federal register

THURSDAY, JUNE 10, 1971
WASHINGTON, D.C.

Volume 36 ■ Number 112
Pages 11175–11261

HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

(Continued inside)

FEDERAL REGISTER

Area Code 202 Phone 962-8626

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

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

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

Contents

(*Continued on next page*)

List of CFR Parts Affected

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

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

3 CFR

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:
Reorganization Plan No. 1 of 1971 ... 11181

7 CFR

908 ... 11205
916 ... 11206
919 ... 11206

PROPOSED RULES:

1063 ... 11211
1070 ... 11211
1078 ... 11211
1079 ... 11211

12 CFR

505 ... 11185

14 CFR

39 (5 documents) ... 11185–11186
71 (7 documents) ... 11187–11188
374 ... 11189

PROPOSED RULES:

1 ... 11218
43 ... 11218
71 (11 documents) ... 11218–11222
91 ... 11218

21 CFR

135e ... 11190
191 ... 11190

PROPOSED RULES:

1 ... 11217

26 CFR

1 ... 11190

31 CFR

PROPOSED RULES:

102 ... 11208
103 ... 11208

32 CFR

809d ... 11196
819a ... 11196

41 CFR

1–4 ... 11199
101–19 ... 11199

45 CFR

117 ... 11200

47 CFR

PROPOSED RULES:

13 ... 11225
73 ... 11225

49 CFR

391 ... 11205

PROPOSED RULES:

173 ... 11224
178 ... 11224
391 ... 11223

Presidential Documents

Title 3—The President

REORGANIZATION PLAN NO. 1 OF 1971

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 24, 1971, pursuant to the provisions of chapter 9 of title 5 of the United States Code.[1]

Reorganization of Certain Volunteer Programs

SECTION 1. *Establishment of agency.* (a) There is hereby established in the executive branch of the Government an agency to be known as "Action".

(b) There shall be at the head of Action the Director of Action. He shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

(c) There shall be in Action a Deputy Director of Action who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). The Deputy Director shall perform such functions as the Director of Action shall from time to time assign or delegate, and shall act as Director of Action during the absence or disability of the latter or in the event of a vacancy in the office of Director of Action.

(d) There shall be in Action not to exceed four Associate Directors who shall be appointed by the President by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316). Each Associate Director shall perform such functions as the Director of Action shall from time to time assign or delegate.

SEC. 2. *Transfer of functions.* (a) The following described functions are hereby transferred to the Director of Action:

(1) The functions of the Director of the Office of Economic Opportunity under Title VIII of the Economic Opportunity Act of 1964, as amended, 42 U.S.C. 2991–2994d (relating to Volunteers in Service to America and Auxiliary and Special Volunteer Programs, including the National Student Volunteer Program).

(2) The functions of the Secretary of Health, Education, and Welfare under Title VI of the Older Americans Act of 1965, as amended, 42 U.S.C. 3044–3044e (relating to the Retired Senior Volunteer Program and the Foster Grandparent Program).

[1] Effective July 1, 1971, under the provisions of section 6 of the plan.

(3) The functions of the Small Business Administration under section 8(b) of the Small Business Act, as amended (15 U.S.C. 637(b)), insofar as they relate to individuals or groups of persons cooperating with it in the furtherance of the purposes of that section: *Provided,* That such individuals or groups of persons, in providing technical and managerial aids to small business concerns, shall remain subject to the direction of the Administration.

(4) So much of other functions or parts of functions of the transferor officers and agencies affected by the foregoing provisions of this section as is incidental to or necessary for the performance by Action or by the Director of Action of the functions transferred by those provisions, respectively, including, to the same extent, the functions conferred upon the Director of the Office of Economic Opportunity by section 602 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2942).

(b) The function conferred upon the Director of the Peace Corps by section 4(c)(4) of the Peace Corps Act, as amended (22 U.S.C. 2503 (c)(4)), is hereby transferred to the President of the United States.

SEC. 3. *Performance of transferred functions.* The Director of Action may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any other officer, or by any organizational entity or employee, of Action.

SEC. 4. *Incidental transfers.* (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Director of Action or to Action by this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to Action at such time or times as the latter Director shall direct.

(b) Such further measures and dispositions as the Director of Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 5. *Interim officers.* (a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Director of Action until the office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Director, authorize any such person to act as Associate Director, and authorize any such person to act as the head of any principal constituent organizational entity of Action.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such

compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 6. *Effective date.* The provisions of this reorganization plan shall take effect as provided by section 906(a) of title 5 of the United States Code, or on July 1, 1971, whichever is later.

[FR Doc.71-8142 Filed 6-9-71;8:45 am]

LEGISLATIVE HISTORY OF REORGANIZATION PLAN NO. 1 OF 1971

Weekly Compilation of Presidential Documents, Vol. 7, No. 13:
Mar. 24, Presidential message transmitting Plan to Congress.
House Report No. 92-222 (accompanying H. Res. 411), Comm. on Government Operations.
Senate Report No. 92-136 (accompanying S. Res. 108), Comm. on Government Operations.
Congressional Record, Vol. 117 (1971):
May 25, considered and approved by House.
June 2, 3, considered and approved by Senate.

Rules and Regulations

Title 12—BANKS AND BANKING

Chapter V—Federal Home Loan Bank Board

SUBCHAPTER A—GENERAL

[71-527]

PART 505—AVAILABILITY AND CHARACTER OF RECORDS

Appeals by Persons Denied Information or Records of the Board

JUNE 3, 1971.

Resolved that the Federal Home Loan Bank Board considers it advisable to amend § 505.8 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.8) for the purpose of revising the procedure relating to appeals by persons denied information or records of the Board. Accordingly, on the basis of such consideration and for such purpose, the Federal Home Loan Bank Board hereby amends said § 505.8 by revising it to read as follows, effective July 12, 1971:

§ 505.8 Appeals.

Any person who believes himself aggrieved by the denial to him of any information or record of the Board pursuant to this part may make written application, stating the grounds thereof, to the General Counsel of the Board for redress. The General Counsel shall promptly advise the applicant of his determination as to the disposition of the application. The applicant may appeal the determination of the General Counsel to the Board for review, by written application addressed to the Office of the Secretary at the address set forth in § 505.4(d). The Board shall act upon such application within a reasonable time and shall promptly notify the applicant of its determination.

(Sec. 1, 81 Stat. 54; 5 U.S.C. 552; sec. 17, 47 Stat. 736, as amended; sec. 5, 48 Stat. 132, as amended; sec. 402, 48 Stat. 1256, as amended; 12 U.S.C. 1437, 1464, 1725. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071)

Resolved further that, since the above amendment is deemed by the Board to apply to rules of Board procedure, notice and public procedure thereon are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and the Board hereby provides that the amendment shall become effective as hereinbefore set forth.

By the Federal Home Loan Bank Board.

[SEAL] JOSEPH F. SCHRAM,
Assistant Secretary.

[FR Doc.71-8124 Filed 6-9-71;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-CE-17-AD; Amdt. 39-1227]

PART 39—AIRWORTHINESS DIRECTIVES

Beech Models 33, 35, 55, 56, 58, and 95 Series Airplanes

AD 70-15-14 (Amendment 39-1047) required the testing and inspection, and/or replacement of Beech P/N 96-524029-1 control wheel adapters installed on Beech Model 56TC Airplanes. Subsequently, it has been found that the testing and inspection procedures are inadequate. The Agency has continued to receive reports of cracked or broken Beech P/N 96-524029-1 control wheel adapters installed on Beech 58 and 95-55 airplanes as well as Beech Model 56TC airplanes. These instances result in sudden and unexpected interruptions of aileron and elevator control. To correct this condition the manufacturer has issued Beechcraft Service Instruction No. 0254-156, Revision II, which recommends replacement of these and P/N 96-524029-3 adapters. Since the condition described herein exists or may develop in other airplanes of the same and similar type designs, AD 70-15-14 is being superseded by an Airworthiness Directive requiring within 50 hours' time in service after the effective date of this AD, that the aforementioned control wheel adapters installed on Beech 33, 35, 55, 56, 58, and 95 series airplanes be replaced in accordance with the service instruction. Beech Model airplanes affected by this AD were either equipped at the factory with Beech P/N 96-524029-1 or P/N 96-524029-3 adapters or retrofitted in the field with Beech P/N 60-524080-3 or 60-524080-4 control wheels which incorporated the suspect adapters.

Since immediate action is required in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedure Act is not practical and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to the following model airplanes:

(1) 35-C33, E33, F33 (Serial Nos. CD-1062 thru CD 1264); 35-C33A, E33A, F33A (Serial Nos. CE-118 thru CE-315); E33C, F33C (Serial Nos. CJ-1 thru CJ-30); V35, V35A, V35B (Serial Nos. D-8336 thru D-9140); 36, A36 (Serial Nos. E-1 thru E-27); 95-B55, 95-B55A (Serial Nos. TC-1021 thru TC-1335); 95-C55, 95-C55A, D55A, E55, E55A (Serial Nos. TE-256 thru TE-806); 56TC, A56TC (Serial Nos. TG-1 thru TG-94); 58 (Serial Nos. TH-1 thru TH-27); D95A, E95 (Serial Nos. TD-678 thru TD-721) airplanes equipped at the factory with Beech P/N 96-524029-1 and/or 96-524029-3 control wheel adapters.

(2) 35-C33 (Serial Nos. CD-814 thru CD-1061); 35-C33A (Serial Nos. CE-1 thru CE-117); V35 (Serial Nos. D-7977 thru D-8335); 95-B55, 95-B55A (Serial Nos. TC-371 and TC-502 thru TC-1020); 95-C55, 95-C55 (Serial Nos. TC-350 and TE-1 thru TE-255); D95A (Serial Nos. TD-534 thru TD-677) airplanes retrofitted in service with Beech P/N 60-524-080-3 and/or P/N 60-524080-4 control wheel incorporating Beech P/N 96-524029-1 and/or P/N 96-524029-3 control wheel adapters.

Compliance: Required as indicated unless already accomplished.

To assure security of the control wheel, within 50 hours' time in service after the effective date of this AD, replace Beech P/N 96-524029-1 and P/N 524029-3 control wheel adapters with Beech P/N 96-524029-15 (left side) control wheel adapter or Beech P/N 96-524029-19 (right side) control wheel adapter in accordance with Beechcraft Service Instruction No. 0254-156, Revision II, or an equivalent part approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This AD supersedes AD 70-15-14 (Amendment 39-1047).

This amendment becomes effective June 12, 1971.

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

Issued in Kansas City, Mo., on June 2, 1971.

JOHN A. HARGRAVE,
Acting Director, Central Region.

[FR Doc.71-8100 Filed 6-9-71;8:49 am]

[Docket No. 71-EA-65; Amdt. 39-1224]

PART 39—AIRWORTHINESS DIRECTIVES

Grumman Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Grumman G21A type airplanes.

There have been reports of defective elevator trim shafts as a result of cracked

end fittings. The cause of the cracked end fittings is believed to be the use of a defective crimping tool. The defective trim shaft could lead to a failure of the elevator tab control flexible drive shaft and present a hazard to air safety. Since this condition can exist or develop in airplanes of the same type design, an airworthiness directive is being issued which will require a visual inspection and repair or replacement of the subject part.

Since a situation exists which requires expeditious adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

GRUMMAN AIRCRAFT. Applies to Model G21A aircraft certificated in all categories.

Within the next 25 flight hours after the effective date of this AD, unless already accomplished, visually inspect, replace of repair P/N 7190Y-OA-1408 (flexible drive shaft, elevator tab control) in accordance with the procedure of Grumman Customer Bulletin G21A No. 71-1 dated 3 March 1971 or with equivalent method.

Equivalent methods or parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

This amendment is effective June 10, 1971.

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

Issued in Jamaica, N.Y., on May 27, 1971.

LOUIS J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc.71-8075 Filed 6-9-71;8:47 am]

[Docket No. 71-EA-89; Amdt. 39-1226]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

The Federal Aviation Administration is publishing an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Piper PA-23, 24, 30, 31, and 39 type aircraft.

There have been reports of malfunctioning of electric trim switches installed on the subject aircraft. Since this defficiency can exist or develop on aircraft of similar type design, an airworthiness directive is being issued so as to require a modification of the trim switches.

Since a situation exists requiring expeditious adoption of this amendment, notice and public procedure hereon are unnecessary and the rule may be made effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 F.R. 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

PIPER AIRCRAFT. Applies to Models PA-23-250 (Six Place) and PA-E23-250 (Six Place) Serial Numbers: 27-3837, 27-3944 through 27-4467, 27-4469 through 27-4527, 27-4529 through 27-4559, 27-4561 through 27-4567, 27-4569 through 27-4575, 27-4577 through 27-4579, 27-4581, 27-4582, 27-4584 through 27-4592, 27-4594, 27-4596 through 27-4604 and 27-4606. Model PA-24-260, Serial Nos. 24-4783, 24-4804 through 24-4953, 24-4955 through 24-4959, 24-4962 and 24-4964. Model PA-30, Serial Nos. 30-1717, 30-1745 through 30-2000. Model PA-31 and 31-300, Serial Nos. 31-2 through 31-694, 31-696 and 31-697. Model PA-31P; Serial Nos. 31P-1 through 31P-24, 31P-26 through 31P-29, 31P-31 and 31P-33. Model PA-39; Serial Nos. 39-1 through 39-83 and any other of the above model A/C equipped with Scott Electric Trim Switch P/N 800452-01.

Compliance required within the next 100 hours' time in service after the effective date of this AD, unless already accomplished.

(a) Modify the Electric Trim Switch P/N 800452-01 in accordance with Piper Kit No. 760505 as referenced in Piper Service Bulletin No. 331, dated 5 February 1971 or equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(b) Upon request with substantiating data submitted through an FAA maintenance inspector, the compliance time specified in this AD may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

This amendment is effective June 16, 1971.

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

Issued in Jamaica, N.Y. on June 2, 1971.

GEORGE M. GARY,
Director, Eastern Region.

[FR Doc.71-8076 Filed 6-9-71;8:47 am]

[Docket No. 10299; Amdt. 39-1229]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Model DH-104 "Dove" Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of emergency landing gear extension system compressed air bottle assemblies having air bottles that were manufactured before January 1, 1959, with serviceable assemblies of the same part number incorporating air bottles manufactured on or after that date on Hawker Siddeley Model DH-104 "Dove" airplanes was published in the FEDERAL REGISTER, 35 F.R. 7435.

Interested persons have been afforded an opportunity to participate in the making of the amendment. The only comment which was received questioned whether air bottle P/N AC.11038 could be used in place of P/N AH.7360 which was specified in the proposal. The manufacturer has advised that P/N AC.11038 may be used in place of P/N AH.7360, and that it is revising its Technical News Sheet, Series CT(104) No. 214, accordingly. The AD is therefore being revised to include air bottle P/N AC.11038 as an alternative to P/N AH.7360. In addition, due to unavoidable delay in the making of this amendment, the former compliance date of December 31, 1970, has been revised to July 31, 1971.

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

HAWKER SIDDELEY AVIATION. Applies to Model DH-104 "Dove" airplanes.

Compliance is required on or before July 31, 1971, unless already accomplished.

To prevent possible failure of the Dunlop compressed air bottles used in the emergency landing gear extension systems, inspect the compressed air bottle (P/N AH.7360 or AC.11038) installed in the air bottle assembly (P/N AH.8512) located under the pilot's seat. If the air bottle was manufactured before January 1, 1959, replace the air bottle assembly with a serviceable assembly of the same part number which incorporates an air bottle (P/N AH.7360 or AC.11038) manufactured on or after January 1, 1959. The date of manufacture is etched on the collar of the bottle.

(Hawker Siddeley Technical New Sheet, Series CT(104), No. 214, Issue 2, covers this subject.)

This amendment becomes effective July 30, 1971.

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

Issued in Washington, D.C., on June 3, 1971.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

[FR Doc.71-8077 Filed 6-9-71;8:47 am]

[Docket No. 10300; Amdt. 39-1230]

PART 39—AIRWORTHINESS DIRECTIVES

Hawker Siddeley Model DH-114 "Heron" Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of emergency landing gear system and emergency braking system compressed air bottle assemblies having air bottles that were manufactured before January 1, 1959, with serviceable assemblies of the same part number incorporating air bottles manufactured on or after that date on Hawker Siddeley Model DH-114 "Heron" airplanes was published in the FEDERAL REGISTER, 35 F.R. 7435.

Interested persons have been afforded an opportunity to participate in the making of the amendment. The only comment which was received questioned whether air bottle P/N AC.11038 could

be used in place of P/N AH.7360, which was specified in the proposal. The manufacturer has advised that P/N AC.11038 may be used in place of P/N AH.7360, and that it is revising its Technical News Sheet, Series: Heron (114, No. S.6, accordingly. The AD is therefore being revised to include air bottle P/N AC.11038 as an alternative to P/N AH.7360. In addition, due to unavoidable delay in the making of this amendment, the former compliance date of December 31, 1970, has been revised to July 31, 1971.

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

HAWKER SIDDELEY AVIATION. Applies to Model DH–114 "Heron" airplanes.

Compliance is required as indicated.

To prevent possible failure of the Dunlop compressed air bottles used in the emergency landing gear extension system and emergency braking system, accomplish the following on or before July 31, 1971:

(a) For all airplanes, inspect the air bottle (P/N AH.7360 or AC.11038) used in either of the emergency landing gear extension system air bottle assemblies (P/N AC.11768) located under the pilot's seat. If the air bottle was manufactured before January 1, 1959, replace the air bottle assembly with a serviceable assembly of the same part number which incorporates an air bottle (P/N AH.7360 or AC.11038) manufactured on or after January 1, 1959. The date of manufacture is etched on the collar of the bottle.

(b) For airplanes which have incorporated Modification 281 (Emergency Braking System), inspect the air bottle (P/N AC.10685 or AC.11038) used in the emergency braking system air bottle assembly (P/N ACM.16784) located on the left forward face of the crew cabin sloping bulkhead. If the air bottle was manufactured before January 1, 1959, replace the air bottle assembly with a serviceable assembly of the same part number which incorporates an air bottle (P/N AC.10685 or A/C.11038) manufactured on or after January 1, 1959. The date of manufacture is etched on the collar of the air bottle.

(Hawker Siddeley Technical News Sheet, Series: Heron (114), No. S.6, Issue 2, covers this subject.)

This amendment becomes effective July 30, 1971.

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

Issued in Washington, D.C. on June 3, 1971.

JAMES F. RUDOLPH,
Director,
Flight Standards Service.

[FR Doc.71–8078 Filed 6–9–71;8:47 am]

[Airspace Docket No. 71–EA–25]

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

Alteration of Control Zone

On Page 6015 of the FEDERAL REGISTER for April 1, 1971, the Federal Aviation Administration published a proposed rule which would alter the Morristown, N.J., control zone (36 F.R. 2107).

Interested parties were given 30 days after publication in which to submit written data or views. The ATA concurred in the proposal. The AOPA objected to the inclusion of a 1.5-mile radius area of Somerset Hills Airport into the Morristown control zone on the basis it was not required and that it would create a hardship on the Somerset Hills Airport operations. Mr. James L. Calvin, president of Somerset Hills Airport, objected to the proposal on the basis that inclusion of his airport into the Morristown control zone would create an economic hardship on his operations and recommended that we alter the Morristown NDB–5 procedure by moving it eastward so as to eliminate the infringement on his airport operations. We have reviewed all comments and have revised the proposed southwest control zone extension by excluding a 1-mile radius of Somerset Hills Airport. We are able to accomplish this change because a 1-mile radius area centered on Somerset Airport will not infringe on the U.S. Standard for Terminal Instrument Procedures (TERPs) primary area airspace. This exclusion will satisfy the objections made by AOPA and Mr. James L. Calvin. The Morristown Runway 23 ADF and LOC procedures were revised on 13 May 1971 to require that aircraft executing these procedures cross the Morristown outer marker at a minimum altitude of 2,000 feet MSL in lieu of 1,400 feet MSL. This increase in altitude will permit us to delete the north control zone extension.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., July 22, 1971, with the following corrections:

1. Delete the 4-mile wide northeast control zone extension.

2. Exclude the 1.5-mile radius area around Somerset Hills Airport.

Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Morristown, N.J., control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center of Morristown Municipal Airport (40°48'00" N., 74°25'00" W.); within 3 miles each side of the 204° bearing from the Chatham, N.J., RBN extending from the 5-mile-radius zone to 8.5 miles southwest of the RBN excluding a 1.0-mile radius of the center of Somerset Hills Airport, Basking Ridge, N.J. (40°41'28" N., 74°32'08" W.). This control zone is effective from 0700 to 2300 hours, local time, daily.

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

Issued in Jamaica, N.Y., on May 20, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71–8079 Filed 6–9–71;8:47 am]

[Airspace Docket No. 71–EA–78]

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

Alteration of Control Zone and Transition Area

The Federal Aviation Administration is amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Plattsburgh, N.Y., control zone (36 F.R. 2117) and transition area (36 F.R. 2254).

The VOR instrument approach procedure for Clinton County Airport, Plattsburgh, N.Y., has been revised in accordance with the U.S. Standard for Terminal Instrument Procedures. The revised procedure requires alteration of the control zone and 700-foot floor transition area. The revision makes is possible to delete the presently designated control zone extension and 700-foot floor transition area extension northeast of the airport.

Since the amendment is relaxatory and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

In view of the foregoing, Federal Aviation Administration having reviewed the airspace requirements in the terminal airspace of Plattsburgh, N.Y., the amendment is herewith made effective 0901 G.m.t., July 22, 1971 as follows:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting in the description of the Plattsburgh, N.Y. control zone, all after: "12 miles N of the TACAN".

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting in the description of the Plattsburgh, N.Y. 700-foot floor transition area, all after: "12 miles north of the OM".

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

Issued in Jamaica, N.Y., on May 20, 1971.

GEORGE M. GARY,
Director, Eastern Region.

[F.R. Doc.71–8080 Filed 6–9–71;8:47 am]

[Airspace Docket No. 71–CE–50]

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

Alteration of Control Zone and Transition Area; Correction

In F.R. Doc. 71–5777 on page 7844 in the issue of Tuesday, April 27, 1971, the following corrections are necessary:

1. Line 6 of the control zone description recited as "of the Kona OM; and within 5 miles each" should be corrected to read "of the Kona CL; and within 5 miles each".

