to furnish all required information in blocks 12 through 15.

Submissions in English language: Every commodity description which appears on the form must be stated in English. If a supplier furnishes as an attachment to this form a contract in a language other than English, an English translation of the commodity description must also be furnished.

Necessity for complete information: All numbered blocks MUST be appropriately completed. If the application contains incomplete blocks, it will NOT be processed but will be returned for completion.

A.I.D. geographic codes: See § 201.11 (b) (4) of A.I.D. Regulation 1 for countries and areas included in geographic code numbers.

Obtaining forms: Forms may be obtained in limited quantities from banks holding A.I.D. letters of commitment, field offices of the Department of Commerce, the A.I.D. office in the supplier's country, U.S. Embassies or consulates, local banks, or the Distribution Branch, Agency for International Development, Washington, D.C. 20523. A supplier



may reproduce the form provided the reproduction is identical with the original copy in every respect, including size, color, and format. A supplier may overprint his name and address in block 5.

#### INSTRUCTIONS RELATING TO SPECIFIC ITEMS

**Block 1:** Enter the letter of commitment number or Project Implementation Order number, as applicable. If neither is available, enter the loan or grant agreement number. A.I.D. cannot act on an application unless one of these numbers is provided.

**Block 2:** Indicate the method of financing. If by letter of credit, enter the letter of credit number assigned by the U.S. bank, the date the bank issued, advised, or confirmed the letter of credit, and the name and address of the bank concerned. If the application is submitted prior to receipt of this information, enter the words "Firm contract" and attach a copy of the contract.

If the transaction is not to be financed by letter of credit, enter the applicable payment terms (e.g., sight draft collection, open account) and attach a copy of the contract.

**Block 3:** The importer should provide the supplier with this information. Generally the import license number appears on the letter of credit. If the information is not known or is not available at the time of submission of the application, enter "Unknown". (In some cases it may be necessary for A.I.D. to require this information before approving the application.)

Omit this information and enter "NA" (not applicable) if the importer has not been required by his government to secure an import license.

**Block 4:** Check the appropriate box to indicate the supplier's relationship to a country in the authorized source code. This information is relevant to certification 4 in block 17. If the box for "Controlled Foreign Corporation" is checked, show the U.S. payment address in block 16. If "Other" is checked, furnish explanation of relationship in block 16.

**Block 5:** Enter name and address, taking care to center the information in order to permit A.I.D. to use a window envelope in returning the form.

**Block 7:** Enter the total contract sales price, i.e., the total remuneration (in whatever currency and whether paid directly to the supplier or in whole or in part to a designee of the supplier) to be received under the contract. Enter contract date or date the purchase order was accepted.

**Block 8:** (a) Check the appropriate box to indicate whether the supplier expects to make partial shipments. If "yes" and a separate application form will be submitted for each partial shipment, enter the value of the shipment to which this application relates. If only one application form will be submitted to cover all partial shipments, omit the dollar value.

(b) Enter the proposed loading port. If only the range of ports is known, enter the range of ports; e.g., North Atlantic, South Atlantic, Gulf, Pacific, Great Lakes. If expected that partial shipments will be made, but only one application form is to be submitted, entries under (b) and (c) will relate to the first shipment only.

(c) Enter the proposed destination port.

(d) Enter the month in which it is expected shipment will be made. In the case of partial shipments, indicate the estimated first and last months of shipments; e.g., April-September.

**Blocks 9 and 10:** Enter the U.S. Department of Commerce Schedule B 7-digit code or the A.I.D. 10-digit Schedule B-Vietnam code, as appropriate, in block 9 and describe the commodity in block 10, giving size,

quantity, and a clear word description of the commodity, including any special formula or other distinguishing characteristics such as substandard quality (e.g., reject, imperfect, second) which will help to identify it.

If the contract or the letter of credit identifies the commodity by other than Schedule B code or A.I.D. Schedule B-Vietnam code (e.g., Standard International Trade Classification, Brussels Trade Classification, importing country tariff classification), this identification should be furnished as part of the commodity description.