2. Lines 18 and 19 of the transition area description recited as "bearing from the Kona OM extending from the OM to 18½ miles northwest of the OM." should be corrected to read "bearing from the Kona CL extending from the CL to 18½ miles northwest of the CL.".

Issued in Kansas City, Mo., on May 11, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-8081 Filed 6-9-71;8:48 am]

[Airspace Docket No. 71-SO-60]

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

Alteration of Transition Areas

On April 23, 1971, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (36 F.R. 7687), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Cochran and Dublin, Ga., transition areas.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition areas are amended to read:

COCHRAN, GA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Cochran Airport (lat. 32°23'45" N., long. 83°16'45" W.); within 2.5 miles each side of Vienna VORTAC 046° radial, extending from the 5-mile radius area to 12.5 miles northeast of the VORTAC.

DUBLIN, GA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Dublin Municipal Airport (lat. 32°33'55" N., long. 82°59'10" W.); within 2.5 miles each side of Dublin VORTAC 069° radial, extending from the 6-mile radius area to 1.5 miles east of the VORTAC.

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

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

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-8082 Filed 6-9-71;8:48 am]

[Airspace Docket No. 71-SO-61]

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

Alteration of Transition Areas

On April 23, 1971, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (36 F.R. 7687), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Hazlehurst and Waycross, Ga., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition areas are amended to read:

HAZLEHURST, GA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Hazlehurst Airport (lat. 31°53'00" N., long. 82°38'45" W.); within 2.5 miles each side of Alma VORTAC 342° radial, extending from the 6-mile radius area to 18 miles north of the VORTAC.

WAYCROSS, GA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Waycross-Ware County Airport (lat. 31°14'55" N., long. 82°23'48" W.); within 1.5 miles each side of Waycross VORTAC 099° radial, extending from the 8.5-mile radius area to the VORTAC; excluding the portion within a 1.5-mile radius of Bivins Airport (lat. 31°11'06" N., long. 32°16'25" W.).

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

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

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-8083 Filed 6-9-71;8:48 am]

[Airspace Docket No. 71-SO-63]

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

Alteration of Control Zone and Transition Area

On April 23, 1971, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (36 F.R. 7688), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Moultrie, Ga., control zone and transition area and the Tifton, Ga., transition area.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., August 19, 1971, as hereinafter set forth.

In § 71.171 (36 F.R. 2055), the Moultrie, Ga., control zone is amended to read:

MOULTRIE, GA.

Within a 5-mile radius of Moultrie-Thomasville Airport (lat. 31°04'58" N., long. 83°48'15" W.); within 3 miles each side of Moultrie VOR 031° radial, extending from the 5-mile-radius zone to 8.5 miles northeast of the VOR; within 2 miles each side of Moultrie VOR 199° radial, extending from the 5-mile-radius zone to 11.5 miles south of the VOR; within 3 miles each side of Moultrie VOR 230° radial, extending from the 5-mile-radius zone to 8.5 miles southwest of the VOR; within a 5-mile radius of Spence AF Auxiliary Field (lat. 31°08'15" N., long. 83°42'15" W.). This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (36 F.R. 2140), the following transition areas are amended to read:

MOULTRIE, GA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Moultrie-Thomasville Airport (lat. 31°04'58" N., long. 83°48'15" W.); within an 8.5-mile radius of Thomasville Municipal Airport (lat. 30°54'05" N., long. 83°53'00" W.); within an 8.5-mile radius of Spence AF Auxiliary Field (lat. 31°08'15" N., long. 83°42'15" W.).

TIFTON, GA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Henry Tift Myers Airport (lat. 31°25'36" N., long. 83°29'06" W.).

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

Issued in East Point, Ga., on May 28, 1971.

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

[FR Doc.71-8084 Filed 6-9-71;8:48 am]

[Airspace Docket No. 71-SO-90]

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

Alteration of Control Zone

On May 19, 1971, F.R. Doc. No. 71-6933 was published in the FEDERAL REGISTER (36 F.R. 9066), amending Part 71 of the Federal Aviation Regulations by altering the Tampa, Fla. (International Airport) and other control zones.

In the amendment, an extension predicated on St. Petersburg FORTAC 064° radial was omitted based on the assumption that the basic 5-mile radius zones predicated on Tampa International and St. Petersburg Clearwater International Airports overlapped. Refined plotting by National Ocean Survey disclosed that the two zones did not overlap, and an extension 3 miles in width would be required to provide adequate control zone protection. It is necessary to amend the FEDERAL REGISTER document to include this extension. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, F.D. Doc. No. 71-6933 is amended as follows:

The Tampa, Fla. (International Airport) control zone is amended to read:

TAMPA, FLA. (INTERNATIONAL AIRPORT)

Within a 5-mile radius of Tampa International Airport (lat. 27°58'59" N., long. 82°31'38" W.); within 1.5 miles each side of St. Petersburg VORTAC 064° radial, extending from the 5-mile radius zone to 1 mile northeast of the VORTAC; excluding the portion within St. Petersburg control zone and the portion southeast of a line 2 miles north of and parallel to MacDill AFB ILS localizer northeast course.

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

Issued in East Point, Ga., on June 1, 1971.

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

[FR Doc.71-8085 Filed 6-9-71;8:48 am]

Chapter II—Civil Aeronautics Board

SUBCHAPTER D—SPECIAL REGULATIONS

[Reg. SPR-49]

PART 374—IMPLEMENTATION OF THE CONSUMER CREDIT PROTECTION ACT (OTHERWISE KNOWN AS THE TRUTH IN LENDING ACT AND THE FAIR CREDIT REPORTING ACT) WITH RESPECT TO AIR CARRIERS AND FOREIGN AIR CARRIERS [1]

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of June 1971.

Title I of the Consumer Credit Protection Act (82 Stat. 146 et seq.; 15 U.S.C. 1601–1665), which is known as the Truth in Lending Act, contains a delegation to the Board of the duty of enforcing its provisions as to "any air carrier or foreign air carrier subject to" the Federal Aviation Act of 1958, as amended.[2] The purpose of the Truth in Lending Act is to require disclosure of credit terms covering virtually the entire breadth of consumer credit. In 1970 Congress amended the Consumer Credit Protection Act by (1) adding provisions with respect to the issuance of unsolicited credit cards and (2) enacting a new title (title VI) to be called "Consumer Credit Reporting" and to be known as the Fair Credit Reporting Act.[3] The Fair Credit Reporting Act is designed to enable consumers to protect themselves against arbitrary, erroneous and malicious credit information. The Board is vested with responsibility for enforcement of the provisions of the 1970 amendments to the Consumer Credit Protection Act with respect to air carriers and foreign air carriers.

[1] The title of Part 374 has been modified to incorporate the formal name of the statute which is "Consumer Credit Protection Act." Title I of the Act is the Truth in Lending Act and title VI thereof is the Fair Credit Reporting Act.

[2] Section 108(a)(5) of the Truth in Lending Act.

[3] Title VI of the Consumer Credit Protection Act, 84 Stat. 1127 (title VI of Public Law 91-508, Oct. 26, 1970). The Fair Credit Reporting Act is separate and apart from the Truth in Lending Act.

The purpose of these amendments is to call attention to the recent amendments to the Consumer Credit Protection Act and the regulations of the Federal Reserve Board relating thereto[4] insofar as they relate to air carriers and foreign air carriers.

Since the amendments herein are purely informational and procedural, notice and public procedure hereon are not necessary and the rules may be made effective on less than 30 days' notice.

Further, the amendments are so pervasive that we are reissuing the part.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends and reissues Part 374 of its Special Regulations (14 CFR Part 374), effective June 10, 1971, to read as follows:

[4] 12 CFR Part 226. The Board of Governors of the Federal Reserve System (Federal Reserve Board) has the statutory responsibility for prescribing regulations to carry out the purposes of the Truth in Lending Act.

Sec.
374.1 Purpose.
374.2 Applicability.
374.3 Compliance with Act and regulations.
374.4 Procedure.

AUTHORITY: The provisions of this Part 374 are issued under section 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324; titles I and V of the Consumer Credit Protection Act (Truth in Lending Act) and title VI of the Consumer Credit Protection Act (Fair Credit Reporting Act), 82 Stat. 146 et seq., 84 Stat. 1126 et seq., 15 U.S.C. 1601–1665, 1681–1681t; Regulation Z of the Board of Governors of the Federal Reserve System, 12 CFR Part 226.

§ 374.1 Purpose.

(a) Section 108(a)(5) of the Truth in Lending Act (title I of the Consumer Credit Protection Act, Public Law 90-321; 82 Stat. 146 et seq., 15 U.S.C. 1601–1665) effective July 1, 1969, provides that the Civil Aeronautics Board shall have the duty of ensuring compliance with the requirements of title I "with respect to any air carrier or foreign air carrier subject to" the Federal Aviation Act of 1958. In addition, section 108(b) of the Truth in Lending Act provides that "(f) or the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act."

(b) The Consumer Credit Protection Act was amended in 1970 in the following two respects: (1) By the addition of provisions to the Truth in Lending Act with respect to the issuance of unsolicited credit cards (84 Stat. 1126, Public Law 91-508); and (2) by the enactment of a new title VI to the Consumer Credit Protection Act to be known as the Fair Credit Reporting Act (84 Stat. 1127, Public Law 91-508). The Fair Credit Reporting Act was designed to enable consumers to protect themselves against arbitrary, erroneous and malicious credit information. The Board is presently vested with responsibility for enforcement of the provisions of the Truth in Lending Act with respect to air carriers and foreign air carriers, including enforcement of the provisions requiring greater standards of care in the issuance of unsolicited credit cards. It is also vested with responsibility for enforcement of the Fair Credit Reporting Act's provisions with respect to air carriers and foreign air carriers by section 621(b) of such act. In addition, section 621(c) thereof provides that "(f) or the purpose of the exercise by any agency referred to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act."

(c) The Board of Governors of the Federal Reserve System has the statutory responsibility for prescribing regulations to carry out the purposes of the Truth in Lending Act. It has promulgated Regulation Z (14 CFR Part 226) to implement the provisions of this Act. Regulation Z has been amended to prescribe rules to implement the credit card provisions of the Truth in Lending Act (36 F.R. 1040, January 22, 1971).

(d) The purpose of this part is to implement the Truth in Lending Act, Regulation Z of the Board of Governors of the Federal Reserve System, and the Fair Credit Reporting Act insofar as applicable to the Civil Aeronautics Board's responsibility thereunder.

§ 374.2 Applicability.

This regulation is applicable to all air carriers and foreign air carriers as defined in section 101 of the Federal Aviation Act of 1958, as amended, including, without limitation, direct carriers, air taxi operators authorized under Part 298, indirect air carriers authorized under Parts 296 and 297, tour operators authorized under Part 378, study group charterers authorized under Part 373 and foreign air carriers holding permits pursuant to section 402 of the Act to engage in indirect foreign air transportation.

§ 374.3 Compliance with Act and regulations.

All air carriers and foreign air carriers shall comply with the applicable provisions of titles I, V, and VI of the Consumer Credit Protection Act and Regulation Z of the Board of Governors of the Federal Reserve System.

§ 374.4 Procedure.

The procedure set forth in Subpart B of Part 302 of the Board's rules of practice in Economic Proceedings (Part 302 of this chapter) shall be applicable to proceedings for enforcement of the provisions of titles I and VI of the Consumer Credit Protection Act and Regulation Z of the Board of Governors of the Federal Reserve System.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8129 Filed 6-9-71;8:52 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Buquinolate and Lincomycin

The Commissioner of Food and Drugs has evaluated a new animal drug application (45–738V), filed by The Upjohn Co., Kalamazoo, Mich. 49001, proposing the safe and effective use of buquinolate and lincomycin in chicken feed. The application is approved.

To facilitate referencing, §§ 135e.34 and 135e.49 are being editorially amended by identifying the firms mentioned therein with the code number which has been assigned to each in § 135.501.

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), and under authority delegated to the Commissioner (21 CFR 2.120), Part 135e is amended, as follows:

1. Section 135e.34 is amended by revising paragraph (b) and by adding a new item 11 to the table in paragraph (f), as follows:

§ 135e.34 Buquinolate.

* * * * *

(b) *Approvals.* Premix level of 16.5 percent has been granted; for sponsor see code No. 027 in § 135.501(c) of this chapter.

* * * * *

(f) * * *

BUQUINOLATE IN ANIMAL FEED

Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
* * *	* * *	* * *	* * *	* * *
75 (0.00825%)	Lincomycin.....	2–4	To be fed as the sole ration for floor raised broiler chickens.	For increase in rate of weight gain and improved feed efficiency; as an aid in the prevention of coccidiosis caused by *E. tenella, E. maxima, E. necatrix, E. brunetti, E. acervulina.*

2. Section 135e.49 is amended by revising paragraph (b) and by adding a new subdivision (iv) to paragraph (e)(2), as follows:

§ 135e.49 Lincomycin.

* * * * *

(b) *Approvals.* Premix level of 4 grams per pound has been granted; for sponsor see code No. 037 in § 135.501(c) of this chapter.

* * * * *

(e) * * *

(2) * * *

(iv) Buquinolate in accordance with § 135e.34 of this chapter.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (6–10–71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: May 21, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71–8054 Filed 6–9–71;8:45 am]

SUBCHAPTER D—HAZARDOUS SUBSTANCES

PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

Classification of Certain Liquid Drain Cleaners as Banned Hazardous Substances

In the matter of classifying liquid drain cleaners containing 10 percent or more of sodium and/or potassium hydroxide as banned hazardous substances (§ 191.9(a)(4)) within the meaning of section 2(q)(1)(B) of the Federal Hazardous Substances Act:

Eleven comments were received in response to the notice of proposed rulemaking in the above-identified matter published in the FEDERAL REGISTER of November 18, 1970 (35 F.R. 17746).

Several consumers and consumer agencies supported the proposal.

One response noted that the proposal would exempt such substances when packaged in containers so designed as to prevent children "5 years of age or younger" from gaining access to the contents whereas the Poison Prevention Packaging Act of 1970 (Public Law 91–601) pertains to children "under 5 years of age," and that injuries have occurred primarily to children under 5. For consistency with said act, § 191.9(a)(4) as promulgated below has been changed so that exemptions will be subject to standards promulgated under said act.

Two manufacturers suggested that acid-type liquid drain cleaners should also be covered by proposed § 191.9(a)(4). The Commissioner of Food and Drugs recognizes the potential hazard and will consider these separately.

Having considered the comments received and other relevant material, the Commissioner concludes that the proposal, with changes, should be adopted as set forth below. Therefore, pursuant to provisions of the Federal Hazardous Substances Act (sec. 2(q)(1)(B), (2), 74 Stat. 374, as amended 80 Stat. 1304–5; 15 U.S.C. 1261) and of the Federal Food, Drug, and Cosmetic Act (sec. 701(e), 52 Stat. 1055, as amended; 21 U.S.C. 371(e)), and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered,* That § 191.9(a) be amended by adding thereto a new subparagraph, as follows:

§ 191.9 Banned hazardous substances.

(a) * * *

(4) Liquid drain cleaners containing 10 percent or more by weight of sodium and/or potassium hydroxide; except that this subparagraph shall not apply to such liquid drain cleaners if packaged in accordance with a standard for special packaging of such articles promulgated under the Poison Prevention Packaging Act of 1970 (Public Law 91–601).

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

Effective date. This order shall become effective 60 days after its date of publication in the FEDERAL REGISTER, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be given by publication in the FEDERAL REGISTER.

(Sec. 2(q)(1)(B), (2), 74 Stat. 374, as amended 80 Stat. 1304–5, 15 U.S.C. 1261; sec. 701(e), 52 Stat. 1055, as amended; 21 U.S.C. 371(e))

Dated: May 13, 1971.

CHARLES C. EDWARDS,
Commissioner of Food and Drugs.

[FR Doc.71–8055 Filed 6–9–71;8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7126]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Termination of Investment Credit

On November 26, 1970, notice of proposed rule making with respect to the amendment of the Income Tax Regulations (26 CFR Part 1) to conform the regulations to section 703 of the Tax Reform Act of 1969 (83 Stat. 660), relating to termination of the investment credit, was published in the FEDERAL REGISTER (35 F.R. 18, 120). After consideration of all such relevant matter as was presented by interested persons regarding the rules

proposed, the amendment as proposed is hereby adopted, subject to the following change:

Paragraph (h)(1) of § 1.47–3, as set forth in paragraph 4 of proposed rule making, is revised.

(Secs. 47(a), 76 Stat. 966; 26 U.S.C. 47(a), and 7805, 68A Stat. 917; 26 U.S.C. 7805, of the Internal Revenue Code of 1954)

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

Approved: June 7, 1971.

EDWIN S. COHEN,
Assistant Secretary of the Treasury.

In order to reflect section 703 of the Tax Reform Act of 1969 (83 Stat. 660), relating to termination of the investment credit, the Income Tax Regulations (26 CFR Part 1) are amended as follows:

PARAGRAPH 1. Section 1.46 is amended by adding new paragraphs (5) and (6) to section 46(b) and by revising the historical note. These revised and added provisions read as follows:

§ 1.46 Statutory provisions; amount of credit.

SEC. 46. *Amount of credit.* * * *

(b) *Carryback and carryover of unused credits.* * * *

(5) *Taxable years beginning after December 31, 1968, and ending after April 18, 1969.* The amount which may be added under this subsection for any taxable year beginning after December 31, 1968, and ending after April 18, 1969, shall not exceed 20 percent of the higher of—

(A) The aggregate of the investment credit carrybacks and investment credit carryovers to the taxable year, or

(B) The highest amount computed under subparagraph (A) for any preceding taxable year which began after December 31, 1968, and ended after April 18, 1969.

(6) *Additional 3-year carryover period in certain cases.* Any portion of an investment credit carryback or carryover to any taxable year beginning after December 31, 1968, and ending after April 18, 1969, which—

(A) May be added under this subsection under the limitation provided by paragraph (2), and

(B) May not be added under the limitation provided by paragraph (5),

shall be an investment credit carryover to each of the 3 taxable years following the last taxable year for which such portion may be added under paragraph (1), and shall (subject to the provisions of paragraphs (1), (2), and (5)) be added to the amount allowable as a credit by section 38 for such years.

[Sec. 46 as added by sec. 2(b), Rev. Act 1962 (76 Stat. 963); as amended by sec. 201(d)(4), Rev. Act 1964 (78 Stat. 32); sec. 3, Act of Nov. 8, 1966 (Public Law 89–800, 80 Stat. 1514); sec. 2(a), Act of Dec. 27, 1967 (Public Law 90–225, 81 Stat. 731); sec. 703(b), Tax Reform Act 1969 (83 Stat. 666)]

PAR. 2. Section 1.46–2 is amended by revising subparagraphs (1) and (2) of, and adding a new subparagraph (5) to, paragraph (a), by revising paragraph (b), and by adding new examples (3) and (4) to paragraph (g). These revised and added provisions read as follows:

§ 1.46–2 Carryback and carryover of unused credit.

(a) *Allowance of unused credit as carryback or carryover*—(1) *In general.* Section 46(b)(1) provides for carrybacks and carryovers of any unused credit. An unused credit is the excess of the credit earned for the taxable year (as defined in paragraph (a) of § 1.46–1) over the limitation based on amount of tax for such taxable year (as determined under paragraph (b) of § 1.46–1). Subject to the limitations contained in paragraph (b) of this section, an unused credit shall be added to the amount allowable as a credit under section 38 for the years to which the unused credit can be carried. The year with respect to which an unused credit arises shall be referred to in this section as the "unused credit year".

(2) *Taxable years to which unused credit may be carried.* Except as provided in subparagraphs (3), (4), and (5) of this paragraph, an unused credit shall be an investment credit carryback to each of the 3 taxable years preceding the unused credit year and an investment credit carryover to each of the 7 taxable years (or 10 taxable years in cases to which subparagraph (5) of this paragraph applies) succeeding the unused credit year, except that an unused credit shall be a carryback only to taxable years ending after December 31, 1961. An unused credit must be carried first to the earliest of the 10 (or 13) taxable years to which it may be carried, and then to each of the other 9 (or 12) taxable years (in order of time) to the extent that the unused credit may not be added (because of the limitations contained in paragraph (b) of this section) to the amount allowable as a credit under section 38 for a prior taxable year.

* * * * *

(5) *Additional 3-year carryover period in certain cases.* Any portion of an investment credit carryback or carryover to any taxable year beginning after December 31, 1968, and ending after April 18, 1969, which may be added to the amount allowable as a credit for such taxable year under the limitation provided in subparagraph (1) of paragraph (b) of this section but may not be added solely because of the limitation provided in subparagraph (2) of such paragraph shall be an investment credit carryover to each of the 10 taxable years succeeding the unused credit year.

(b) *Limitations on allowance of unused credit*—(1) *In general.* The amount of the unused credit from any particular unused credit year which may be added to the amount allowable as a credit under section 38 for any of the preceding or succeeding taxable years to which such credit may be carried shall not exceed the amount by which the limitation based on amount of tax for such preceding or succeeding taxable year exceeds the sum of (i) the credit earned for such preceding or succeeding year, and (ii) other unused credits carried to such preceding or succeeding year which are attributable to unused credit years prior to the particular unused credit year. Thus, in determining the amount, if any, of an unused credit from a particular unused credit year which shall be added to the amount allowable as a credit for any preceding or succeeding taxable year, the credit earned for such preceding or succeeding taxable year, plus any unused credits originating in taxable years prior to a particular unused credit year, shall first be applied against the limitation based on amount of tax for such preceding or succeeding taxable year. To the extent the limitation based on amount of tax for the preceding or succeeding year exceeds the sum of the credit earned for such year and other unused credits attributable to years prior to the particular unused credit year, the unused credit from the particular unused credit year shall be added to the amount allowable as a credit under section 38 for such preceding or succeeding year. To the extent that an unused credit cannot be added for a particular preceding or succeeding taxable year because of the limitation contained in this subparagraph or in subparagraph (2) of this paragraph, such unused credit shall be available as a carryback or carryover to the next succeeding taxable year to which it may be carried.

(2) *Taxable years beginning after December 31, 1968, and ending after April 18, 1969.* The total amount of investment credit carryovers and carrybacks which may be added to the amount allowable as a credit under section 38 for any taxable year beginning after December 31, 1968, and ending after April 18, 1969, shall not exceed 20 percent of the higher of (i) the aggregate of the investment credit carryovers and carrybacks to the taxable year, or (ii) the aggregate of the investment credit carryovers and carrybacks to any preceding taxable year that began after December 31, 1968, and ended after April 18, 1969.

* * * * *

(g) *Examples.* * * *

Example (3). A, a calendar year taxpayer, has a total of $500 in investment credit carryovers to 1969, composed of a $150 unused credit from 1962 and a $350 unused credit from 1968. A's limitation based on amount of tax for 1969 is $135. Under paragraph (b)(2) of this section, A is limited to the use of only $100 (20 percent of $500) of his unused credits in 1969 and in each subsequent year. Since, in the absence of the 20-percent limitation, A could have used $135 of the carryover from 1962, $35 of such carryover (i.e., the portion that cannot be used in 1969 solely because of the 20-percent limitation) qualifies for the additional 3-year carryover period provided in paragraph (a)(5) of this section.

Example (4). The facts are the same as in example (3) except that A places in service in 1972 property eligible for the investment credit under one of the rules provided in section 49(b), producing an unused credit of $300 for 1972 that is a carryback to 1969. Under paragraph (b)(2) of this section, the

limitation on the use of carryovers and carrybacks to 1969 and each subsequent year is retroactively increased to $160, i.e., 20 percent of $800 (the sum of $500 in carryovers and $300 in carrybacks to 1969). Therefore, an additional $35 of the carryover from 1962 becomes usable in 1969. Since the remaining $15 of the carryover from 1962 is not usable because of the limitation provided in paragraph (b)(1) of this section, such $15 amount does not qualify for the additional 3-year carryover period provided in paragraph (a)(5) of this section.

* * * * *

PAR. 3. Section 1.47 is amended by revising paragraph (4) of, and adding a new paragraph (5) to, section 47(a), and by revising the historical note, to read as follows:

§ 1.47 Statutory provisions; certain dispositions, etc., of section 38 property.

SEC. 47. *Certain dispositions, etc., of section 38 property*—(a) *General rule.* * * *

(4) *Property destroyed by casualty, etc.* No increase shall be made under paragraph (1) and no adjustment shall be made under paragraph (3) in any case in which—

(A) Any property is disposed of, or otherwise ceases to be section 38 property with respect to the taxpayer, on account of its destruction or damage by fire, storm, shipwreck, or other casualty, or by reason of its theft,

(B) Section 38 property is placed in service by the taxpayer to replace the property described in subparagraph (A), and

(C) The reduction in basis or cost of such section 38 property described in the first sentence of section 46(c)(4) is equal to or greater than the reduction in qualified investment which (but for this paragraph) would be made by reason of the substitution required by paragraph (1) with respect to the property described in subparagraph (A).

Subparagraphs (B) and (C) shall not apply with respect to any casualty or theft occurring after April 18, 1969.

(5) *Certain property replaced after April 18, 1969.* In any case in which—

(A) Section 38 property is disposed of, and

(B) Property which would be section 38 property but for section 49 is placed in service by the taxpayer to replace the property disposed of,

the increase under paragraph (1) and the adjustment under paragraph (3) shall not be greater than the increase or adjustment which would result if the qualified investment of the property described in subparagraph (B) (determined as if such property were section 38 property) were substituted for the qualified investment of the property disposed of (as determined under paragraph (1)). Except in the case of a disposition by reason of a casualty or theft occurring before April 19, 1969, the preceding sentence shall apply only if the section 38 property disposed of is replaced within 6 months after the date of such disposition.

[Sec. 47 as added by sec. 2(b), Rev. Act 1962 (76 Stat. 963); as amended by sec. 703(c), Tax Reform Act 1969 (83 Stat. 666)]

PAR. 4. Section 1.47–3 is amended by revising paragraphs (a) and (c), and by adding a new paragraph (h), to read as follows:

§ 1.47–3 Exceptions to the application of § 1.47–1.

(a) *In general.* Notwithstanding the provisions of § 1.47–2, relating to "disposition" and "cessation," paragraph (a) of § 1.47–1 shall not apply if paragraph (b) of this section (relating to transfers by reason of death), paragraph (c) of this section (relating to property destroyed by casualty), paragraph (d) of this section (relating to reselection of used section 38 property), paragraph (e) of this section (relating to transactions to which section 381 (a) applies), paragraph (f) of this section (relating to mere change in form of conducting a trade or business), paragraph (g) of this section (relating to sale-and-leaseback transactions), or paragraph (h) of this section (relating to certain property replaced after Apr. 18, 1969) applies with respect to such disposition or cessation.

* * * * *

(c) *Property destroyed by casualty*—(1) *Dispositions after April 18, 1969.* Notwithstanding the provisions of § 1.47–2, relating to "disposition" and "cessation," paragraph (a) of § 1.47–1 shall not apply to property which, after April 18, 1969, is disposed of or otherwise ceases to be section 38 property with respect to the taxpayer on account of its destruction or damage by fire, storm, shipwreck or other casualty, or by reason of its theft.

(2) *Dispositions before April 19, 1969.* (i) In the case of property which, before April 19, 1969, is disposed of or otherwise ceases to be section 38 property with respect to the taxpayer on account of its destruction or damage by fire, storm, shipwreck or other casualty, or by reason of its theft, paragraph (a) of § 1.47–1 shall apply except to the extent provided in subdivisions (ii) and (iii) of this subparagraph.

(ii) Paragraph (a) of § 1.47–1 shall not apply if—

(*a*) Section 38 property is placed in service by the taxpayer to replace (within the meaning of paragraph (h) of § 1.46–3) the destroyed, damaged, or stolen property, and

(*b*) The basis (or cost) of the section 38 property which is placed in service by the taxpayer to replace the destroyed, damaged, or stolen property is reduced under paragraph (h) of § 1.46–3.

(iii) If property which would be section 38 property but for section 49 is placed in service by the taxpayer to replace the destroyed, damaged, or stolen property, then the provisions of paragraph (h) of this section (other than the requirement that the replacement take place within 6 months after the disposition) shall apply.

(3) *Examples.* The provisions of subparagraph (2)(ii) of this paragraph may be illustrated by the following examples:

Example (1). (i) A acquired and placed in service on January 1, 1962, machine No. 1 which qualified as section 38 property with a basis of $30,000 and an estimated useful life of 6 years. The amount of qualified investment with respect to such machine was $20,000. For the taxable year 1962 A's credit earned of $1,400 was allowed under section 38 as a credit against its liability for tax. On January 1, 1963, machine No. 1 is completely destroyed by fire. On January 1, 1963, the adjusted basis of machine No. 1 in A's hands is $24,500. A receives $23,000 in insurance proceeds as compensation for the destroyed machine, and on February 15, 1964, A acquires and places in service machine No. 2, which qualifies as section 38 property, with a basis of $41,000 and an estimated useful life of 6 years to replace machine No. 1.

(ii) Under subparagraph (1) of this paragraph, paragraph (a) of § 1.47–1 does not apply with respect to machine No. 1 since machine No. 2 is placed in service to replace machine No. 1 and the $41,000 basis of machine No. 2 is reduced, under paragraph (h) of § 1.46–3, by $23,000. (See example (1) of paragraph (h)(3) of § 1.46–3.)

Example (2). (i) The facts are the same as in example (1) except that A receives only $19,000 in insurance proceeds as compensation for the destroyed machine.

(ii) Although machine No. 2 is placed in service to replace machine No. 1, subparagraph (1) of this paragraph does not apply with respect to machine No. 1 since the basis of machine No. 2 is not reduced under paragraph (h) of § 1.46–3. Paragraph (a) of § 1.47–1 applies with respect to the January 1, 1963, destruction of machine No. 1. The actual useful life of machine No. 1 is 1 year. The recomputed qualified investment with respect to such machine is zero ($30,000 basis multiplied by zero applicable percentage) and A's recomputed credit earned for the taxable year 1962 is zero. The income tax imposed by chapter 1 of the Code on A for the taxable year 1963 is increased by $1,400.

* * * * *

(h) *Certain property replaced after April 18, 1969*—(1) *In general.* (i) If section 38 property is disposed of and property which is, for purposes of section 1033 and the regulations thereunder, similar or related in service or use to the property disposed of and which would be section 38 property but for the application of section 49 is placed in service to replace the property disposed of, the increase in income tax and adjustment of investment credit carryovers and carrybacks resulting from the recomputation under paragraph (a) of § 1.47–1 shall be reduced (but not below zero) by the credit that would be allowed for the qualified investment of the replacement property (determined as if such property were section 38 property). The preceding sentence shall not apply unless the replacement takes place within 6 months after the disposition. If property otherwise qualifies as replacement property, it is immaterial that it is placed in service (for example, to undergo testing) before the replaced property is disposed of. The assignment by the taxpayer in his return of an estimated useful life to the replacement property in computing its qualified investment will be considered a representation by the taxpayer that he expects to retain the replacement property for its entire estimated useful life. If such property is disposed of before the end of such life, then the circumstances surrounding the replacement will be examined to determine whether the taxpayer's representation was in good faith and, if appropriate, the qualified investment of the replacement property will be recomputed for the year of replacement using the actual useful life of such property.

(ii) The provisions of subdivision (i) of this subparagraph may be illustrated by the following example:

Example. On January 1, 1967, A, a calendar year taxpayer, acquired and placed in service a new machine with a basis of $100 and an estimated useful life of 8 years. A's qualified investment was $100 and his credit earned was $7, which was allowed as a credit against tax for 1967. On January 15, 1972, A disposed of the machine and replaced it with a similar new machine costing $75 and having an estimated useful life of 8 years. The new machine would be section 38 property but for section 49. Since the actual useful life of the original machine was at least 4 but less than 6 years, the recomputed qualified investment of the machine is $33.33 (33⅓ percent of $100) and under paragraph (a) of § 1.47–1 the amount of recapture tax would be $4.67 ($7, the original credit earned, minus $2.33, the recomputed credit earned). However, under the provisions of this paragraph, the recapture tax is reduced (but not below zero) by the credit that would be allowed for the replacement property (determined as if such property were section 38 property). Under these facts the recapture tax is zero ($4.67, the recapture tax with respect to the original machine, minus $5.25, the credit that would be allowed on the new machine).

(2) *Leased property.* Property disposed of may be replaced with property leased from another, provided (i) an election with respect to the newly leased property could be made under section 48(d) but for section 49, and (ii) the lessee obtains the lessor's written statement that he will not claim such property as replacement property under this paragraph. The statement of the lessor shall contain the information specified in subdivisions (i) through (vii) of § 1.48–4(f)(1) and the statement (or a copy thereof) shall be retained in the records of the lessor and the lessee for a period of at least 3 years after the property is transferred to the lessee.

PAR. 5. Section 1.48 is amended by redesignating subsection (h) of section 48 as subsection (k) thereof, by adding new subsections (h), (i), and (j) to section 48, and by revising the historical note. The revised and added provisions read as follows:

§ 1.48 Statutory provisions; definitions; special rules.

SEC. 48. *Definitions; special rules.* * * *

(h) *Suspension of investment credit.*—For purposes of this subpart—

(1) *General rule.* Section 38 property which is suspension period property shall not be treated as new or used section 38 property.

(2) *Suspension period property defined.* Except as otherwise provided in this subsection and subsection (i), the term "suspension period property" means section 38 property—

(A) The physical construction, reconstruction, or erection of which (i) is begun during the suspension period, or (ii) is begun, pursuant to an order placed during such period, before May 24, 1967, or

(B) Which (i) is acquired by the taxpayer during the suspension period, or (ii) is acquired by the taxpayer, pursuant to an order placed during such period, before May 24, 1967.

In applying subparagraph (A) to any section 38 property, there shall be taken into account only that portion of the basis which is properly attributable to construction, reconstruction, or erection before May 24, 1967.

(3) *Binding contracts.* To the extent that any property is constructed, reconstructed, erected, or acquired pursuant to a contract which was, on October 9, 1966, and at all times thereafter, binding on the taxpayer, such property shall not be deemed to be suspension period property.

(4) *Equipped building rule.* If—

(A) Pursuant to a plan of the taxpayer in existence on October 9, 1966 (which plan was not substantially modified at any time after such date and before the taxpayer placed the equipped building in service), the taxpayer has constructed, reconstructed, erected, or acquired a building and the machinery and equipment necessary to the planned use of the building by the taxpayer, and

(B) More than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such building as so equipped is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before October 10, 1966, or property the acquisition of which by the taxpayer occurred before such date,

then all section 38 property comprising such building as so equipped (and any incidental section 38 property adjacent to such building which is necessary to the planned use of the building) shall be treated as section 38 property which is not suspension period property. For purposes of subparagraph (B) of the preceding sentence, the rules of paragraphs (3) and (6) shall be applied. For purposes of this paragraph, a special purpose structure shall be treated as a building.

(5) *Plant facility rule*—(A) *General rule.* If—

(i) Pursuant to a plan of the taxpayer in existence on October 9, 1966 (which plan was not substantially modified at any time after such date and before the taxpayer placed the plant facility in service), the taxpayer has constructed, reconstructed, or erected a plant facility, and either

(ii) The construction, reconstruction, or erection of such plant facility was commenced by the taxpayer before October 10, 1966, or

(iii) More than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such plant facility is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before October 10, 1966, or property the acquisition of which by the taxpayer occurred before such date,

then all section 38 property comprising such plant facility shall be treated as section 38 property which is not suspension period property. For purposes of clause (iii) of the preceding sentence, the rules of paragraphs (3) and (6) shall be applied.

(B) *Plant facility defined.* For purposes of this paragraph, the term "plant facility" means a facility which does not include any building (or of which buildings constitute an insignificant portion) and which is—

(i) A self-contained, single operating unit or processing operation,

(ii) Located on a single site, and

(iii) Identified, on October 9, 1966, in the purchasing and internal financial plans of the taxpayer as a single unitary project.

(C) *Special rule.* For purposes of this subsection, if—

(i) A certificate of convenience and necessity has been issued before October 10, 1966, by a Federal regulatory agency with respect to two or more plant facilities which are included under a single plan of the taxpayer to construct, reconstruct, or erect such plant facilities, and

(ii) More than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such plant facilities is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before October 10, 1966, or property the acquisition of which by the taxpayer occurred before such date,

such plant facilities shall be treated as a single plant facility.

(D) *Commencement of construction.* For purposes of subparagraph (A)(ii), the construction, reconstruction, or erection of a plant facility shall not be considered to have commenced until construction, reconstruction, or erection has commenced at the site of such plant facility. The preceding sentence shall not apply if the site of such plant facility is not located on land.

(6) *Machinery or equipment rule.* Any piece of machinery or equipment—

(A) More than 50 percent of the parts and components of which (determined on the basis of cost) were held by the taxpayer on October 9, 1966, or are acquired by the taxpayer pursuant to a binding contract which was in effect on such date, for inclusion or use in such piece of machinery or equipment, and

(B) The cost of the parts and components of which is not an insignificant portion of the total cost,

shall be treated as property which is not suspension period property.

(7) *Certain lease-back transactions, etc.* Where a person who is a party to a binding contract described in paragraph (3) transfers rights in such contract (or in the property to which such contract relates) to another person but a party to such contract retains a right to use the property under a lease with such other person, then to the extent of the transferred rights such other person shall, for purposes of paragraph (3), succeed to the position of the transferor with respect to such binding contract and such property. The preceding sentence shall apply, in any case in which the lessor does not make an election under subsection (d), only if a party to such contract retains a right to use the property under a long-term lease.

(8) *Certain lease and contract obligations.* Where, pursuant to a binding lease or contract to lease in effect on October 9, 1966, a lessor or lessee is obligated to construct, reconstruct, erect, or acquire property specified in such lease or contract, any property so constructed, reconstructed, erected, or acquired by the lessor or lessee which is section 38 property shall be treated as property which is not suspension period property. In the case of any project which includes property other than the property to be leased to such lessee, the preceding sentence shall be applied, in the case of the lessor, to such other property only if the binding leases and contracts with all lessees in effect on October 9, 1966, cover real property constituting 25 percent or more of the project (determined on the basis of rental value). For purposes of the preceding sentences of this paragraph, in the case of any project where one or more vendor-vendee relationships exist, such vendors and vendees shall be treated as lessors and lessees. Where, pursuant to a binding contract in effect on October 9, 1966, (i) the taxpayer is required to construct, reconstruct, erect, or acquire property specified in the contract, to be used to produce one or more products, and (ii) the other party is required to take substantially all of the products to be produced over a substantial portion of the expected useful life

of the property, then such property shall be treated as property which is not suspension period property. Clause (ii) of the preceding sentence shall not apply if a political subdivision of a State is the other party to the contract and is required by the contract to make substantial expenditures which benefit the taxpayer.

(9) *Certain transfers to be disregarded.* (A) If property or rights under a contract are transferred in—

(i) A transfer by reason of death, or

(ii) A transaction as a result of which the basis of the property in the hands of the transferee is determined by reference to its basis in the hands of the transferor by reason of the application of section 332, 351, 361, 371(a), 374(a), 721, or 731,

and such property (or the property acquired under such contract) would not be treated as suspension period property in the hands of the decedent or the transferor, such property shall not be treated as suspension period property in the hands of the transferee.

(B) If—

(i) Property or rights under a contract are acquired in a transaction to which section 334(b)(2) applies,

(ii) The stock of the distributing corporation was acquired before October 10, 1966, or pursuant to a binding contract in effect October 9, 1966, and

(iii) Such property (or the property acquired under such contract) would not be treated as suspension period property in the hands of the distributing corporation,

such property shall not be treated as suspension period property in the hands of the distributee.

(10) *Property acquired from affiliated corporation.* For purposes of this subsection, in the case of property acquired by a corporation which is a member of an affiliated group from another member of the same group—

(A) Such corporation shall be treated as having acquired such property on the date on which it was acquired by such other member.

(B) Such corporation shall be treated as having entered into a binding contract for the construction, reconstruction, erection, or acquisition of such property on the date on which such other member entered into a contract for the construction, reconstruction, erection, or acquisition of such property, and

(C) Such corporation shall be treated as having commenced the construction, reconstruction, or erection of such property on the date on which such other member commenced such construction, reconstruction, or erection.

For purposes of the preceding sentence, the term "affiliated group" has the meaning assigned to it by section 1504(a), except that all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)).

(11) *Certain tangible property constructed during suspension period and leased new thereafter.* Tangible personal property constructed or reconstructed by a person shall not be suspension period property if—

(A) Such person leases such property after the close of the suspension period and the original use of such property commences after the close of such period,

(B) Such construction or reconstruction, and such lease transaction, was not pursuant to an order placed during the suspension period, and

(C) An election is made under subsection (d) with respect to such property which satisfies the requirements of such subsection.

(12) *Water and air pollution control facilities*—(A) *In general.* Any water pollution control facility or air pollution control facility shall be treated as property which is not suspension period property.

(B) *Water pollution control facility.* For purposes of subparagraph (A), the term "water pollution control facility" means any section 38 property which—

(i) Is used primarily to control water pollution by removing, altering, or disposing of wastes, including the necessary intercepting sewers, outfall sewers, pumping, power, and other equipment, and their appurtenances; and

(ii) Is certified by the State water pollution control agency (as defined in section 13(a) of the Federal Water Pollution Control Act) as being in conformity with the State program or requirements for control of water pollution and is certified by the Secretary of Interior as being in compliance with the applicable regulations of Federal agencies and the general policies of the United States for cooperation with the States in the prevention and abatement of water pollution under the Federal Water Pollution Control Act.

(C) *Air pollution control facility.* For purposes of subparagraph (A), the term "air pollution control facility" means any section 38 property which—

(i) Is used primarily to control atmospheric pollution or contamination by removing, altering, or disposing of atmospheric pollutants or contaminants; and

(ii) Is certified by the State air pollution control agency (as defined in section 302(b) of the Clean Air Act) as being in conformity with the State program or requirements for control of air pollution and is certified by the Secretary of Health, Education, and Welfare as being in compliance with the applicable regulations of Federal agencies and the general policies of the United States for cooperation with the States in the prevention and abatement of air pollution under the Clean Air Act.

(D) *Standards for facility.* Subparagraph (A) shall apply in the case of any facility only if the taxpayer constructs, reconstructs, erects, or acquires such facility in furtherance of Federal, State, or local standards for the control of water pollution or atmospheric pollution or contaminants.

(13) *Certain replacement property.* Section 38 property constructed, reconstructed, erected, or acquired by the taxpayer shall be treated as property which is not suspension period property to the extent such property is placed in service to replace property which was—

(A) Destroyed or damaged by fire, storm, shipwreck, or other casualty, or

(B) Stolen,

but only to the extent the basis (in the case of new section 38 property) or cost (in the case of used section 38 property) of such section 38 property does not exceed the adjusted basis of the property destroyed, damaged, or stolen.

(i) *Exemption from suspension of $20,000 of investment*—(1) *In general.* In the case of property acquired by the taxpayer by purchase for use in his trade or business which would (but for this subsection) be suspension period property, the taxpayer may select items to which this subsection applies, to the extent of an aggregate cost, for the suspension period, of $20,000. Any item so selected shall be treated as property which is not suspension period property for purposes of this subpart (other than for purposes of paragraphs (4), (5), (6), (7), (8), (9), and (10) of subsection (h)).

(2) *Applicable rules.* Under regulations prescribed by the Secretary or his delegate, rules similar to the rules provided by paragraphs (2) and (3) of subsection (c) shall be applied for purposes of this subsection. Subsection (d) shall not apply with respect to any item to which this subsection applies.

(j) *Suspension period.* For purposes of this subpart, the term "suspension period" means the period beginning on October 10, 1966, and ending on March 9, 1967.

(k) *Cross reference.* For application of this subpart to certain acquiring corporations, see section 381(c)(23).

[Sec. 48 as added by sec. 2(b), Rev. Act 1962 (76 Stat. 963); as amended by sec. 203(a)(1) and (3)(A), (b), and (c), Rev. Act 1964 (78 Stat. 33, 34); sec. 1(a), Act of Nov. 8, 1966 (Public Law 89-800, 80 Stat. 1508); sec. 201(a), Act of Nov. 13, 1966 (Public Law 89-809, 80 Stat. 1575, 1576); sec. 1, 2(a), and (3), Act of June 13, 1967 (Public Law 90-26, 81 Stat. 57, 58)]

PAR. 6. The following new section is added after § 1.48-7:

§ 1.49 Statutory provisions; termination of credit.

SEC. 49. *Termination of credit.*—(a) *General rule.* For purposes of this subpart, the term "section 38 property" does not include property—

(1) The physical construction, reconstruction, or erection of which is begun after April 18, 1969, or

(2) Which is acquired by the taxpayer after April 18, 1969, other than pre-termination property.