If the commodity description varies significantly within the same Schedule B code, separate entries must be furnished for each commodity.

**Block 11:** Enter the unit and unit price for the commodity on an F.A.S. or F.O.B. basis for the loading port specified in block 8.b. For other delivery terms, enter a constructive price F.A.S. or F.O.B. vessel; i.e., subtract from a C. & F. or C.I.F. price estimated ocean freight and marine insurance, or add to an inland price (e.g., ex plant, F.O.B. rail cars [named point]) the estimated inland freight and accessorial costs necessary to place the commodity in the custody of the ocean carrier.

If the supplier is unable to compute a unit price F.A.S. or F.O.B. vessel, the unit price of the commodity may be shown on the basis of the inland price with estimated inland freight cost, if available, footnoted in an explanatory entry in block 16. This alternative is not applicable to certain commodities subject to an eligibility test based on maximum F.A.S. value per unit. (Such commodities are identified in Office of Small Business Memorandums.)

Special instructions—multicoded items: If the shipment (or contract) is made up of commodities bearing differing Schedule B codes, or if the commodity description varies significantly within the same Schedule B code, separate entries must be furnished for each code or description. When there are six or more items to be listed in blocks 9 through 11, a signed and dated accepted contract, order, invoice, or other separate listing of the information may be attached to the original and copy of the form AID-11, provided the full 7-digit Schedule B code, complete and accurate description of the commodity, and F.A.S. or F.O.B. vessel unit price are shown for each. If the information required by blocks 12 through 15 is not common to all commodities listed, appropriate information related to each such commodity is also required to be shown either on the attachment or in the blocks 12 through 15 and related to the appropriate line of the attachment. If an attachment is used in lieu of entry of the information on form AID-11, complete blocks 9-11 inclusive, and 12-15 inclusive (when applicable) by entering the words "See attachment".

Special instructions—Blocks 12 through 15: If more than one commodity is listed in block 9, provide information required by blocks 12 through 15 on separate lines in those blocks, identified to the corresponding line on which the commodity is listed in block 9. For example, information concerning a commodity listed on line (c) in block 9 would be identified as line (c) in blocks 12 through 15. When only one form AID-11 is submitted, information in these blocks should be descriptive of the total contract. If a separate form AID-11 is submitted for each shipment under the contract, the information in these blocks should cover only that single shipment.

**Block 12:** Enter check mark in the appropriate box to indicate the condition of the commodity. If the commodity is other than unused, describe the condition in the space below or in block 16. For this purpose, any

commodity declared surplus by a U.S. Government agency and any commodity containing rebuilt or rehabilitated components are not considered as "unused."

**Block 13:** See § 201.11(b) (4) of A.I.D. Regulation 1 for countries and areas included in geographic code numbers.

(a) Enter in block 13.a the authorized geographic source area as provided by the importer.

(b) Enter in block 13.b the country from which the commodity will be shipped to the importer. If the commodity will be shipped from a free port or bonded warehouse, indicate this fact in block 16 and give the location of the bonded warehouse.

(c) Enter in block 13.c the country in which the commodity has been or will be mined, grown, or produced through manufacturing, processing, or assembly.

**Block 14:** (a) Enter in block 14.a "Yes" if the commodity includes components imported into the country of production from a country not included in the authorized geographic source area indicated in block 13.a. If such components are not included, enter "No."

(b) If block 14.a is "Yes," identify in block 14.b each country from which components were imported into the country of production.