(b) *Pretermination property.* For purposes of this section—

(1) *Binding contracts.* Any property shall be treated as pretermination property to the extent that such property is constructed, reconstructed, erected, or acquired pursuant to a contract which was, on April 18, 1969, and at all times thereafter, binding on the taxpayer.

(2) *Equipped building rule.* If—

(A) pursuant to a plan of the taxpayer in existence on April 18, 1969 (which plan was not substantially modified at any time after such date and before the taxpayer placed the equipped building in service), the taxpayer has constructed, reconstructed, erected, or acquired a building and the machinery and equipment necessary to the planned use of the building by the taxpayer, and

(B) more than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such building as so equipped is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before April 19, 1969, or property the acquisition of which by the taxpayer occurred before such date,

then all property comprising such building as so equipped (and any incidental property adjacent to such building which is necessary to the planned use of the building) shall be pre-termination property. For purposes of subparagraph (B) of the preceding sentence, the rules of paragraphs (1) and (4) shall be applied. For purposes of this paragraph, a special purpose structure shall be treated as a building.

(3) *Plant facility rule.*—(A) *General Rule.* If—

(i) Pursuant to a plan of the taxpayer in existence on April 18, 1969 (which plan was not substantially modified at any time after such date and before the taxpayer

placed the plant facility in service), the taxpayer has constructed, reconstructed, or erected a plant facility, and either

(ii) The construction, reconstruction, or erection of such plant facility was commenced by the taxpayer before April 19, 1969, or

(iii) More than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such plant facility is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before April 19, 1969, or property the acquisition of which by the taxpayer occurred before such date,

then all property comprising such plant facility shall be pretermination property. For purposes of clause (iii) of the preceding sentence, the rules of paragraphs (1) and (4) shall be applied.

(B) *Plant facility defined.* For purposes of this paragraph, the term "plant facility" means a facility which does not include any building (or of which buildings constitute an insignificant portion) and which is—

(i) A self-contained, single operating unit or processing operation,

(ii) Located on a single site, and

(iii) Identified, on April 18, 1969, in the purchasing and internal financial plans of the taxpayer as a single unitary project.

(C) *Special rule.* For purposes of this subsection, if—

(1) A certificate of convenience and necessity has been issued before April 19, 1969, by a Federal regulatory agency with respect to two or more plant facilities which are included under a single plan of the taxpayer to construct, reconstruct, or erect such plant facilities, and

(ii) More than 50 percent of the aggregate adjusted basis of all the property of a character subject to the allowance for depreciation making up such plant facilities is attributable to either property the construction, reconstruction, or erection of which was begun by the taxpayer before April 19, 1969, or property the acquisition of which by the taxpayer occurred before such date, such plant facilities shall be treated as a single plant facility.

(D) *Commencement of construction.* For purposes of subparagraph (A)(ii), the construction, reconstruction, or erection of a plant facility shall not be considered to have commenced until construction, reconstruction, or erection has commenced at the site of such plant facility. The preceding sentence shall not apply if the site of such plant facility is not located on land.

(4) *Machinery or equipment rule.* Any piece of machinery or equipment—

(A) More than 50 percent of the parts and components of which (determined on the basis of cost) were held by the taxpayer on April 18, 1969, or are acquired by the taxpayer pursuant to a binding contract which was in effect on such date, for inclusion or use in such piece of machinery or equipment, and

(B) The cost of the parts and components of which is not an insignificant portion of the total cost,

shall be treated as property which is pretermination property.

(5) *Certain lease-back transactions, etc.* (A) Where a person who is a party to a binding contract described in paragraph (1) transfers rights in such contract (or in the property to which such contract relates) to another person but a party to such contract retains a right to use the property under a lease with such other person, then to the extent of the transferred rights such other person shall, for purposes of paragraph (1), succeed to the position of the transferor with respect to such binding contract and such property. In any case in which the lessor does not make an election under section 48(d)—

(i) The preceding sentence shall apply only if a party to the contract retains the right to use the property under a lease for a term of at least 1 year; and

(ii) If such use is retained (other than under a long-term lease), the lessor shall be deemed for the purposes of section 47 as having made a disposition of the property at such time as the lessee loses the right to use the property.

For purposes of clause (ii), if the lessee transfers the lease in a transfer described in paragraph (7), the lessee shall be considered as having the right to use of the property so long as the transferee has such use.

(B) For purposes of subparagraph (A)—

(i) A person who holds property (or rights in property) which is pretermination property by reason of the application of paragraph (4) shall, with respect to such property, be treated as a party to a binding contract described in paragraph (1), and

(ii) A corporation which is a member of the same affiliated group (as defined in paragraph (8)) as the transferor described in subparagraph (A) and which simultaneously with the transfer of property to another person acquires a right to use such property under a lease with such other person shall be treated as the transferor and as a party to the contract.

(6) *Certain lease and contract obligations.* (A) Where, pursuant, to a binding lease or contract to lease in effect on April 18, 1969, a lessor or lessee is obligated to construct, reconstruct, erect, or acquire property specified in such lease or contract or in a related document filed before April 19, 1969, with a Federal regulatory agency, or property the specifications of which are readily ascertainable from the terms of such lease or contract or from such related document, any property so constructed, reconstructed, erected, or acquired by the lessor or lessee shall be pretermination property. In the case of any project which includes property other than the property to be leased to such lessee, the preceding sentence shall be applied, in the case of the lessor, to such other property only if the binding leases and contracts with all lessees in effect on April 18, 1969, cover real property constituting 25 percent or more of the project (determined on the basis of rental value). For purposes of the preceding sentences of this paragraph, in the case of any project where one or more vendor-vendee relationships exist, such vendors and vendees shall be treated as lessors and lessees.

(B) Where, in order to perform a binding contract or contracts in effect on April 18, 1969, (i) the taxpayer is required to construct reconstruct, erect, or acquire property specified in any order of a Federal regulatory agency for which application was filed before April 19, 1969, (ii) the property is to be used to transport one or more products under such contract or contracts, and (iii) one or more parties to the contract or contracts are required to take or to provide more than 50 percent of the products to be transported over a substantial portion of the expected useful life of the property, then such property shall be pretermination property.

(C) Where, in order to perform a binding contract in effect on April 18, 1969, the taxpayer is required to construct, reconstruct, erect, or acquire property specified in the contract to be used to produce one or more products and (unless the other party to the contract is a State or a political subdivision of a State which is required by the contract to make substantial expenditures which benefit the taxpayer) the other party to the contract is required to take substanially all of the products to be produced over a substantial portion of the expected useful life of the property, then such property shall be pretermination property. For purposes of applying the preceding sentence in the case of a contract for the extraction of minerals, property shall be treated as specified in the contract if (i) the specifications for such property are readily ascertainable from the location and characteristics of the mineral properties specified in such contract from which the minerals are to be extracted; (ii) such property is necessary for and is to be used solely in the extraction of minerals under such contract; (iii) the physical construction, reconstruction, or erection of such property is begun by the taxpayer before April 19, 1970, such property is acquired by the taxpayer before April 19, 1970, or such property is constructed, reconstructed, erected, or acquired pursuant to a contract which was, on April 18, 1970, and at all times thereafter, binding on the taxpayer; (iv) such property is placed in service on or before December 31, 1972; (v) such contract is a fixed price contract (except for provisions for price changes under which the loss of the credit allowed by section 38 would not result in a price change); and (vi) such property is not placed in service to replace other property used in extracting minerals under such contract.

(7) *Certain transfers to be disregarded.* (A) If property or rights under a contract are transferred in—

(i) A transfer by reason of death,

(ii) A transaction as a result of which the basis of the property in the hands of the transferee is determined by reference to its basis in the hands of the transferor by reason of the application of section 332, 351, 361, 371(a), 374(a), 721, or 731, or

(iii) A sale of substantially all of the assets of the transferor pursuant to the terms of a contract, which was on April 18, 1969, and at all times thereafter, binding on the transferee,

and such property (or the property acquired under such contract) would be treated as pretermination property in the hands of the decedent or the transferor, such property shall be treated as pretermination property in the hands of the transferee.

(B) If—

(i) Property or rights under a contract are acquired in a transaction to which section 334(b)(2) applies,

(ii) The stock of the distributing corporation was acquired before April 19, 1969, or pursuant to a binding contract in effect April 18, 1969, and

(iii) Such property (or the property acquired under such contract) would be treated as pretermination property in the hands of the distributing corporation,

such property shall be treated as pretermination property in the hands of the distributee.

(8) *Property acquired from affiliated corporation.* In the case of property acquired by a corporation which is a member of an affiliated group from another member of the same group—

(A) Such corporation shall be treated as having acquired such property on the date on which it was acquired by such other member,

(B) Such corporation shall be treated as having entered into a binding contract for the construction, reconstruction, erection, or acquisition of such property on the date on which such other member entered into a contract for the construction, reconstruction, erection, or acquisition of such property, and

(C) Such corporation shall be treated as having commenced the construction, reconstruction, or erection of such property on the date on which such other member commenced such construction, reconstruction, or erection.

For purposes of this subsection and subsection (c), a contract between two corporations which are members of the same affiliated group shall not be treated as a binding contract as between such corporations, unless, at all times after June 30, 1969, and prior to the completion of performance of such contract, such corporations are not members of the same affiliated group. For purposes of the preceding sentences, the term "affiliated group" has the meaning assigned to it by section 1504(a), except that all corporations shall be treated as includible corporations (without any exclusion under section 1504(b)).

(9) *Barges for ocean-going vessels.* Barges specifically designed and constructed, reconstructed, erected, or acquired for use with ocean-going vessels which are designed to carry barges and which are pretermination property, but not in excess of—

(A) The number to be used with such vessels specified in applications for mortgage or construction loan insurance filed with the Secretary of Commerce on or before April 18, 1969, under title XI of the Merchant Marine Act, 1936, or

(B) If subparagraph (A) does not apply and if more than 50 percent of the barges which the taxpayer establishes as necessary to the initial planned use of such vessels are pretermination property (determined without regard to this paragraph), the number which the taxpayer establishes as so necessary,

together with the machinery and equipment to be installed on such barges and necessary for their planned use, shall be treated as pretermination property.

(10) *Certain new-design products.* Where—

(A) On April 18, 1969, the taxpayer had undertaken a project to produce a product of a new design pursuant to binding contracts in effect on such date which—

(i) Were fixed-price contracts (except for provisions requiring or permitting price changes resulting from changes in rates of pay or costs of materials), and

(ii) Covered more than 50 percent of the entire production of such design to be delivered by the taxpayer before January 1, 1973, and

(B) On or before April 18, 1969, more than 50 percent of the aggregate adjusted basis of all property of a character subject to the allowance for depreciation required to carry out such binding contracts was property the construction, reconstruction, or erection of which had been begun by the taxpayer, or had been acquired by the taxpayer (or was under a binding contract for such construction, reconstruction, erection, or acquisition),

then all tangible personal property placed in service by the taxpayer before January 1, 1972, which is required to carry out such binding contracts shall be deemed to be pretermination property. For purposes of subparagraph (B) of the preceding sentence, jigs, dies, templates, and similar items which can be used only for the manufacture or assembly of the production under the project and which were described in written engineering and internal financial plans of the taxpayer in existence on April 18, 1969, shall be treated as property which on such date was under a binding contract for construction.

(c) *Leased property.* In the case of property which is leased after April 18, 1969 (other than pursuant to a binding contract to lease entered into before April 19, 1969), which is section 38 property with respect to the lessor but is property which would not be section 38 property because of the application of subsection (a) if acquired by the lessee, and which his property of the same kind which the lessor ordinarily sold to customers before April 19, 1969, or ordinarily leased before such date and made an election under section 48(d), such property shall not be section 38 property with respect to either the lessor or the lessee

(d) *Property placed in service after 1975.* For purposes of this subpart, the term "section 38 property" does not include any property placed in service after December 31, 1975.

[Sec. 49 as added by sec. 703(a), Tax Reform Act 1969 (83 Stat. 660)]

[FR Doc.71-8141 Filed 6-9-71;8:52 am]

Title 32—NATIONAL DEFENSE

Chapter VII—Department of the Air Force

SUBCHAPTER A—ADMINISTRATION

PART 809d—PROCEDURES FOR REPORTING ON DEFENSE RELATED EMPLOYMENT

A new Part 809d is added to read as follows:

Sec.
809d.1 Purpose.
809d.2 Responsibilities.
809d.3 Reporting procedures.
809d.4 Supply of forms.

AUTHORITY: The provisions of this Part 809d are issued under 10 U.S.C. 8012 and Part 166 of this title.

SOURCE: AFR 30-4, April 5, 1971.

§ 809d.1 Purpose.

This part provides instructions and assigns responsibility for compliance with Public Law 91-121, sec. 410, 83 Stat. 204 and Part 166 of this title. It applies to all present, retired and former military officers and civilian employees of the Department of the Air Force including employees of nonappropriated fund activities, subject only to the exceptions in Part 166 of this title.

§ 809d.2 Responsibilities.

(a) Part 166 of this title (sec. 166.4) identifies persons who are required to submit annually DD Form 1787, "Report of DOD and Defense-Related Employment", beginning with fiscal year 1971. This is an individual responsibility for all within categories described in § 166.4 of this title. Failure to comply with these reporting requirements is a criminal offense punishable by imprisonment and fine or both by Public Law 91-121. Questions concerning the requirement of this law or the implementing instructions should be referred to the staff judge advocate of any Air Force facility or to Hq USAF/JACM, Wash D.C. 20314.

(b) Commanders will establish procedures to assure that: (1) Separating/retiring officers in the grade of major or above with 10 or more years active duty are: (i) Informed of the requirements of Public Law 91-121 and (ii) Furnished a copy of this part during separation/retirement counseling by the CBPO-O section. (2) Separating/retiring civilian personnel paid at a rate equal to or greater than the minimum rate for a grade GS-13 are: (i) Informed of the requirements of Public Law 91-121 and (ii) Furnished a copy of this part during separation/retirement counseling by the servicing CCPO. (3) Civilian personnel who become subject to the reporting requirements set forth in paragraph (a) of this section, will be: (i) Informed during their entrance orientation of the requirements of Public Law 91-121. (ii) Furnished a copy of this part by the servicing CCPO. (4) Civilian personnel who through promotion or step increases after initial employment, become subject to the reporting requirements set forth in paragraph (a) of this section, will be: (i) Informed of the requirements of Public Law 91-121 at the time of such promotion or step increase and (ii) Furnished a copy of this part by the servicing CCPO. (5) Sufficient stock levels of this part (AFR 30-4, April 5, 1971) are maintained at bases to satisfy specific requests from former or retired officers and civilian employees for individual copies.

§ 809d.3 Reporting procedures.

Three copies of DD Form 1787, RCS DD-M&RA(A) 1051, will be submitted by October 30, 1971, and by October 30 each year thereafter, to Hq USAF/JACM, Wash, D.C. 20314. (Before beginning to complete DD Form 1787, read carefully § 166.4 of this title.

§ 809d.4 Supply of forms.

DD Form 1787 will be locally reproduced on 8 x 10½" paper.

By order of the Secretary of the Air Force.

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

[FR Doc.71-8115 Filed 6-9-71;8:50 am]

SUBCHAPTER B—SALES AND SERVICES

PART 819a—AVIATION FUEL AND OIL SALES TO CONTRACT, CHARTER, AND CIVIL AIRCRAFT

Part 819a of Chapter VII—Title 32 of the Code of Federal Regulations is revised to read as follows:

Sec.
819a.1 Purpose.
819a.2 Definitions.
819a.3 Air Force sales policy.
819a.4 Identification of contract and charter aircrafts.
819a.5 Authority to sell aviation fuel and oil.
819a.6 Prices.

AUTHORITY: The provisions of this Part 819a are issued under sec. 8012, 70A Stat. 488; 10 U.S.C. 8012, except as otherwise noted.

§ 819a.1 Purpose.

This part states Air Force policy on the sale of aviation fuel and oil to aircraft operating under contract or charter to any U.S. Government agency, and to operators of civil aircraft.

§ 819a.2 Definitions.

(a) *Contract aircraft.* Aircraft operating under airlift contract with any department or agency of the U.S. Government at rates based, in part, on sale of fuel and oil to the contractor at the Air Force standard price. These rates are lower than published rates available to the general public on file with the Civil Aeronautics Board. The aircraft are under the operational control of the department or agency concerned.

(b) *Charter aircraft.* Aircraft under agreement with any department or agency of the U.S. Government at rates which are not based on sale of fuel and oil at the Air Force standard price or at rates which are equal to published rates available to the general public on file with the Civil Aeronautics Board. Charter aircraft may or may not be under operational control of the department or agency executing the agreement.

(c) *Civil aircraft.* Domestic or foreign aircraft operated by private individuals or corporations of any national registry, and foreign government-owned aircraft operating for commercial purposes. USAF aircraft leased to and operated by commercial operators will be considered civil aircraft in respect to sale of aviation fuels and oils. USAF aircraft bailed to and operated by commercial operator will be considered civil aircraft in respect to sale unless other instructions are available.

(d) *Aviation fuels and oils.* Aviation fuel and oil items financed under the Fuels Division, Air Force Stock Fund Operation. (See Attachment D–1, AFM 67–1 (USAF Supply Manual), Part Three, Volume I, for the itemized list.)

(e) *Standard prices.* Worldwide average computed cost of aviation fuels and oils to Fuels Division—Air Force Stock Fund. Current Air Force standard prices are available from Detachment 29, Hq SAAMA/SFMR, Cameron Station, Alexandria, VA 22314.

(f) *Surcharge.* A 20 percent charge to cover administrative and handling costs not included in the published standard price.

(g) *Local prevailing fair market price.* Price per unit charged similar types of transient aircraft at the nearest commercial airport for an equivalent product serviced into the aircraft less all taxes, duties, and fees (such as airport landing fees). The base commander will determine and maintain current local prevailing fair market prices. Assistance, if necessary, in determining local prevailing fair market prices may be solicited from either the AF Aerospace Fuels Petroleum Supply Office (AF–AFPSO) Det 29, SAAMA/SFMR, Cameron Station, Alexandria, VA 22314 or the oversea theater commander.

(h) *Authorized Buyer Letter.* A letter of agreement which operators of contract, charter, and civil aircraft must file with the Air Force if they wish to purchase Air Force-owned aviation fuel and oil on a credit basis. This letter acknowledges an understanding of the stipulations under which credit sales may be made and the actions the Air Force may take in the event of noncompliance with these stipulations. If credit purchases of aviation fuel and oil are desired, the operator must submit three copies of an authorized buyer letter signed by an official of the organization authorized to make such commitments to Hq USAF/AFPRPOA, Wash D.C. 20330. When applicable, the fact that an authorized buyer letter has been filed will be inserted in item 20 on the approved AF Form 181, "Civil Aircraft Landing Permit". If payments required under the terms of the authorized buyer letter are delinquent for more than 15 days, the cognizant Accounting and Finance Office will promptly notify the Assistant for Contract Financing (AFAAC–C) at Hq USAF.

(i) *Federal excise taxes.* 26 U.S.C. 4081 imposes an excise tax of 4 cents per gallon on all grades of aviation gasoline. 26 U.S.C. 4041 imposes an additional excise tax of 3 cents per gallon on all grades of aviation gasoline when sold for use in noncommercial aviation. 26 U.S.C. 4041 also imposes an excise tax of 7 cents per gallon on all other fuels sold for use in noncommercial aviation. There is no Federal excise tax on fuel sold for use in commercial aviation other than the 4 cents tax imposed on all grades of aviation gasoline. 26 U.S.C. 4091 imposes an excise tax of 6 cents per gallon (or 1½ cents per quart) on all grades of aviation lubricating oil. These taxes apply only on sales made in the continental United States, Alaska, and Hawaii except as exempted in the note in § 819a.6.

(j) *Noncommercial aviation.* Any use of an aircraft other than use in a business of transporting persons or property for compensation or hire by air. Noncommercial aviation includes aircraft used by educational organizations, Federal Government agencies (other than Army, Navy, Air Force, and Coast Guard), State and local governments, aircraft, and company aircraft being used for administrative trips.

(k) *Certificate of tax exemption.* A certificate which operators of commercial aircraft must file with the Air Force to be exempt from Federal excise taxes of 3 cents per gallon on aviation gasoline and 7 cents per gallon on jet fuel. Operators of commercial aircraft making frequent purchases of aviation fuel and oil from Air Force bases may file an annual certificate of exemption with Detachment 29, Hq SAAMA/ACFOP, Cameron Station, Alexandria, VA 22314. In such case, Hq SAAMA will in turn advise all appropriate Air Force bases that a proper certificate of tax exemption is on file for the aircraft operator concerned. If a certificate is not filed, aircraft operators, in order to obtain tax exemptions, must present a properly executed certificate each time that aviation fuels and oils are purchased. The following noncommercial categories of aircraft are also excused from taxes specified above if they present a tax exempt certificate:

(1) Those engaged in farming.

(2) Those belonging to nonprofit educational organizations.

(3) Those belonging to State and local governments.

Base fuels management officers receiving certificates of tax exemption must retain them in an active file for a 3-year period for possible review by the Internal Revenue Service.

§ 819a.3 Air Force sales policy.

(a) Air Force aviation fuel and oil are not sold to civil and charter aircraft in competition with private enterprise. The Air Force does not furnish aviation fuel and oil to such aircraft if commercial refueling of commercial products is available. However, in some instances commercial refueling is available at the same airport as Air Force facilities, but airport safety regulations do not permit the commercial refueling operator to move his equipment to the Air Force refueling ramp nor do they permit the aircraft to be taxied across the runways to the commercial refueling ramp. Under such circumstances, a charter or civil aircraft making an authorized stop at the Air Force installation is authorized to refuel by Air Force aviation fuel and oil.

(b) If commercial refueling is not available, the sale of Air Force aviation fuel and oil to aircraft under charter agreement with the U.S. Government is permitted at, and limited to, points where cargo is loaded into or discharged from the aircraft. Upon completion of charter flights and when commercial refueling is not available, sales are permitted at the point of flight completion only as required for depositioning of the aircraft concerned. Quantities provided will not exceed an amount sufficient to reach the desired destination or the aircraft's nearest home base, whichever distance is the smaller.

(c) Contract aircraft: The sale of Air Force aviation fuel and oil to aircraft operating under airlift contract to any department of the U.S. Government is authorized at USAF and Air National Guard bases without regard to availability of commercial fuel. Upon completion of contract flights, sales are permitted at the point of flight completion only as required for depositioning of aircraft concerned. Quantities provided will be restricted to an amount needed to reach one of the following desired destinations:

(1) The aircraft's nearest home base.

(2) The point from which, or any point short of the point from which, the terminated flight commenced.

(3) The point from which another immediate contract flight is scheduled to originate.

NOTE: Aviation fuel and oil is not available to airlift contract aircraft from U.S. Defense

Department into-plane refueling contracts let throughout the world with commercial organizations for use by U.S. military aircraft. Fuel and oil will also not be provided airlift contract aircraft as Government furnished (free of cost) items.

(d) The above policies pertain to sales of Air Force aviation fuel and oil to charter and contract aircraft when the operators present for positive identification the appropriate credentials prescribed in § 819a.4. In the absence of the specified credentials, aircraft are considered civil aircraft as far as sales of aviation fuel and oil are concerned.

(e) Civil aircraft: If commercial fuel is not available, sales of Air Force aviation fuel and oil are authorized under conditions outlined in § 819a.5.

§ 819a.4 Identification of contract and charter aircraft.

(a) Contract aircraft operating for:

(1) U.S. Department of Defense performing:

(i) *Domestic flights.* These are identified by a Certificate of Logair Operations, a Certificate of Navy Quicktrans Operations, or a Certificate of Courier Service Operations.

(ii) *International flights.* These are identified by MAC Form 8—Civil Aircraft Certificates—Contract.

(iii) *Exclusive flights within an oversea area.* These are issued identification by the administrative contracting officer or the oversea area transportation officer. The issuing office will advise all concerned of such identification credentials and enact necessary measures to preclude violations of sales policies established herein.

(2) Other departments of the U.S. Government:

(i) *NASA.* Performing domestic or international flights for the National Aeronautics and Space Administration are identified by NASA Form 956—Identification Record of NASA Controlled Aircraft—when data has been inserted in all spaces of Part III and the signature of issuing officer appears in Part V.

(ii) *U.S. departments other than NASA.* When other departments or agencies of the U.S. Government desire that aircraft under contract to them obtain fuel and oil from Air Force activities, the department or agency will advise Det 29, Hq SAAMA/SFMR, Cameron Station, Alexandria, VA 22314, and provide information as to the identification documents that will be used and available in the aircraft. Also, whether the rates specified in the airlift contract are based in part on sale of fuel and oil to the contract carrier at the Air Force standard price. If SFMR determines that prices to be charged to the contract carrier are within authorizations, necessary information will be furnished directly to the Air Force activities concerned.

(b) Charter aircraft operating for:

(1) U.S. Department of Defense performing:

(i) *Domestic flights and cargo services.* These are identified by an SF 1103, "U.S. Government Bill of Lading" bearing a Civil Air Freight Movement (CAFM) number.

(ii) *Domestic flights and passenger services.* These are identified by an SF 1169, "Transportation Request" bearing a Commercial Air Movement (CAM) number.

NOTE: The SF 1169 is normally not available until passengers enter the aircraft. To meet time schedules it is frequently desirable for aircraft to be refueled before passengers arrive. If the aircraft commander provides a CAM number, prior refueling may be performed provided verification of the CAM number is obtained from either the base operations or transportation office prior to aircraft departure clearance.

(iii) *Army/Air Force Exchange Service Government charter flights.* These are identified by AAFES Form 4150–34.

NOTE: The AF Form 1239, "USAF Avfuels Identaplate," or AF Form 1245, "USAF Avgas Identaplate," assigned to Airlift Contract Aircraft will at no time be recognized as an identification credential since use is limited only to mechanized reporting of issue data.

(iv) *Exclusive flights within an oversea area.* These are issued identification by the administrative contracting officer or oversea area transportation officer. The issuing office will advise all concerned of such identification credentials and enact necessary measures to preclude violations of sales policies established herein.

(2) Other departments of the U.S. Government:

(i) *NASA.* Performing domestic or international flights for the National Aeronautics and Space Administration for cargo or passenger services are identified by NASA Form 956 when date has been inserted in all spaces of Part IV and signature of issuing officer appears in Part V.

(ii) *U.S. departments other than NASA.* When other departments or agencies of the U.S. Government desire that aircraft under charter to them obtain fuel and oil from Air Force activities, the department or agency will advise Det. 29, Hq SAAMA/SFMR, Cameron Station, Alexandria, VA 22314, and provide information as to the identification documents that will be used and available in the aircraft. Det. 29, Hq SAAMA/SFMR will advise directly the Air Force activities concerned.

(c) Civil aircraft: All commercial aircraft and private aircraft not identified according to the above instructions will be considered civil aircraft.

NOTE: USAF aircraft which are leased or bailed to commercial operators are identified by AFTO Form 781F, "Aircraft Flight Report and Maintenance Record." All leased aircraft are considered to be civil aircraft as regards sales of aviation fuels and oils. Bailed aircraft which are not carrying an AF Form 1239 in addition to the AFTO Form 781F will also be considered civil aircraft as regards sales of aviation fuels and oils.

§ 819a.5 Authority to sell aviation fuel and oil.

Commanders may authorize the sale of aviation fuels and oils for use in contract, charter, and civil aircraft only under the conditions stated in this section. Any sale not complying with these conditions may subject Air Force personnel involved to possible action in accordance with AFR 67–10 (Responsibility for Public Property in Possession of the Air Force).

(a) For contract aircraft identified according to § 819a.4(a): (1) Cash sales are authorized; (2) Credit sales are authorized if the operator presents an AF Form 181 indicating that an authorized buyer letter has been filed with the Air Force.

(b) For charter aircraft identified in accordance with § 819a.3(b) and which are authorized sales of Air Force aviation fuel and oil according to § 819a.3(b). (1) Cash sales are authorized; (2) Credit sales are authorized if the operator presents an AF Form 181 indicating that an authorized buyer letter has been filed with the Air Force.

(c) For civil aircraft not under contract or charter, Air Force installations are authorized to make cash sales under the conditions stated in this section. Credit sales are also authorized under these conditions if the operator presents an AF Form 181 indicating that an authorized buyer letter has been filed with the Air Force. (1) If civil operators have been granted permission to use the installation as a regular airport for scheduled flights and the agreement covering this use expressly authorizes the sale of aviation fuel and oils for such flights. (2) If civil operators have been granted permission to use an installation as a weather alternate airport in conjunction with scheduled flights and commercial aviation fuels and oils are not available. In such cases, based upon prevailing conditions, the installation commander determines whether fuel should be furnished in the quantity to reach the next destination or the nearest commercial airport where the grade required is available. (3) If private or company-operated aircraft carry private individuals or company executives to conduct official business related to Government activities. (4) If an emergency exists. The installation commander determines based upon prevailing conditions, whether fuel should be furnished in the quantity to reach the next destination or the nearest commercial airport where the grade required is available.

NOTE: Credit sales are not made under any circumstances other than stated in paragraphs (a)(2), (b)(2), and (c) of this section.

§ 819a.6 Prices.

(a) Contract aircraft identified in § 819a.4(a) are charged the Air Force standard price. Federal excise taxes as applicable are added in the 50 United States and the District of Columbia except as exempted in the note of this section.

(b) Charter aircraft identified in § 819a.4(b) are charged the Air Force standard price plus the surcharge of 20 percent. Federal excise taxes as applicable are added in the 50 United States

and the District of Columbia except as exempted in the note of this section.

(c) Civil aircraft identified in § 819a.4 (c) are charged the local prevailing fair market price or the Air Force standard price plus the surcharge, whichever is higher. Federal excise taxes as applicable are added in the 50 United States and the District of Columbia except as exempted in the note below.

NOTE: Under 26 U.S.C. 4221, international flights and flights to U.S. possessions originating in the 50 United States and the District of Columbia are exempt from Federal excise taxes on fuel and oil. This exemption does not apply to flights which are restricted to the continental United States and the offshore States of Alaska and Hawaii (either direction) even though such flights involve flying over international waters. International flights being performed for any of the military services or other U.S. Government agencies are considered to originate at the point prescribed in the contract or charter agreement. Any movements of the aircraft prior to reaching this point are considered to be domestic flights and taxes are applicable. Upon leaving the point of origin, the flight is considered to be an international one until the prescribed foreign destination is reached. Therefore, Federal excise taxes will not be applicable to fuel and oil obtained an authorized enroute stops in either the continental United States or the States of Hawaii and Alaska. Correspondingly, Federal excise taxes will not be applicable on fuel and oil obtained on the return portion of the flight. International flights are considered terminated upon arrival at the completion point specified in the contract or charter agreement. If the completion point is within the continental United States or the States of Hawaii or Alaska any movement of the aircraft following arrival at that point is considered a domestic flight and Federal excise will be applicable on any fuel and oil which may be obtained. Where Federal excise taxes are to be collected, it is important that local prevailing fair market prices be determined exclusive of these taxes in order to avoid double assessment.

By order of the Secretary of the Air Force.

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

[FR Doc.71-8114 Filed 6-9-71;8:50 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PART 1-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Automatic Data Processing Equipment and Services

The amendment prescribes a new § 1-4.000 in Part 1-4 which deals with special types and methods of procurement. It also establishes a new Subpart 1-4.1 for future use in connection with the publication of policies and procedures concerning automatic data processing equipment and services, including appropriate cross-references to be Federal Property Management Regulations.

The table of contents for Part 1-4 is amended by adding the following entries:

Sec.
1-4.000 Scope and applicability of part.

Subpart 1-4.1—Automatic Data Processing Equipment and Services

1-4.100 Scope of subpart.

Section 1-4.000 is added to read as follows:

§ 1-4.000 Scope and applicability of part.

This part sets forth policies and procedures regarding special types and methods of procurement which include public utility services, livestock products, and automatic data processing equipment and services.

Subpart 1-4.1—Automatic Data Processing Equipment and Services

§ 1-4.100 Scope of subpart.

This subpart prescribes policies and procedures pertaining to automatic data processing equipment and services (see Part 101-32 of the Federal Property Management Regulations for related policies and procedures).

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This amendment is effective July 30, 1971, but may be observed earlier.

Dated: June 4, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71-8119 Filed 6-9-71;8:51 am]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER D—PUBLIC BUILDINGS AND SPACE

PART 101-19—MANAGEMENT OF BUILDINGS AND GROUNDS

Subpart 101-19.1—Operation and Maintenance

FIRESAFETY

Section 101-19.109-1 is amended to correct a typographical error in the definition of the term "noncombustible" to include the fire hazard ratings for both flame spread and smoke development. Section 101-19.109-7 is revised to provide noncombustible requirements for newly installed, relocated, and existing partitions.

Section 101-19.109-1 is amended to read as follows:

§ 101-19.109-1 Definitions.

* * * * *

(b) * * *

(2) Rigid materials, all surfaces of which have fire hazard ratings not exceeding 25 for flame spread and 100 for smoke development when tested in accordance with American Society for Testing and Materials, Test E 84, Surface Burning Characteristics of Building Materials. For materials to be in the building permanently or for extended periods of time, the fire hazard rating requirements also apply to any core materials. Materials bearing the label of Underwriters' Laboratories, Inc., as having flame spread ratings of not over 25 and smoke development ratings of not over 100 meet these requirements.

* * * * *

Section 101-19.109-7 is revised to read as follows:

§ 101-19.109-7 Movable partitions.

(a) All newly installed or relocated movable partitions, including partial-height (bank-type), shall be noncombustible.

(b) Installed movable partitions which contain combustible components do not require immediate replacement except where serious hazard to life exists from smoke or fire.

(c) Replacement of movable partitions or combustible components, including translucent plastic panels in bank-type partitions, is the responsibility of the user. A long-range program for minimizing fire hazards shall be instituted in locations where such partitions or components exist, in the following order of priority:

(1) Along egress paths in nonsprinkler protected occupancies.

(2) Along egress paths in sprinkler protected occupancies.

(3) In offices having floor areas of more than 1,000 square feet located on or below the middle story of buildings 10 stories or more in height where the occupancies are not sprinkler protected.

(4) In other offices having floor areas of more than 1,000 square feet which are not sprinkler protected.

(5) In offices having floor areas of 1,000 square feet or less located on or below the middle story of buildings 10 stories or more in height where the occupancies are not sprinkler protected.

(6) In other offices having floor areas of 1,000 square feet or less which are not sprinkler protected.

(7) In offices having floor areas of more than 1,000 square feet which are sprinkler protected.

(8) In offices having floor areas of 1,000 square feet or less which are sprinkler protected.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Effective date. This regulation is effective July 1, 1971.

Dated: June 4, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71-8120 Filed 6-9-71;8:51 am]

Title 45—PUBLIC WELFARE

Chapter I—Office of Education, Department of Health, Education, and Welfare

PART 117—FINANCIAL ASSISTANCE FOR SCHOOL LIBRARY RESOURCES, TEXTBOOKS, AND OTHER INSTRUCTIONAL MATERIALS

Part 117 of Title 45 of the Code of Federal Regulations, dealing with regulations for the administration of title II of the Elementary and Secondary Education Act of 1965 (Public Law 89–10) is revised for purposes of simplification and to reflect the provisions of Public Law 91–230 to read as set forth below.

Grants made pursuant to the regulations set forth below are subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 (42 U.S.C. 2000d) of the Civil Rights Act of 1964 (Public Law 88–352).

Part 117 reads as follows:

Subpart A—Definitions

Sec.

AUTHORITY: The provisions of this Part 117 issued under 20 U.S.C. 821–827. Interpret or apply 20 U.S.C. 821–827, 881, 883–885, 1232, 1232a, 1232c, 1232d.

Subpart A—Definitions

§ 117.1 Definitions.

As used in this part:

(a) "Act" means the Elementary and Secondary Education Act of 1965 (Public Law 89–10).

(b) "Children" means those persons who are in attendance in schools of the State which provide elementary and secondary education and which comply with State compulsory attendance laws or are otherwise recognized by some procedure customarily used in the State. The age limits are the permissible ages for attendance at the public elementary and secondary schools of the State, but children does not include persons enrolled in adult education courses or in courses beyond grade 12.

(c) "Commissioners" means the U.S. Commissioner of Education.

(d) "Elementary school" means a day or residential school which provides elementary education as determined under State law or as determined by the Department of the Interior or the Department of Defense.

(e) "Fiscal year" means the period beginning on July 1 and ending on the following June 30. A fiscal year is designated in accordance with the calendar year of the ending date.

(f) "Local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as is recognized in a State as an administrative agency for its public elementary or secondary schools. It also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(g) "Public agency" means a legally constituted organization of government under public administrative control and direction.

(h) "Private elementary and secondary schools" means nonprofit or profit schools which provide elementary and secondary education as determined under State law, but not to the extent that they provide education beyond grade 12, and which are controlled by other than a public authority or public officials but which either comply with the State compulsory attendance laws or are otherwise recognized by some procedure customarily used in the State.

(i) "School library resources, textbooks, and other printed and published instructional materials" means: (1) "School library resources" are books, periodicals, documents, pamphlets, photographs, reproductions, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, including but not limited to those on discs and tapes; processed slides, transparencies, films, filmstrips, kinescopes, and video tapes, or any other printed and published materials of a similar nature made by any method now developed or hereafter to be developed, and which are processed and organized for use by elementary or secondary school children and teachers; (2) "textbooks" are books, reusable workbooks, or manuals, whether bound or in looseleaf form, intended for use as a principal source of study material for a given class or group of students, a copy of which is expected to be available for the individual use of each student in such class or group; (3) "other printed and published instructional materials" are books, periodicals, documents, pamphlets, photographs, reproductions, pictorial or graphic works, musical scores, maps, charts, globes, sound recordings, including but not limited to those on discs tapes; processed slides, transparencies, films, filmstrips, kinescopes, and video tapes, or any other printed and published materials of a similar nature made by any method now developed or hereafter to be developed, and which are not processed and organized for use by elementary or secondary school children and teachers. These terms include those printed and published instructional materials which are suitable for and are to be used by children and teachers in elementary or secondary schools and which with reasonable care and use may be expected to last more than 1 year. The terms do not include furniture or equipment.

(j) "Secondary school" means a day or residential school which provides secondary education, as determined under State law or as determined by the Department of the Interior or the Department of Defense, except to the extent that education is provided beyond grade 12.

(k) "Standards" means those measures (established by the State agency or the Department of the Interior or the Department of Defense for administration of title II of the Act or established by other authoritative groups or individuals and accepted for such administration) which are used for making determinations of the adequacy, quality, and quantity of school library resources, textbooks, and other printed and published instructional materials to be made available for the use of children and teachers in elementary and secondary schools.

(l) "State" means, in addition to the several States in the Union, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(m) "State educational agency" or "State agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(n) "Teacher" means a person who is engaged in carrying out the instructional program of an elementary or secondary school, including a principal, guidance counselor, school librarian, or other member of the instructional or supervisory staff.

(20 U.S.C. 823, 881)

Subpart B—State or Department Plan—General Provisions

§ 117.2 State plan or Department conditions.

(a) *Purpose.* A basic condition for the grant of Federal funds to a State or the payment of funds under title II of the Act to the Department of the Interior or the Department of Defense is a plan or memorandum of understanding which meets the requirements of title II of the Act in providing a program under which funds so granted or paid will be expended solely for the acquisition of school library resources, textbooks, and other printed and published instructional materials and the administration of the plan.

(b) *Effect of a State plan.* The State plan, when approved by the Commissioner, shall constitute the basis on which Federal grants will be made and the basis for determining the propriety of the expenditures of those funds.

(c) *Effect of a Department plan or memorandum of understanding.* A plan or memorandum of understanding submitted by the Department of the Interior or by the Department of Defense, when approved by the Commissioner, shall constitute the basis on which payments will be made to that Department under title II of the Act and the basis for determining the propriety of the expenditures of these funds by such Department.

(d) *Program and operational procedures.* The administration of the program shall be kept in conformity with the approved plan or memorandum of understanding, regulations in this part and title II of the Act. A description of the program and operational procedures shall be recorded and made available to the public upon request. Whenever there is any material change in the content or administration of the program, or when there has been any material change in pertinent State law or in the organization, policies, or operations of the State agency affecting the program under the plan, the procedures shall be appropriately amended.

(e) *Submission.* A plan shall be submitted to the Commissioner by a duly authorized officer of the State agency, or a plan or memorandum of understanding submitted by the Department of the Interior or the Department of Defense. The State plan shall give the official name of the agency which will administer the plan and shall indicate the official or officials authorized to submit plan material. The State plan shall designate the officer or officers who will receive and provide for the custody of all funds to be expended, and authorize expenditures of such funds.

(f) *Certificate of the State Attorney General or other appropriate State legal officer.* The State plan shall also include as an attachment a certificate by the appropriate State legal officer to the effect that the State agency named in the plan is the agency having authority, either directly or through arrangements with other State or local public agencies, to administer the State plan; and that the State has authority under State law to carry out the State plan.

(g) *Approval by the Commissioner.* The Commissioner will approve each plan which he determines meets the applicable requirements of title II of the Act and regulations in this part, and will notify the applicant of the granting, conditioning, or withholding of approval in each such case. However, no final action with respect thereto, other than one of approval, will be taken by the Commissioner unless he first notifies the applicant of his proposed action and in connection therewith affords the applicant a reasonable opportunity for a hearing on whether the affected plan meets such requirements.

(h) *Ineligibility to participate.* Whenever the Commissioner, after reasonable notice and opportunity for a hearing, finds: (1) That the plan fails to comply with the requirements of title II of the Act and the regulations in this part; or (2) that in the administration of the plan there is a failure to comply substantially with any such provision, the Commissioner will notify the applicant that said applicant will not be regarded as eligible to participate in the program under title II of the Act until the Commissioner is satisfied that there is no longer any such failure to comply.

(i) *Effective date of the plan.* Funds under title II of the Act may not be applied to any expenditure (as defined in § 117.26(a)), prior to the date on which a State plan was received in substantially approvable form by the Commissioner, including for this purpose a State plan submitted prior to a revision of State plan requirements.

(20 U.S.C. 823)

§ 117.3 State plan assurances.

Each State plan shall contain assurances:

(a) *Sole agency for administration.* That the State agency shall, either directly or through arrangements with other State or local public agencies, act as the sole agency for the administration of the State plan.

(b) *Description of program.* That the State agency has developed in writing a program under which funds paid to the State from its allotment under title II of the Act will be expended solely (1) for the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children in public and private elementary and secondary schools in the State and (2) not in excess of 5 percent of the amount paid to the State under title II of the Act or $50,000, whichever is greater, for administration of the State plan, including (i) the development and revision of standards relating to school library resources, textbooks, and other printed and published instructional materials furnished for the use of children and teachers in the public elementary and secondary schools of the State, and (ii) the distribution and control by a local educational agency of such school library resources, textbooks, and other printed and published instructional materials in carrying out the State plan for the use of children and teachers in public and private elementary and secondary schools in the State. Such a program must either be set forth in the State plan itself or be incorporated therein by reference as a separate existing and identified document available for inspection by the Commissioner.

(c) *Criteria for allocation of school library resources, textbooks, and other printed and published instructional materials.* That the State agency has developed the criteria used in determining the need and the proportions of the allocation to be used for school library resources, textbooks, and other printed and published instructional materials provided under title II of the Act among the children and teachers in the elementary and secondary schools, which criteria shall incorporate the provisions of paragraphs (d) and (e) of this section. Such criteria must either be set forth in the State plan itself or be incorporated therein by reference as a separate existing and identified document available for inspection by the Commissioner.

(d) *Relative need.* The criteria shall, on the basis of a comparative analysis and the application of standards, as defined in paragraph (k) of § 117.1, establish the relative need as determined from time to time of children and teachers and school library resources, textbooks, and other printed and published instructional materials to be provided under the plan. Such criteria shall include priorities for the provision of such materials on the basis of several factors such as the requirements of elementary and secondary instructions, quality and quantity of such materials now available, requirements of children and teachers in special or exemplary instructional programs, the cultural or linguistic needs of children or teachers, the degree of economic need, and degree of previous and current financial efforts for providing such materials in relation to financial ability. The distribution of such resources, textbooks, and materials for children and teachers solely on a per capita basis does not satisfy this provision.