(c) In block 14.c enter the total cost, within each unit of the finished product, attributable to components imported from each country indicated in block 14.b. If the supplier is unable to furnish information required by blocks 14.b and 14.c at the time of submission of the application and no component percentage other than the 50 percent set forth in § 201.11(b) (2) (ii) (b) of A.I.D. Regulation 1 has been authorized for the commodity, A.I.D. will accept a statement in these blocks or in block 16 that (1) the commodity contains no components from other than "free world" countries, and (2) the total cost of components imported into the country of production from other than countries included in the authorized geographic source code (or the cooperating country itself when ever Code 941 is authorized) per unit of finished commodity is no more than 50 percent of the lowest selling price per unit at which the supplier makes the commodity available for export. If A.I.D. has authorized a percentage for non-source free world components other than 50 percent, the supplier should state such other higher or lower modification of the percentage rule, with a citation to the pertinent modification; and the actual percentage of non-source free world components in the product, or an affirmation that the percentage of such components is not in excess of the percentage allowed by A.I.D. The supplier should thereafter be prepared to demonstrate the accuracy of these statements upon request of A.I.D.

**Block 15:** At the supplier's option, this information may be omitted from the original form and shown only on the duplicate copy which does not leave A.I.D.'s possession.

(a) Enter the name of the producer (e.g., the manufacturer, processor, assembler) and the location (city and State or country) of the plant where produced. "Same as block 5" may be entered when appropriate.

(b) (This information is required only when a U.S. address is indicated in block 15.a. The information is required so that A.I.D. can compile information recommended by Congress.) Indicate whether the producer is considered a small business concern for the purposes of U.S. Government procurement. Generally a small business concern is a firm that (1) is not dominant in its field of operations and, with its affiliates, employs fewer than 500 employees, or (2) is certified as a small business concern by the Small Business



Administration. (Code of Federal Regulations, Title 13, Part 121, as amended.) If a producer is unsure of his classification, he may obtain guidance from the nearest field or regional office of the Small Business Administration.

(c) Enter the part of the total commodity value, F.A.S. or F.O.B. vessel port of loading, attributable to the goods furnished from each plant.

Block 16: This block may be used to furnish explanation of or additional information in connection with, any entries on the form. Identify any explanatory entry to the block (and line, as appropriate) to which it relates.

Block 17: The supplier, or his authorized representative, must manually sign this certification, showing name, title, and date signed.

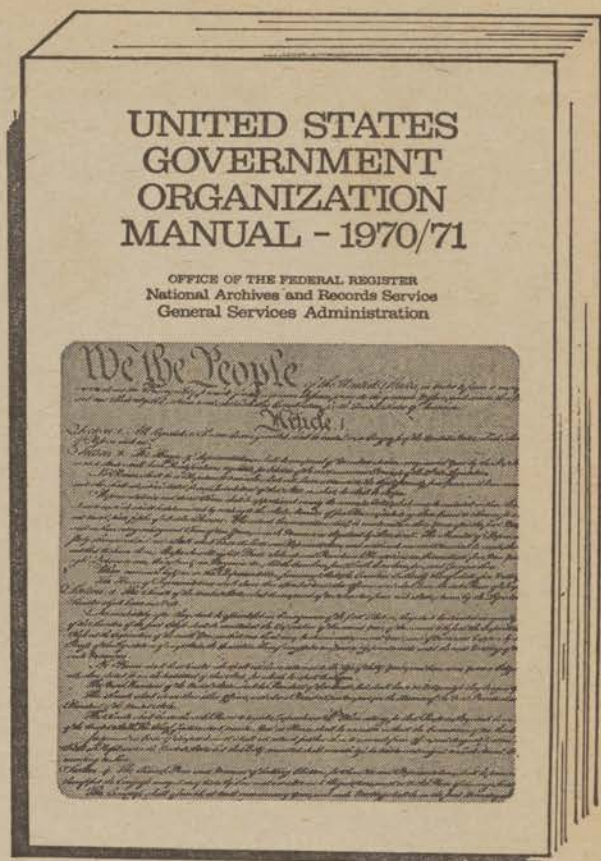
Block 18: For A.I.D. use. Note that A.I.D. approval is not valid for deliveries on and after the expiration date shown in this block.

Block 19: If reproduced copies of this original form are presented with the supplier's request for payment (see third paragraph of General Instructions), the supplier or his authorized representative must manually sign this certification in block 19 of the reproduced form, showing name, title, and the date signed.

[FR Doc.71-4881 Filed 4-13-71;8:45 am]



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