(e) *Equitable basis.* The criteria established under a State plan shall provide for the allocation of school library resources, textbooks, and other printed and published instructional materials in such a way as to provide assurance that, to the extent consistent with State law,

such resources, textbooks, and materials are provided on an equitable basis for the use of children and teachers in private elementary and secondary schools in the State. However, said equitable provision shall not be effectuated by means of transfer of funds to private schools or purchase by them of such resources, textbooks, and materials.

(f) *Methods and terms of availability of materials.* That the State agency has developed the methods and terms by which the school library resources, textbooks, and other printed and published instructional materials acquired under title II of the Act will be made available for the use of children and teachers in the elementary and secondary schools. With respect to children and teachers in private schools, the State agency shall provide that (1) such resources, textbooks, and materials are to be made available to children and teachers and not to institutions; (2) such resources, textbooks, and materials are to be made available on a loan basis only; (3) a public agency will retain title to, and control and administration of the use of, such resources, textbooks, and materials; and (4) books and materials must not supplant those being provided children but must supplement library resources, textbooks, and other instructional materials to assure that the legislation will furnish increased opportunities for learning. (See also §§ 117.8 and 117.9.)

(g) *Coordination with public library programs.* That the State agency has developed criteria to insure that there will be appropriate coordination at both State and local levels between the program carried out under title II of the Act with respect to school library resources and any program carried out under the Library Services and Construction Act (20 U.S.C. ch. 16) in order to secure the effective and efficient use of Federal funds and to avoid duplication of effort.

(h) *Criteria for selection of school library resources, textbooks, and other instructional materials.* That the State agency has developed the specific educational and other criteria to be used (1) in selecting the school library resources, textbooks, and other printed and published instructional materials to be made available to children and teachers under Title II of the Act and (2) as the basis for determining the proportions of the allotment for each fiscal year which will be spent for the acquisition of (i) school library resources, (ii) textbooks, and (iii) other printed and published instructional materials. Such criteria must either be set forth in the State plan itself or be incorporated therein by reference as a separate existing and identified document available for inspection by the Commissioner. The ultimate responsibility for the selection under these criteria of all school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools in a State shall be that of the State agency or a local educational agency. If proportions for the three categories of materials are changed significantly, the program and operational procedures should be so amended in accordance with the provisions of § 117.2(d). (See also § 117.8.)

(i) *Maintenance of level of support.* That the State agency has developed adequate policies and procedures designed to assure that funds made available under title II of the Act for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of State, local, and private school funds that would in the absence of such Federal funds be made available for school library resources, textbooks, and other printed and published instructional materials, and in no case supplant such State, local, and private school funds budgeted for expenditure in the current fiscal year for the acquisition of such resources, textbooks, and materials; as compared with the total amount of State, local, and private school funds actually expended in each of the two most recent fiscal years for which the information is available for the acquisition of such resources, textbooks, and materials. Such policies and procedures must either be set forth in the State plan itself or be incorporated therein by reference as a separate existing and identified document available for inspection by the Commissioner.

(j) *State fiscal procedures.* That the State agency has provided for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for funds under title II of the Act and which shall be adequate to permit an accurate and expeditious audit of the program. Such procedures must either be set forth in the State plan itself or be incorporated therein by reference as a separate existing and identified document available for inspection by the Commissioner.

(k) *Consultations and reports.* That the State agency will participate in such periodic consultations and will make such reports to the Commissioner at such time, in such form, and containing such information as the Commissioner may consider necessary to enable him to perform his duties under the Act and will keep such other records and afford such access thereto, and will comply with such other requirements as the Commissioner may find necessary to assure the correctness and verification of such reports.

(l) *Referral to Governor.* That the State plan has been submitted to the Governor for his review and that amendments, projections, or periodic reports will be submitted for his review.

(20 U.S.C. 823; 42 U.S.C. 4231, 4233)

Subpart C—Availability of Materials

§ 117.8 Approval of instructional materials.

School library resources, textbooks, and other printed and published instructional materials acquired under the provisions of title II of the Act must be limited to those which have been approved by an appropriate State agency or local educational agency or other public agency for use, or are used, in a public elementary or secondary school of that State.

(20 U.S.C. 825)

§ 117.9 Title and control of instructional materials.

Title to, and control and administration of the use of, school library resources, textbooks, and other printed and published instructional materials acquired under title II of the Act shall vest only in a public agency or in the United States. School library resources, textbooks, and other printed and published instructional materials acquired under title II of the Act shall be available to children and teachers in elementary and secondary schools on a loan basis only and there will be a proper accounting of such resources, textbooks, and materials. The public agency shall provide for the control, recall, and replacement of such resources, textbooks, and materials. The public agency having control shall impose responsibility upon the children and teachers who borrow such resources, textbooks, and materials for loss, damage, failure to return when required, or other violations of the terms and conditions of the loan which is comparable to that imposed upon borrowers of similar items purchased with funds derived from other sources.

(20 U.S.C. 823)

§ 117.10 Accessibility of instructional materials.

Unless such action is prohibited by State law, school library resources, textbooks, and other printed and published instructional materials acquired with funds under title II of the Act shall be made available for the use of children and teachers in private elementary and secondary schools on an equitable basis. Catalogs or lists of instructional materials acquired under the State plan or such other system or systems as may be approved by the Commissioner shall be maintained which will assure the reasonable accessibility and availability of instructional materials to children and teachers in both public and private schools. Such catalogs or lists may be limited in content, for example, to instructional materials designed for children with special needs or to instructional materials supporting particular areas of curriculum and which are not otherwise generally available to the affected children and teachers. Such catalogs or lists or other systems may be maintained on the basis of such limited and defined geographical areas as may be appropriate to assure distribution of materials on a feasible basis. Another method may be the use of a central depository system. The circulation of such instructional materials shall be subject to such restrictions as may be required to maintain an equitable distribution thereof among the children and teachers.

Loan terms should be based on educational principles of service to instructional programs so that the children and teachers for whom the school library resources, textbooks, and other printed and published instructional materials are selected will not be deprived of their use when needed.

(20 U.S.C. 823)

§ 117.11 **Charge for use.**

No charge may be levied against children and teachers for the use of any school library resources, textbooks, and other printed and published instructional materials acquired under title II of the Act.

(20 U.S.C. 823)

§ 117.12 **Inventory.**

The public agency in which title to school library resources, textbooks, and other printed and published instructional materials is vested, and the Department of the Interior and the Department of Defense, shall indicate ownership by appropriate marking of each item in a permanent manner and shall maintain an inventory record of such items, revised annually. The inventory records shall be maintained for the useful life of such items. The methods for inventorying and maintaining records of such materials employed by the public agency retaining title shall be subject to the approval of the State agency administering the plan. Inventory records of such materials shall be compiled and maintained by the public agency retaining title and actual administrative control through the use of publicly employed personnel. The methods of inventorying shall include appropriate provisions for substantiating the inventories by onsite inspection. The State agency shall establish a policy for removing items from inventory by procedures consistent with established State or local public agency policies relative to loss, obsolescence, or rate of deterioration of such resources, textbooks, and materials.

(20 U.S.C. 823)

§ 117.13 **Religious worship or instruction.**

The State agency shall establish procedures which will assure that funds under title II of the Act will not be used for religious worship or instruction or for school library resources, textbooks, or other printed and published instructional materials to be utilized in such worship or instruction.

(20 U.S.C. 885)

Subpart D—Availability of Funds

§ 117.19 **Allotment of funds.**

(a) *State allotment.* The Federal Government will pay from each State's allotment amounts equal to the sums expended by the State under an approved State plan for (1) the acquisition of school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools in the State; and (2) administration of the State plan. In no case will the amount paid for administration of the State plan for any fiscal year exceed 5 percent of the amount paid to the State under title II of the Act, or $50,000, whichever is greater.

(b) *Reduction in State allotment.* In any State which has an approved State plan and in which no State agency is authorized by law to provide school library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in any one or more elementary or secondary schools in that State, the Commissioner will arrange for the provision on an equitable basis of such resources, textbooks, and other materials for the use of such children and teachers. In such an event, the Commissioner will pay the cost thereof for any fiscal year out of the State's allotment.

(c) *Allotment to the Departments of the Interior and Defense.* Such amount shall be alloted to the Secretary of the Interior as is necessary for such assistance for children and teachers in elementary and secondary schools operated for Indian children by the Department of the Interior and to the Secretary of Defense the amount necessary for such assistance for children and teachers in the overseas dependents schools of the Department of Defense.

(20 U.S.C. 822, 823, 824)

§ 117.20 **Acquisition of instructional materials.**

Acquisition of school library resources, textbooks, and other printed and published instructional materials in which there may be financial participation under title II of the Act means the purchase, lease-purchase, or straight lease of such resources, textbooks, and materials and includes the necessary and essential cost of ordering, processing, and cataloging such resources, textbooks, and materials and delivery of them to the initial place at which they are made available for use. Funds under title II of the Act are not available for the rebinding or repair of such resources, textbooks, or materials.

(20 U.S.C. 823)

§ 117.21 **Administration of the State plan.**

(a) *Functions.* Funds allotted to States under title II of the Act are available, up to the limits specified in § 117.19, for the administration of the State plan. Of the funds so made available for administration of the State plan, appropriate amounts shall be made available to local educational agencies for responsibilities assigned by the State agency to such local educational agencies for the making of loaned materials accessible in accordance with § 117.10. The administration of the State plan involves functions such as:

(1) The development of short- and long-term policy for making school library resources, textbooks, and other printed and published instructional materials available for the use of children and teachers in the elementary and secondary schools of the State;

(2) The development, revision, dissemination, and evaluation of standards relating to the selection, acquisition, and use of school library resources, textbooks, and other printed and published instructional materials;

(3) State supervisory services and evaluation of programs for the acquisition and use of school library resources, textbooks, and other printed and published instructional materials;

(4) Inventorying of acquisitions made under title II of the Act and the maintaining of other requisite records;

(5) The control of loaned materials in accordance with § 117.10; and

(6) The rendering of such reports as the Commissioner may require.

(b) *Eligible expenditures for administration of the State plan.* Funds under title II of the Act may be used for the direct costs of the administration of the State plan and include such categories as:

(1) Salaries, wages, and other personal services costs of permanent and temporary staff;

(2) Communications;

(3) Utilities;

(4) Consumable office supplies, including stationery;

(5) Printing and the acquisition of printed and published materials for use of administrative and supervisory staff;

(6) Travel and transportation expenses;

(7) Acquisition (including rental), maintenance, or repair of office equipment, or that equipment needed for supervisory and demonstration functions, for use of the administrative and supervisory staff;

(8) Minor alterations in previously completed buildings space used or to be used for administration of the program under title II of the Act which are needed to permit effective use of equipment acquired for administration. Excluded are building construction, structural alteration to buildings, building maintenance, repair, or renovation; and

(9) Fair rental of office space in privately or publicly owned buildings, subject to the following provisions:

(i) The expenditures for the space are necessary and properly related to the efficient administration of the program;

(ii) The State, during the period of occupancy, will receive benefits commensurate with such expenditures;

(iii) The amounts paid are not in excess of comparable rental in the particular locality;

(iv) Expenditures represent a current cost; and

(v) Rental costs are consistently treated as direct costs. Funds under title II of the Act may also be used to pay that share of the indirect costs incurred for the administration of the State plan that

is commensurate with the benefits accruing to such administration in accordance with a predetermined method of allocating costs that is accepted by the Commissioner.

(20 U.S.C. 823, 1231c(b))

§ 117.22 Relation to public library system.

Federal funds made available under title II of the Act shall not be used to supplant or duplicate, unnecessarily, functions of the public library system of the State.

(20 U.S.C. 823)

§ 117.23 Administration by Departments.

An amount not to exceed 5 percent of the funds made available respectively to the Department of the Interior and the Department of Defense shall be available to each Department for administration by such Department in a manner consistent with § 117.21.

(20 U.S.C. 822)

Subpart E—Fiscal Procedures

§ 117.26 State fiscal procedures.

(a) *Expenditures.* Federal funds made available under title II of the Act shall be available only for expenditures which are made during the fiscal year for which such funds are made available, except as otherwise provided by law. The expenditure of funds under title II of the Act will be determined on the basis of documentary evidence of binding commitments for the acquisition of goods or for the performance of work (including a binding commitment by a State agency to pay a local educational agency a fixed charge for the ordering and processing of instructional materials), except that funds for personal services, for services performed by public utilities, for travel, and for the rental of facilities shall be considered to have been expended as of the time such services were rendered, such travel was performed, and such rented facilities were used, respectively. Obligations entered into which are payable out of funds under title II of the Act shall be liquidated prior to the end of the fiscal year following the fiscal year for which such funds are made available for use unless the Commissioner extends the time for so liquidating obligations on the basis of a request from the State agency. Such request must be made prior to the end of the initial period for liquidating obligations.

(b) *Audit of other participating agencies.* All expenditures of funds under title II of the Act shall be audited either by the State or by other appropriate auditors. The State agency shall establish procedures indicating how the accounts of those other State and local public agencies participating under the State plan will be audited and, when such an audit is to be carried out, how the State agency will secure information necessary to assure proper use of any funds under title II of the Act turned over to such other agency or agencies for expenditure, and where the reports of such audits will be maintained.

(20 U.S.C. 823, 1225)

§ 117.27 Federal fiscal audits.

The Secretary of Health, Education, and Welfare and the Comptroller General of the United States shall have access for the purpose of audit and examination to any books, documents, papers, and records of the grantee that are pertinent to the grant received under title II of the Act.

(20 U.S.C. 1232c)

§ 117.28 Transfer of funds to other State or local agencies.

The State agency shall establish the policies and procedures to be used in the payment of funds to other State or local public agencies by the State agency administering the State plan, either as reimbursement for actual expenditures, or as an advance prior to expenditures, for the acquisition of school library resources, textbooks, and other printed and published instructional materials and for administration of the State plan.

(20 U.S.C. 823, 1232c)

§ 117.29 Adjustments.

The State agency, in its maintenance of program expenditures, accounts, records, and reports, shall make promptly any necessary adjustments in its records to reflect refunds, credits, underpayments, or overpayments, as well as any adjustments resulting from Federal or State administrative reviews and audits. Such adjustments shall be set forth in the State agency's financial reports filed with the Commissioner.

(20 U.S.C. 1232c)

§ 117.30 Proration of costs.

Funds under title II of the Act are available to pay that share of the costs incurred under the State plan for the acquisition of school library resources, textbooks, and other printed and published instructional materials that is commensurate with the benefits accruing to projects under title II of the Act in accordance with a predetermined method of allocating costs that is accepted by the Commissioner.

(20 U.S.C. 1231c(b))

Subpart F—State Administration

§ 117.35 Advisory committees.

If State advisory committees are used with respect to one or more aspects of the State plan, the State agency shall establish policies for the establishment thereof, for the qualification and selection of members, for the establishment of the duties of members and of the committee, and for the payment of committee expenses, if any.

(20 U.S.C. 823)

§ 117.36 Officials not to benefit.

No member of the staff of a State or local educational agency may participate in the administration of a program under title II of the Act, and no person may serve on an advisory committee established to assist either with planning for such program or with its administration, if such person will receive any benefit or remuneration in the form of a commission, percentage, contingent fee, brokerage fee, or otherwise, as a result of any contract for the acquisition of school library resources, textbooks, or other printed and published instructional materials under such a program or as a result of the granting or withholding of approval of the acquisition or use of any such resources, textbooks, or materials under title II of the Act. The State agency administering the State plan shall take such action as is necessary to assure itself that preferential treatment on the basis of authorship or other personal interests will be avoided in relation to the sale or distribution of such resources, textbooks, and materials under title II of the Act.

(364 U.S.C. 520)

§ 117.37 Continuing review by Commissioner of State administration.

In order to assist the State agency in adhering to statutory requirements and to the provisions of its approved State plan, the Commissioner will conduct periodic reviews of the administration of programs under title II of the Act. The Commissioner will be responsible for conducting periodic onsite reviews in State agencies to carry out his responsibilities. Such reviews will involve an analysis of activities and procedures used by State agencies to conduct the program, including the development and monitoring of management activities.

(20 U.S.C. 1231c)

§ 117.38 Administrative review and evaluation.

Provision shall be made by the State agency and the Departments of the Interior and Defense for administrative review and evaluation by the State agency or Department of the program and operations under title II of the Act at least annually for the purpose of appraising their scope, statute, and administration. Such evaluation shall be made in relation to the criteria used for equitable distribution and the identifying and serving of needs and will include the review, redefinition, and refinement of meaningful standards as to adequacy, quality, and quantity of school library resources, textbooks, and other printed and published instructional materials which are selected and distributed, and the effectiveness in making such resources, textbooks, and materials available for the use of children and teachers in elementary and secondary schools. The State agency shall include a report of such administrative review and evaluation in the annual report of the State agency.

(20 U.S.C. 823)

§ 117.39 **Retention of records.**

(a) *General rule.* The State agency shall provide for keeping intact and accessible to the Secretary of Health, Education, and Welfare and the Comptroller General of the United States all records supporting claims for funds under title II of the Act or relating to the accountability of the grantee or funded agency for expenditure of such funds for 3 years after the end of the period for which such funds were made available for expenditure. If, by the end of that 3 years, an audit by or on behalf of the Department of Health, Education, and Welfare has not occurred, the records must be retained until audit or until 5 years following the end of the period for which such funds were made available, whichever is earlier.

(b) *Questioned expenditure.* The records involved in any claim or expenditure which has been questioned shall be further maintained until necessary adjustments have been made and such adjustments have been reviewed and approved by the Department of Health, Education, and Welfare.

(c) *Inventories of equipment for administration of the State plan.* Where equipment which costs $300 or more per unit is purchased by the State agency with Federal funds for use in administration of the State plan, continuing inventories and other records supporting accountability for such equipment shall be maintained until it is determined that such equipment is no longer useful, until it is determined to have a residual value of less than $100, or until accountability to the United States has been waived. Records supporting accountability of school library resources, textbooks, and other printed and published instructional materials shall be maintained in accordance with § 117.12.

(20 U.S.C. 1232c, 1232e)

Subpart G—Payment Procedures

§ 117.43 **Financial reports.**

Each State agency shall submit, in accordance with procedures established by the Commissioner:

(a) Following the end of the fiscal year, a report of the total expenditures made under the plan during the fiscal year; and

(b) Such other reports as are periodically needed to account properly for funds.

(20 U.S.C. 823)

§ 117.44 **Payment of funds under title II of the Act.**

Funds under title II of the Act to pay for amounts expended by a State in carrying out its State plan will be limited to the amount necessary to meet current needs.

(20 U.S.C. 1232d)

§ 117.45 **Withholding of funds.**

Neither the approval of a State plan nor any payment to a State pursuant thereto shall be deemed to waive the right or duty of the Commissioner to withhold funds by reason of the failure of the State to observe, before or after such administrative action, any Federal requirements.

(20 U.S.C. 826)

§ 117.46 **Reallotment.**

(a) *In general.* The amount of any State allotment under title II of the Act for any fiscal year which the Commissioner determines will not be required for such fiscal year shall be available for reallotment, from time to time, on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under title II of the Act for that year but with such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts were not so reduced.

(b) *Statements of anticipated need.* In order to provide a basis for reallotment by the Commissioner under title II of the Act, each State agency administering a program under title II of the Act shall, if requested, submit to the Commissioner, by such date or dates as he may specify, a statement or statements showing the anticipated need during the current fiscal year for the amount previously allotted, or any amount needed to be added thereto. Such further information as the Commissioner may request for the purpose of making reallotments shall be reflected in such statements.

(c) *Lack of carryover.* No allotment or reallotment of the funds may be carried over for use during the subsequent fiscal year, except as otherwise provided by law.

(20 U.S.C. 822)

In accordance with section 421 of the General Education Provisions Act (20 U.S.C. 1232), the foregoing amendments will become effective 30 days following the date of their publication in the FEDERAL REGISTER.

Dated: February 24, 1971.

S. P. MARLAND, Jr.,
Commissioner of Education.

Approved: June 3, 1971.

ELLIOT L. RICHARDSON,
Secretary of Health, Education, and Welfare.

[FR Doc.71-8117 Filed 6-9-71;8:50 am]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Docket No. MC-7; Notice No. 71-11]

PART 391—QUALIFICATIONS OF DRIVERS

Drivers of Light-Weight Farm Vehicles

The Director of the Bureau of Motor Carrier Safety is extending the expiration date of the exemption from certain driver qualification rules for drivers of certain light-weight farm vehicles. By virtue of this action, the special exemption, now set to expire on July 1, 1971, will expire on January 1, 1972.

As the Director noted when he issued the exemption (36 F.R. 222), it was designed to be temporary in nature and to provide a breathing space so that work towards a permanent solution to the problem of applying the regulations to farm vehicles could go forward with deliberate speed. Meetings with farm group representatives and other interested persons have been held. Comments on the problem have been received from many sources. The Director plans to issue a proposal for permanent resolution of the issues in the near future. Meanwhile, it appears to be in the public interest to continue the status quo pending the outcome of proceedings on that proposal.

In consideration of the foregoing, § 391.67(a) of the Motor Carrier Safety Regulations (Subchapter B of Chapter III in Title 49, CFR) is amended by deleting "July 1, 1971" and by inserting "January 1, 1972" in lieu thereof. As so amended, § 391.67(a) reads as follows:

§ 391.67 **Farm vehicle drivers.**

(a) Before January 1, 1972, the following rules do not apply to a farm vehicle driver as defined in paragraph (b) of this section.

* * * * *

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure upon it are unnecessary.

(Sec. 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority at 49 CFR 1.48 and 49 CFR 389.4)

Issued on June 8, 1971.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

[FR Doc.71-8168 Filed 6-9-71;8:53 am]

Title 7—AGRICULTURE

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

[Valencia Orange Reg. 352]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.652 **Valencia Orange Regulation 352.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908, 35 F.R. 16625), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions

of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the Act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 8, 1971.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period June 11, 1971, through June 17, 1971, are hereby fixed as follows:

(i) District 1: 192,000 cartons;

(ii) District 2: 366,000 cartons;

(iii) District 3: 42,000 cartons.

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

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

Dated: June 9, 1971.

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

[FR Doc.71-8269 Filed 6-9-71;11:32 am]

Title 7—AGRICULTURE

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

PART 916—NECTARINES GROWN IN CALIFORNIA

Expenses and Rate of Assessment

On May 26, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 9564) regarding proposed expenses and the proposed rate of assessment for the period March 1, 1971, through February 29, 1972, pursuant to the marketing agreement, as amended, and Order No. 916, as amended (7 CFR Part 916; 36 F.R. 9289), regulating the handling of nectarines grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). After consideration of all relevant matters presented, including the proposals set forth in such notice which were submitted by the Nectarine Administrative Committee (established pursuant to said marketing agreement and order), it is hereby found and determined that:

§ 916.210 Expenses and rate of assessment.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Nectarine Administrative Committee during the period March 1, 1971, through February 29, 1972, will amount to $326,234.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each handler in accordance with § 916.41, is fixed at $0.05 per No. 22D standard lug box of nectarines, or equivalent quantity of nectarines in other containers or in bulk.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of the current crop of nectarines grown in California are now being made; (2) the relevant provisions of said marketing agreement and this part require that the rate of assessment herein fixed shall be applicable to all accessible nectarines handled during the aforesaid period; and (3) such period began on March 1, 1971, and said rate of assessment will automatically apply to all such nectarines beginning with such date.

Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order, and "No. 22D standard lug box" shall have the same meaning as set forth in section 43601 of the Agricultural Code of California.

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

Dated: June 7, 1971.

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

[FR Doc. 71-8126 Filed 6-9-71;8:51 am]

PART 919—PEACHES GROWN IN MESA COUNTY, COLO.

Modification of Procedure for Nominating and Selecting Cooperative Members of Administrative Committee

On May 21, 1971, notice was published in the FEDERAL REGISTER (36 F.R. 9252) that the Department was considering an addition, as hereinafter set forth, to the rules and regulations (subpart, rules and regulations), pursuant to section 919.23 and other applicable provisions of the marketing agreement, as amended, and Order No. 919, as amended (7 CFR Part 919; 35 F.R. 16788), regulating the handling of peaches grown in county of Mesa in the State of Colorado, effective under applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The amendment provides for the reapportionment of the cooperative handler membership of the committee. Under the amended marketing agreement and order, the cooperative associations are entitled to 3 of the 4 handler members and alternates on the committee. Currently, the cooperative handler representation on the committee is divided between the two cooperative associations which qualified as handlers during the fiscal period which began November 1, 1969. Recently, one of these cooperative associations was dissolved and its assets were absorbed by the remaining cooperative association. Therefore, to provide for continued equitable cooperative handler representation on the committee, the rules and regulations of the amended marketing agreement and order should be amended to provide for the nomination of 3 handler members and their alternates by the remaining cooperative association which handles peaches.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice, which was submitted by the Administrative Committee (established pursuant to said amended marketing agreement and order as the agency to administer the provisions thereof) it is hereby found

that the amendment, as hereinafter set forth, of said rules and regulations, is in accordance with the provisions of said amended marketing agreement and order and will tend to effectuate the declared policy of the act. Such amendment is hereby approved, and said rules and regulations are amended by adding a new § 919.110 *Modification of the procedure for nominating and selecting cooperative members pursuant to § 919.23(e)* reading as follows:

§ 919.110 Modification of the procedure for nominating and selecting cooperative members pursuant to § 919.23(e).

If only one cooperative association qualifies as a handler during a fiscal year, the cooperative association shall be entitled to nominate three members and three alternate members of the committee for the ensuing fiscal year, and nominations shall be made in such manner as its members may designate.

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

Dated, June 4, 1971, to become effective 30 days after publication in the FEDERAL REGISTER.

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

[FR Doc.71-8127 Filed 6-9-71;8:51 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Monetary Offices

[31 CFR Parts 102, 103]

FINANCIAL RECORDKEEPING AND REPORTING OF CURRENCY AND FOREIGN TRANSACTIONS

Notice of Proposed Rule Making

Notice is hereby given that in order to implement the provisions of titles I and II of Public Law 91-508 (84 Stat. 1114 et seq.), the regulations set forth in tentative form below are proposed to be prescribed by the Secretary of the Treasury. Anyone desiring to comment on these regulations may do so in writing no later than July 16, 1971. Comments submitted will be open to public inspection unless otherwise requested. Comments should be submitted in triplicate and should be addressed to the Honorable Samuel R. Pierce, Jr., General Counsel, Treasury Department, Washington, D.C. 20220.

SAMUEL R. PIERCE, Jr.,
General Counsel.

[SEAL] EUGENE T. ROSSIDES,
Assistant Secretary.

PART 102—INSTRUCTIONS RELATING TO REPORTS OF CURRENCY TRANSACTIONS

Part 102 is repealed.

PART 103—FINANCIAL RECORDKEEPING AND REPORTING

Sec.

AUTHORITY: The provisions of this Part 103 issued under Public Law 91-508, 84 Stat. 1114 et seq.

Subpart A—Definitions

§ 103.11 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.

Bank. (a) Each agency, branch or office within the United States of any person doing business in one or more of the capacities listed below.

(1) A commercial bank or trust company organized under the laws of any State or of the United States;

(2) A private bank;

(3) A savings and loan association or a building and loan association organized under the laws of any State or of the United States;

(4) An insured institution as defined in section 401 of the National Housing Act;

(5) A savings bank, industrial bank, or other thrift institution;

(6) A credit union organized under the laws of any State or of the United States.

(b) Each agent, agency, branch, or office within the United States of a foreign bank;

Domestic. When used herein, refers to the doing of business within the United States, and limits the applicability of the provision wherein it appears to the performance by such institutions or agencies of functions within the United States.

Financial institution. Each agency, branch or office within the United States of any person doing business in one or more of the capacities listed below:

(1) A bank;

(2) A broker or dealer in securities, whether or not registered or required to be registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934;

(3) A broker or dealer in commodities;

(4) An investment banker or investment company;

(5) A currency exchange;

(6) An issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments;

(7) An operator of a credit card system which issues, or authorizes the issuance of, credit cards that may be used for the acquisition of monetary instruments, goods, or services at one or more locations in each of four or more States.

(8) An insurance company;

(9) A dealer in precious metals, stones, or jewels;

(10) A pawnbroker;

(11) A loan or finance company;

(12) A travel agency;

(13) A licensed transmitter of funds, or other person engaging in the business of transmitting funds for others; or

(14) A telegraph company.

Identify. Where it is required that a record or report shall identify a person, this means that the name and permanent residence or business address of that person shall be stated.

Investment security. Any note, bond, debenture, or other similar debt obligation of a type normally acquired for investment purposes; and any stock or similar security, certificate of deposit for any equity security, or certificate of interest in a business trust; or any security convertible, with or without consideration into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

Monetary instruments. Coin and currency of the United States or of any other country, travelers' checks, money orders, cashiers' checks, and investment securities or negotiable instruments in bearer form, or otherwise in such form that title thereto passes upon delivery.

Person. An individual, a corporation, a partnership, a trust or estate, a joint stock company, an association, a syndicate, joint venture, or other unincorporated organization or group, and all entities cognizable as legal personalities.

Secretary. The Secretary of the Treasury or any person duly authorized by the Secretary to perform the function mentioned.

United States. The various States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

Subpart B—Reports Required To Be Made

§ 103.21 Determination by the Secretary.

The Secretary hereby determines that the reports required by this subpart have a high degree of usefuness in criminal, tax, or regulatory investigations or proceedings.

§ 103.22 Reports of currency transactions.

(a) Each financial institution shall file a report of each deposit, withdrawal, exchange of currency or other payment or transfer, by, through, or to such financial institution, which involves transactions in currency of more than $5,000.

(b) Except as otherwise directed in writing by the Secretary, this section shall not (1) require reports of transactions with Federal reserve banks; (2) require financial institutions to report transactions solely with, or originated by, domestic banks; or (3) require a bank to report transactions with an established customer maintaining a deposit relationship with the bank, in amounts which the bank may reasonably conclude do not exceed amounts commensurate with the customary conduct of the business, industry, or profession of the customer concerned. Each bank shall keep a list identifying customers who engage in transactions which are not reported because of the exemption contained in this paragraph. A report consisting of such list shall be made to the Secretary upon demand therefor made by him.

§ 103.23 Reports of transportation of currency or monetary instruments.

(a) Each person, other than a domestic bank, who transports, mails or ships, or causes to be transported, mailed or shipped, currency or other monetary instruments in amounts exceeding $5,000 on any one occasion from the United States to or through any place outside the United States, or into the United States from or through any place outside the United States, shall make a report thereof.

(b) Each person, other than a domestic bank, who receives in the U.S. currency or other monetary instruments in amounts exceeding $5,000 on any one occasion which have been transported, mailed or shipped from or through any place outside the United States with respect to which a report has not been filed under subsection (a) of this section, shall make a report thereof, stating the amount, the date of receipt, the form of monetary instrument, and the person from whom received.

(c) This section shall not require reports by a common carrier of passengers in respect to currency or other monetary instruments in the possession of its passengers, nor by a common carrier of goods in respect to shipments of currency or monetary instruments not declared to be such by the shipper, nor by a travelers check issuer or its agent in respect to the delivery of travelers checks to selling agents for eventual sale to the public.

§ 103.24 Reports of foreign financial accounts.

Each citizen or resident of the United States, and each partnership, corporation, estate, or trust organized or created or coming into being under the law of the United States, or of any State or territory, having a financial interest in or signature or other authority over a bank, securities or other financial account in a foreign country shall report such relationship on his Federal income tax return for each year in which such relationship exists, and shall provide such information concerning each such account as shall be specified in a special tax form to be filed by such persons.

§ 103.25 Filing of reports.

(a) Reports required to be filed by § 103.22 shall be filed on or before the 15th day of the month following that in which the reported transactions occur. They shall be filed with the Commissioner of Internal Revenue on forms to be prescribed by him, with the approval of the Secretary. All information called for in such forms shall be furnished.

(b) Reports required to be filed by § 103.23(a) shall be filed at the time of entry into the United States or at the time of departure, mailing or shipping from the United States, unless otherwise directed or permitted by the Commissioner of Customs. They shall be filed with the Customs officer in charge at any Customs port of entry or departure, or as otherwise permitted or directed by the Commissioner of Customs. If the currency or other monetary instruments with respect to which a report is required do not accompany a person arriving in or departing from the United States, such reports may be filed by certified mail on or before the date of mailing, shipping, or other transportation, with the Commissioner of Customs, Attention: Currency Transaction Reports, Washington, D.C. 20226. They shall be on forms to be prescribed by the Secretary and all information called for in such forms shall be furnished.

(c) Reports required to be filed by § 103.23(b) shall be filed with the Commissioner of Customs within 30 days after receipt of the currency or other monetary instruments. They may be filed by mail addressed to the Commissioner of Customs, Attention: Currency Transaction Reports, Washington, D.C. 20226.

§ 103.26 Identification required.

Before effecting any transaction with respect to which a report is required under § 103.22, a financial institution shall verify and record the identity and the social security or taxpayer identification number, if any, of the person or legal entity with whom or for whose account such transaction is to be effected. Verification of identity may be by examination, for example, of a driver's license, passport, alien identification card, or other appropriate document normally acceptable as a means of identification.

Subpart C—Records Required To Be Maintained

§ 103.31 Determination by the Secretary.

The Secretary hereby determines that the records required to be kept by this subpart have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

§ 103.32 Records to be made and retained by persons having financial interests in foreign financial accounts.

Records of accounts required by § 103.24 to be reported on a Federal income tax return shall be retained by each person having a financial interest in any such account. Such records shall contain the name in which each such account is maintained, the number or other designation of such account, the name and address of the bank or other person with whom such account is maintained, the type of such account, and the maximum value of each such account during the reporting period. Such records shall be retained for a period of 6 years and shall be kept at all times available for inspection as authorized by law. In the computation of the period of 6 years, there shall be disregarded any period beginning with a date on which the taxpayer is indicted or information instituted on account of the filing of a false or fraudulent Federal income tax return or failing to file a Federal income tax return, and ending with the date on which final disposition is made of the criminal proceeding.

§ 103.33 Records to be made and retained by financial institutions.

Each domestic financial institution shall retain either the original or a microfilm or other copy or reproduction of each of the following:

(a) Records of each extension of credit of more than $1,000 made or participated in by the financial institution;

(b) Records of any advice, request, or instructions received regarding transfers of currency, checks, investment securities, monetary instruments, or credit, of more than $1,000 to persons, accounts or places outside the United States;

(c) Records of any advice, request, or instructions given at the request of another person, to a financial institution or other person located within or without the United States, regarding transfers of currency, checks, investment securities, monetary instruments, or credit, of more than $1,000 from a person, account or place within the United States to a person, account or place outside the United States;

(d) Applications for money orders or travelers' checks of more than $1,000;

(e) Statements issued to credit cardholders except residents of a foreign country, which statements contain total charges of more than $1,000;

(f) Records of any single charge of more than $1,000 to the account of a credit cardholder, except a resident of a foreign country.

§ 103.34 Records to be made and retained by banks.

(a) With respect to each deposit or share account opened with a domestic bank after October 31, 1971, by a person

residing or doing business in the United States or a citizen of the United States, such bank shall secure and maintain a record of the social security number of each individual (excluding minor children whose parent or guardian has signature authority with respect to the account) having signature authority over that account, or of the taxpayer identification number, of the person maintaining the account.

(b) Each domestic bank shall, in addition, with respect to each deposit or share account, regardless of when opened, retain either the original or a microfilm or other copy or reproduction of each of the following:

(1) Documents granting signature authority over each such account;

(2) Statements or ledger cards on each such account, showing each transaction in, or with respect to, that account;

(3) All paid or canceled checks, clean drafts, or money orders drawn on the bank or issued and payable by it;

(4) Each item other than bank charges or periodic charges made pursuant to agreement with the customer, comprising a debit to a customer's deposit account not required to be kept under subparagraph (3) of this paragraph;

(5) Each item, including checks, monetary instruments, or transfers of credit, of more than $1,000, remitted or transferred to persons, accounts, or places outside the United States;

(6) Records of each remittance or transfer of currency, checks, investment securities, monetary instruments or credit, of more than $1,000 to persons, accounts or places outside the United States;

(7) Each check, draft, or other monetary instrument in an amount in excess of $1,000 drawn on or issued by a foreign financial institution, purchased, received for credit or collection, or otherwise acquired by the bank;

(8) Each item, including checks, monetary instruments, or transfers of credit of more than $1,000 received directly and not through a domestic financial institution, by letter, cable or any other means, from a person, account or place outside the United States;

(9) Records of receipts of currency, checks, investment securities, monetary instruments, or transfers of credit, of more than $1,000 received directly and not through a domestic financial institution, from any person, account or place outside the United States.

§ 103.35 Records to be made and retained by brokers and dealers in securities.

Every domestic broker or dealer in securities shall retain either the original or a microfilm or other copy or reproduction of each of the following:

(a) Documents granting signature or trading authority over each customer's account;

(b) The records described in § 240.17a-3(a) (1), (2), (3), (5), (6), (7), (8), and (9) of Title 17, Code of Federal Regulations;

(c) Records of each remittance or transfer of currency checks, investment securities, monetary instruments or credit, of more than $1,000 to persons, accounts or places outside the United States;

(d) Records of receipts of currency, checks, investment securities, monetary instruments, or transfers of credit, of more than $1,000 received directly and not through a domestic financial institution, from any person, account, or place outside the United States.

§ 103.36 Records to be made and retained by brokers and dealers in commodities.

Every domestic broker or dealer in commodities shall retain either the original or a microfilm or other copy or reproduction of each of the following:

(a) Documents granting signature authority over each customer's account;

(b) Ledger accounts (or other records) itemizing separately for each customer all charges against and credits to such customer's account, including funds or securities deposited, withdrawn, or transferred, and charges or credits resulting from losses or gains on closed transactions;

(c) A memorandum of each brokerage order, and of any other instruction, given or received for the purchase or sale of commodities, whether executed or unexecuted. Orders entered pursuant to the exercise of discretionary power by such broker or dealer, or any employee thereof, shall be so designated;

(d) Records of each remittance or transfer of currency, checks, investment securities, monetary instruments, or credit, of more than $1,000 to persons, accounts, or places outside the United States;

(e) Records of receipts of currency, checks, investment securities, monetary instruments, or transfers of credit, of more than $1,000 received directly and not through a domestic financial institution, from any person, account, or place outside the United States.

§ 103.37 Nature of records and retention period.

(a) Wherever it is required that there be retained either the original or a microfilm or other copy or reproduction of a check, draft, monetary instrument, investment security, or other similar instrument, there shall be retained a copy of both front and back of each such instrument, except that no copy need be retained of the back of an instrument which is entirely blank or which contains only standardized printed information, a copy of which is on file.

(b) Records required by this subpart to be retained by domestic financial institutions, shall identify all parties to the transaction with whom the financial institution dealt directly. Such records may be those made in the ordinary course of business by a financial institution. If no record is made in the ordinary course of business of any transaction with respect to which records are required to be retained by this subpart, then such a record shall be prepared in writing by the financial institution.

(c) Records required by this subpart to be retained by domestic financial institutions, and records prepared or received by a bank in the ordinary course of business which would be needed to reconstruct a customer's account, and to trace a check through its check processing system or to supply a description of a deposited check, shall be retained for a period of 6 years, shall be filed or stored in such a way as to be accessible within a reasonable period of time, taking into consideration the nature of the record, and the amount of time expired since the record was made.

§ 103.38 Person outside the United States.

For the purposes of this subpart, a remittance or transfer of currency, checks, investment securities, monetary instruments, or credit to the domestic account of a person whose address is outside the United States, shall be deemed to be a remittance or transfer to a person outside the United States.

Subpart D—General Provisions

§ 103.41 Dollars as including foreign currency.

Wherever in this part an amount is stated in dollars, it shall be deemed to mean also the equivalent amount in any foreign currency.

§ 103.42 Availability of information.

The Secretary may make any information set forth in any reports received pursuant to this part available to any other department or agency of the United States upon the request of the head of such department or agency, made in writing and stating the particular information desired, the criminal, tax, or regulatory investigation or proceeding in connection with which the information is sought, and the official need therefor.

§ 103.43 Disclosure.

All reports required under this part and all records of such reports are specifically exempted from disclosure under section 552 of title 5, United States Code.

§ 103.44 Exceptions, exemptions, modifications, and reports.

The Secretary, in his sole discretion, may by written order or authorization make exceptions to, grant exemptions from, or otherwise modify, the requirements of this part. Such exceptions, exemptions, or modifications may be conditional or unconditional, may apply to particular persons or to classes of persons, and may apply to particular transactions or classes of transactions. They shall, however, be applicable only as expressly stated in the order or authorization, and they shall be revocable in the sole discretion of the Secretary.

§ 103.45 Enforcement.

(a) Responsibility for assuring compliance with the requirements of this part is delegated as follows:

(1) To the Comptroller of the Currency, with respect to national banks and banks in the District of Columbia;

(2) To the Board of Governors of the Federal Reserve System, with respect to state bank members of the Federal Reserve System;

(3) To the Federal Home Loan Bank Board, with respect to insured and uninsured building and loan associations, insured and uninsured savings and loan associations, and insured institutions as defined in section 401 of the National Housing Act;

(4) To the Administrator of the National Credit Union Administration, with respect to all credit unions;

(5) To the Federal Deposit Insurance Corporation, with respect to all other banks;

(6) To the Securities and Exchange Commission, with respect to brokers and dealers registered with it under the Securities Exchange Act of 1934;

(7) To the Commissioner of Customs with respect to § 103.23 and § 103.47;

(8) To the Commissioner of Internal Revenue except as otherwise specified in this section.

(b) Overall responsibility for coordinating the procedures and efforts of the agencies listed herein and assuring compliance with this part, is delegated to the Assistant Secretary (Enforcement and Operations). Periodic reports shall be made by each such agency to the Assistant Secretary, with copies to the General Counsel of the Treasury Department and to the Commissioner of Internal Revenue.

§ 103.46 Civil penalty.

(a) For any willful violation of any requirement of this part, the Secretary may assess upon any domestic financial institution, and upon any partner, director, officer or employee thereof who willfully participates in the violation, a civil penalty not exceeding $1,000.

(b) For any failure to file a report required under § 103.23 or for filing such a report containing any material omission or misstatement, the Secretary may assess a civil penalty up to the amount of the currency or monetary instruments transported, mailed or shipped.

§ 103.47 Forfeiture of currency or monetary instruments.

Any currency or other monetary instruments with respect to which a report is required under § 103.23 are subject to seizure and forfeiture to the United States if such report has not been filed as required in § 103.25, or contain material omissions or misstatements. The Secretary may, in his sole discretion, remit or mitigate any such forfeiture upon such terms and conditions as he deems reasonable.

§ 103.48 Criminal penalty.

(a) Any person who willfully violates any provision of this part may, upon conviction thereof, be fined not more than $1,000 or be imprisoned not more than 1 year, or both. Such person may in addition, if the violation is of any provision authorized by title I of Public Law 91–508 and if the violation is committed in furtherance of the commission of any violation of Federal law punishable by imprisonment for more than 1 year, be fined not more than $10,000 or be imprisoned not more than 5 years, or both.

(b) Any person who willfully violates any provision of this part where the violation is either

(1) Committed in furtherance of the commission of any other violation of Federal law, or

(2) Committed as part of a pattern of illegal activity involving transactions exceeding $100,000 in any 12-month period, may, upon conviction thereof, be fined not more than $500,000 or be imprisoned not more than 5 years, or both.

(c) Any person who knowingly makes any false statement or representation in any report required by this part may, upon conviction thereof, be fined not more than $10,000 or be imprisoned not more than 5 years, or both.

§ 103.49 Effective date.

This part shall become effective on August 1, 1971, except for Subpart C which shall become effective on November 1, 1971.

[FR Doc.71-8133 Filed 6-9-71;8:52 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Parts 1063, 1070, 1078, 1079]

[Dockets Nos. AO–105–A34, AO–229–A25, AO–272–A19, AO–295–A23]

MILK IN QUAD CITIES-DUBUQUE AND CERTAIN OTHER MARKETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Quad Cities-Dubuque, Cedar Rapids-Iowa City, North Central Iowa, and Des Moines, Iowa, marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by the seventh 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 of opportunity to file exceptions thereto is 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 agreements and to the orders as amended, were formulated, was conducted at Moline, Ill., on April 13, 1971, pursuant to notice thereof which was issued on April 5, 1971 (36 F.R. 6593), and supplemental notice issued April 7, 1971 (36 F.R. 6833).

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

1. Class I price differentials.

2. Location adjustments to the Class I and uniform prices.

3. The determination of which order should regulate a plant from which milk is distributed in more than one regulated market.

4. Whether an emergency exists to warrant the omission of a recommended decision and whether amendments should be made for a temporary period.

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. *Class I price differentials.* The Class I price differential under the Des Moines order should be reduced 5 cents. The Class I price differentials under the Quad Cities-Dubuque and Cedar Rapids-Iowa City orders should be increased 3 cents. No change should be made in the Class I price differential under the North Central Iowa order.

The Class I price differential under each of the orders is an amount added to the basic formula price to determine the Class I price. The basic formula price is the same under each order and consists of the average of the prices reported paid for manufacturing grade milk in the States of Minnesota and Wisconsin. The amounts of the Class I differentials (base zone), however, vary among the orders as follows: Des Moines, $1.45; Quad Cities-Dubuque, $1.30; Cedar Rapids-Iowa City, $1.30; and North Central Iowa, $1.25.

Three regulated handlers proposed various changes in the amounts of the Class I differentials under the orders. A Des Moines order handler proposed that the Des Moines order Class I differential be reduced 10 cents, to $1.35; and that the Quad Cities-Dubuque and Cedar Rapids-Iowa City differentials be increased 5 cents, to $1.35. Another handler, with a plant located in Des Moines and regulated under the Quad Cities-Dubuque order, proposed that the Des Moines, Quad Cities-Dubuque, and Cedar Rapids-Iowa City order differentials be

changed to $1.39, and that the North Central Iowa order Class I differential be changed to $1.35. A Waterloo handler regulated under the North Central Iowa order proposed that the differential under that order be reduced 10 cents, to $1.15.

Proponent handlers contended that because of the extensive overlapping of milk procurement and sales areas of the handlers regulated under the various orders, the proposed change in the differentials is necessary to provide pricing equity among handlers under these orders.

The above proposals, and certain location adjustment proposals discussed hereinafter, were prompted primarily because of the pricing situation for handlers located in Des Moines. One handler there became regulated under the Quad Cities-Dubuque order beginning September 1970, because of a greater volume of distribution from the plant in that order marketing area than in the Des Moines marketing area. Prior to September 1970, the handler's sales accounts in the Quad Cities-Dubuque marketing area were served from another plant operated by the handler in Rock Island, Ill., at which bottling operations were discontinued. This handler distributes milk on routes throughout the marketing areas of all four of the above-mentioned orders plus the Kansas City market (which also has a Federal order). Des Moines handlers who are regulated under the Des Moines order also have milk distribution areas that encompass the Des Moines, Cedar Rapids-Iowa City, and North Central Iowa markets.

Handlers not located in Des Moines but regulated under the other Iowa orders have distribution patterns overlapping those of the Des Moines handlers. A handler in Waterloo, Iowa, and regulated under the North Central Iowa order has route sales in all four Iowa order markets. A handler in Cedar Rapids, Iowa, regulated under the Quad Cities-Dubuque order, has sales routes that overlap those of handlers regulated under each of the four orders. A handler located in Ottumwa, Iowa, regulated under the Des Moines order, has sales routes in the Des Moines, Cedar Rapids-Iowa City, and Quad Cities-Dubuque marketing areas.

The handlers indicated above compete not only with each other and with a number of handlers regulated under each of the four Iowa orders, but also with handlers regulated under the Southeastern Minnesota-Northern Iowa (Dairyland) and Chicago Regional Federal milk orders which have Class I price differentials lower than those under the Iowa orders. A Rochester, Minn., handler regulated under the Dairyland order, which has a Class I differential of $1.06, has milk distribution routes which extend into the North Central Iowa and Des Moines marketing areas. Another Dairyland regulated handler, in Austin, Minn., also distributes milk in the North Central Iowa marketing area. Three handlers regulated under the Chicago Regional order distribute milk in the Quad Cities-Dubuque marketing area. The plants of the Chicago Regional handlers are located in Huntley, Ill.; Beloit, Wis.; and Whitewater, Wis. The location adjustment provisions of the Chicago Regional order effect Class I differentials at these plants of $1.24, $1.18, and $1.18, respectively.

The milk supply area for the four Iowa markets consists of territory in 112 counties throughout most of Iowa (82 counties), southern Minnesota (14 counties), southwestern Wisconsin (10 counties), and northwestern Illinois (6 counties). There is widespread overlapping of the procurement areas of handlers regulated under each of the four Iowa orders. It is most intensive in the seven northeast Iowa counties of Tama, Benton, Black Hawk, Buchanan, Bremer, Fayette, and Winneshiek wherein milk from each county is supplied to handlers under all four orders. Milk produced in these seven counties plus the nine Iowa counties of Allamakee, Chickasaw, Clayton, Delaware, Dubuque, Howard, Linn, Jones, and Jackson accounted for 50.7 percent of the total supply on the four Iowa markets in December 1970. These 16 counties, all in northeast Iowa, constitute a large proportion of the present source of production for each of the Iowa markets and handlers under all four orders complete in this area for their supplies of milk.

The plants of the competing handlers, however, are situated at varying distances from this major portion of the supply. Waterloo, Iowa, is situated in the southwestern segment of this heavy production area of northeast Iowa. Four of the seven handlers regulated under the North Central Iowa order have plants in Waterloo. These plants are situated about 100 miles closer to this supply of milk than are plants in Des Moines, which is situated in southcentral Iowa. The distance between Des Moines and Waterloo is 108 miles. The Des Moines order plant in Ottumwa, Iowa, is 125 miles south of Waterloo.

Cedar Rapids, Iowa City, and Quad Cities (Davenport, Iowa; and Rock Island, Moline, and East Moline, Ill.) are south of the northeast Iowa heavy production areas.

Milk production on the Iowa markets in counties south of Waterloo during December 1970 amounted to 36.6 million pounds while Class I use of handlers under the Des Moines, Cedar Rapids-Iowa City and Quad Cities-Dubuque orders amounted to 55.2 million pounds. Since virtually all of the Class I use under these three orders is at plants located south of Waterloo and generally south of the aforementioned 16 northeast Iowa counties which account for 50 percent of the milk on the markets, such plants must rely on milk produced in these counties or in lower priced areas farther to the north for an adequate supply of milk.

Alternative supplies of milk could not be attracted from the higher priced markets to the south and west such as St. Louis, Kansas City, and Nebraska-Western Iowa.

Milk production on the Iowa markets in counties lying south and west of Waterloo, toward Des Moines, was 18.3 million pounds in December 1970, while Class I use under the Des Moines order was 22.5 million pounds. Consequently, Des Moines handlers must compete for a portion of the supply in northeast Iowa or beyond such area for an adequate supply. Since the aforementioned surplus production area in northeast Iowa and beyond is situated about 100 miles farther from Des Moines plants than plants in the vicinity of Waterloo, additional transportation costs are incurred in moving any of such supplies to Des Moines vs. delivery of such milk to Waterloo. At the rate of location adjustment in the Des Moines order 16 cents is allowed to transport milk the 108 miles from Waterloo to Des Moines. In this circumstance, a Class I price at Des Moines as much as 20 cents above the Class I price at Waterloo exceeds that necessary to attract an adequate supply for the Des Moines market in competition with handlers under the north central Iowa order.

Milk production on the Iowa markets in counties south and east of Waterloo during December 1970 amounted to 19 million pounds while Class I use of handlers under the Cedar Rapids-Iowa City and Quad Cities-Dubuque orders amounted to 32.7 million pounds. Consequently, handlers under these orders must compete for a supply of milk in the northeast Iowa surplus production area.

Handlers in the Cedar Rapids-Iowa City and Quad Cities-Dubuque markets are located closer to the northeast Iowa supply than handlers in the Des Moines market, however. The greatest concentration of production in northeast Iowa is in Delaware and Dubuque counties wherein 18.2 million pounds of milk was produced for the Iowa markets in December 1970. Dyersville, Iowa, which is located in the center of this two-county area, is 174 miles from Des Moines and 98 miles from Davenport, or a difference of 76 miles. Independence, Iowa, in Buchanan County which is directly west of Delaware County, is 58 miles farther from Des Moines than Iowa City. Further north in this section of Iowa the difference in the distance to Des Moines versus Davenport becomes less. For example, Decorah, Iowa, in Winneshiek County is only 7 miles farther from Des Moines than Davenport.

In the above circumstance a somewhat higher price needs to be maintained at Des Moines than in the Cedar Rapids-Iowa City and Quad Cities areas to enable Des Moines handlers to compete for milk supplies in northeast Iowa. About one-half of the milk supplies in the northeast Iowa counties is situated up to 50 miles farther from Des Moines handlers' plants than from most handlers' plants in the Cedar Rapids-Iowa City and Quad Cities areas. A difference in price of 7 cents should enable Des

Moines handlers to compete effectively for milk supplies so situated in the northeast Iowa production area. As indicated hereinbefore, an adequate supply of milk for the Des Moines market relative to the North Central Iowa market is reasonably assured from present sources of production if the Class I price is maintained 15 cents above the North Central Iowa Class I price, rather than the present 20 cents.

The availability of milk supplies for the Des Moines market from southern Minnesota also supports the reduction in the Des Moines Class I price differential. The northern Iowa and southern Minnesota portion of the supply area for the Iowa markets overlaps most of the supply area and marketing area of the Dairyland order. A large and an increasing volume of Grade A milk is available in such territory.

The Class I price differential under the Des Moines order is 39 cents above the Class I differential under the Dairyland order. The Dairyland market covers territory in northern Iowa and southern Minnesota. The distances from Des Moines, Iowa, to Austin and Rochester, Minn., the locations of the two plants regulated under the Dairyland order which distribute milk south into Iowa, are about 155 miles and 210 miles, respectively. The location adjustment under the Des Moines order would amount to 24 cents at Austin and 31½ cents at Rochester, which amounts are significantly less than the 39-cent difference in the Class I differentials between the markets. One Des Moines handler testified that he has been offered milk from a Dairyland source at a transportation cost of 30 cents.

The North Central Iowa market lies between the Des Moines market and the Dairyland market. The present Class I differential of $1.25 appropriately reflects the value of Class I milk delivered to plants in this market relative to the lower value of milk delivered to plants in the Dairyland market and relative to the higher value determined above for milk delivered to plants in Des Moines. The 19-cent higher Class I differential under the North Central Iowa order at Waterloo compared to the Class I differential at Rochester, Minn., under the Dairyland order closely reflects the cost of transporting available supplies of milk the 113 miles from Rochester to Waterloo.

In this circumstance proposals to change the North Central Iowa Class I price differential should be denied.

The Class I price differentials under the Quad Cities-Dubuque and Cedar Rapids-Iowa City orders should be set at the level needed to attract adequate milk supplies to handlers in these markets in competition with handlers in neighboring Iowa markets. It was concluded hereinbefore that the Class I price level in these two markets should be maintained at least 7 cents below the Class I price level for the Des Moines market and that the Des Moines price be maintained 15 cents above the North Central Iowa Class I price, to enable handlers in all four markets to effectively compete for present supplies of milk in northeast Iowa. Moreover, since such supplies in northeast Iowa are the most economical source of milk for the several markets, any adjustments to prices under these orders at this time should maintain present aggregate returns to producers serving the four markets.

In these circumstances, it is concluded that the Des Moines Class I differential should be reduced 5 cents and the Class I differential under the Quad Cities-Dubuque and Cedar Rapids-Iowa City orders increased 3 cents. This will establish Class I prices for these markets that will reflect the relative costs of getting milk transported to the respective markets from the common production area of northeast Iowa. Because of the difference in cost of obtaining adequate supplies for the respective markets, the proposals to provide identical prices under the Des Moines, Cedar Rapids-Iowa City, and Quad Cities-Dubuque orders by reducing the Des Moines price and increasing the other two are denied.

2. *Location adjustments to the Class I and uniform prices.* The location adjustment provisions of the Quad Cities-Dubuque order should be modified. At Quad Cities-Dubuque order plants located within the Des Moines marketing area the Class I and uniform prices should be adjusted by the amount (7 cents per hundredweight) that the Des Moines order Class I price will exceed the Quad Cities order Class I price. The same adjustment should apply to the Class I and uniform prices at plants located in the territory in Iowa south of U.S. Highway No. 80 and beyond 70 miles from the nearer of the City Hall, Rock Island, Ill., or the Post Office, West Liberty, Iowa.

Presently, the Quad Cities-Dubuque order establishes a minus location adjustment to the Class I and uniform prices at plants located outside both the marketing area and the Des Moines marketing area and beyond 70 miles from the nearer of the City Hall, Rock Island, Ill., or the Post Office, West Liberty, Iowa. Such adjustment is at the rate of 10 cents per hundredweight, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 80 miles. A minus 10-cent location adjustment applies in Dubuque and Jackson Counties, Iowa, and in East Dubuque, Ill. Also a plus adjustment applies at a plant located in the Des Moines marketing area, in the amount that the Des Moines Class I price exceeds the Quad-Cities Class I price.

Cooperative associations proposed that the Quad Cities-Dubuque order location adjustments at plants located outside the marketing area and beyond 60 miles from the nearer of the Rock Island and West Liberty basing points be plus amounts at plants located south of U.S. Highway No. 80, and minus amounts at plants located north of U.S. Highway No. 80, at the rate of 10.5 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 70 miles. Also, at any plant located south of U.S. Highway No. 80 the amount of the plus adjustment would be limited to any amount that the Des Moines Class I price exceeds the Quad Cities Class I price.

A handler located in Des Moines but currently regulated under the Quad Cities-Dubuque order, proposed that the Quad Cities-Dubuque order Class I and uniform prices at all plants outside the marketing area and beyond 70 miles from the nearer of the basing points be reduced by 10 cents, and by an additional 1.5 cents for each 10 miles or fraction thereof that such plant distance exceeds 80 miles.

The above-proposed modifications of the Quad Cities-Dubuque location adjustment provisions were directed mainly to effectuation of appropriate adjustments of Class I and uniform prices at plants located in the Des Moines marketing area and in the territory between the Des Moines and Quad Cities-Dubuque marketing areas. The proposal by the cooperatives would provide, at plants so located, a plus location adjustment, while the handler's proposal would provide a minus location adjustment.

Location adjustments reflect the difference in value of milk delivered by producers to another plant location as compared to its value delivered to the location (f.o.b. market) for which the basic price is announced under the order. In the case of the Quad Cities-Dubuque and Des Moines orders prices are announced for the largest population centers in the marketing area. The Quad Cities (Rock Island, Davenport, Moline, and East Moline) and Des Moines are the largest population centers in the respective markets and no adjustments to prices under the respective orders apply at such locations.

Because whole milk is bulky, the cost of transporting it from one location to another is significant relative to its price. The production of milk frequently takes place at a substantial distance from the population center where it is processed and consumed. In some instances, the milk is received at a country receiving plant and then moved to the city bottling plant, and frequently it is moved from surplus production areas to areas of deficit production where needed for Class I use. The cost of moving milk in these circumstances gives rise to different values of milk at different plant locations where the milk is received from producers' farms.

In northeast Iowa there are plants serving the Des Moines and Quad Cities markets. Location adjustments are provided under the orders which reduce the Class I price to the handler at such plant locations to compensate for the cost he incurs in moving milk to the centers of population. Accordingly, in this situation the location adjustments recognize the cost associated with distance for transporting milk for bottling purposes from a plant in this main supply area to plants in the population centers. If milk is moved to one of these centers from any other distance supply area, the

location value relative to the market likewise is recognized through the location adjustment provisions.

The location adjustment on the uniform, or blend, price to the producer, at the same rate as to the handler, is applicable when the producer delivers to the plant location in the supply area rather than to the city bottling plant at a greater distance from his farm. If he actually delivers his milk to the city plant at his own hauling cost, he is compensated by receiving the uniform price announced at the city location. If he does not, the location value of his milk is less by the amount allowed the handler for transporting milk from the country plant location to the city bottling plant and this is reflected in his uniform, or blend, price.

In competing markets with market-wide pooling there is strong tendency for available supplies to gravitate to the respective market pools in a way that tends to equalize the net return to producers under both orders at overlapping supply locations. Since the supply area for the Des Moines market overlaps the supply area for the Quad Cities market in northeast Iowa, the net return to producers under the two orders tend to equate in such supply area. If the distance from such common supply area to the respective population centers is different, it follows that the cost to the producer for transporting milk to the respective centers also will be different.

This difference is reflected in the higher Class I differential fixed for the more distant center of population. It also is reflected in the total amount of location adjustment under the two orders applicable at a given point in the supply area, since the rate of adjustment associated with distance is the same under both orders (1.5 cents per 10 miles). In this circumstance the Class I and uniform prices f.o.b. Des Moines will exceed the Class I and uniform prices f.o.b. Rock Island (the basing points for pricing under the respective orders) by the amount of the extra transportation cost in moving milk from the common supply area to Des Moines versus Rock Island.

Therefore, to assure that milk is delivered to a plant located in the Des Moines marketing area but regulated under the Quad Cities-Dubuque order, the Quad Cities-Dubuque order should provide a location adjustment at a plant in the Des Moines marketing area to reflect the higher value of milk delivered there versus delivery to the Quad Cities marketing area resulting from the difference in transportation cost in moving milk to the Des Moines marketing area location from the common supply area on which both markets depend as the nearest and most economical source of milk.

The determination of the value of milk delivered to the Des Moines market relative to the Quad Cities area, made hereinbefore, indicated a 7-cent higher value for milk delivered to Des Moines than to the Quad Cities Area. This 7-cent higher price in Des Moines should be reflected in the location adjustment provisions of the Quad Cities-Dubuque order in order that a plant located in the Des Moines marketing area but regulated under the Quad Cities order, and competing for a supply of milk to be delivered to the Des Moines location under the circumstances previously described, will be on the same price terms as a Des Moines order handler in competing for milk. By delivering his milk to the Des Moines location, whether the plant at Des Moines is regulated under the Des Moines order or under the Quad Cities order, the producer performs the same economic service to the handler, i.e., the delivery of his milk at the cost necessary to get it to that location.

A Quad Cities order handler located in Des Moines contend in its brief that a minus location adjustment under the Quad Cities order should apply at Des Moines to reflect the cost of moving milk from there to the Quad Cities marketing area. The handler pointed out that a minus 19-cent location adjustment applied to its Des Moines plant in September 1970 when it first shifted regulation from the Des Moines order to the Quad Cities-Dubuque order. The minus location adjustment provision was suspended immediately for the month of October 1970, however, and the order was amended effective November 1970 to provide a plus location adjustment in the amount that the Des Moines Class I price exceeded the Quad Cities-Dubuque Class I price.

A minus location adjustment normally is appropriate at a plant that is located closer to the source of supply for a market as compared to plants in the marketing area. In the instance of the Des Moines plant regulated by the Quad Cities order, this is not the situation. As previously described, Des Moines is farther from the main production center and plants in Des Moines, whether regulated under one order or the other, will not be fully supplied unless the full cost of delivery from a country supply plant, or directly by the producer in the principal production area for these markets is compensated for in the producer's price.

Des Moines is in a relatively deficit area of production and the producer should be compensated for whatever extra expense is involved for him to deliver to such location as compared to an alternative market outlet such as the Quad Cities or North Central Iowa market. While the supply service performed by the producer for the handler is essentially the same kind of service in each case, the cost to him of supplying plants located at Des Moines is somewhat higher than for the other markets.

The provision, not unusual in milk orders, for the regulation of a distributing plant on the basis of the market where it distributes the greatest proportion of its total milk receipts resulted in the regulation under the Quad Cities-Dubuque order of the above-referred-to plant located in the Des Moines marketing area. This occurred after a period of time when the plant was regulated under the Des Moines order on the basis of its having the greater amount of sales in that market. The operator of this plant contends that the plant should have the benefit of a lower price because it is under the Quad Cities order. While this plant has sales of milk in the lower priced Quad Cities area, such sales are a relatively small proportion of the total Class I sales from such plant. The plant also continues to have sales (as it had when it was a plant regulated by the Des Moines order) in the lower priced North Central Iowa market. It also sells in the higher priced Greater Kansas City market and in other areas, including the city of Des Moines. The producers at this plant must fulfill the need of milk for all such sales, not only for the relatively small proportion represented by his Quad Cities business.

The fact that a handler may sell some Class I milk in a lower priced market has no bearing on the cost to producers of serving him with a supply of milk to his plant. It is not unusual for handlers to sell in lower priced markets, as well as in higher priced markets. That is the handler's business decision but the fact that he does so, does not entitle him to pay producers less than their milk is worth considering the cost they incur in delivering to him at the plant location of his choice.

Accordingly, the price level at a Quad Cities order plant located in Des Moines should be adjusted to reflect the higher value of milk determined above to be reasonable, under the discussion of the Des Moines order price, for that location.

In view of the foregoing considerations, the handler's proposal for a minus location adjustment under the Quad Cities-Dubuque order at Des Moines is denied.

Actually, however, the plus adjustment is of more benefit to the handler than a minus adjustment, since the handler's net obligation to the producer-settlement fund for milk is less than it would be without the location adjustment. This is due to the application of the adjustment to the uniform price as well as the Class I price. The handler is charged the amount of the plus adjustment on his Class I volume but receives a credit at the plus adjustment rate on the total volume of his receipts of milk from producers plus any other source fluid milk products assigned to Class I use. Invariably total receipts exceed total Class I use, consequently the amount of the credit exceeds the amount of the Class I obligation attributable to the location adjustment.

With a minus location adjustment the total obligation to the producer-settlement fund would be greater than it would be with no adjustment since the reduction in the credit on the volume of receipts would amount to more than the reduction in the obligation on the Class I volume. Moreover, it is reasonable to expect that the handler would have to

pay the higher Des Moines order competitive price to attract a milk supply to his plant location.

The present location adjustment provisions of the Quad Cities order provide minus amounts in all territory outside the marketing area and outside the Des Moines marketing area and beyond 70 miles from the nearer of the Rock Island and West Liberty basing points. A portion of such territory is the unregulated territory in Iowa near the eastern edge of the Des Moines marketing area, specifically Davis County and portions of Van Buren, Lee, and Poweshiek counties. Although there are no presently regulated plants so situated, it is inconsistent to have a minus location adjustment in such territory when a plus adjustment of 7 cents would apply just to the west within the Des Moines marketing area.

The cooperatives' proposal would apply a plus adjustment in such territory south of U.S. Highway No. 80, in the amount that the Des Moines Class I price exceeded the Quad Cities Class I price. U.S. Highway No. 80 crosses Iowa in an east-west direction through Davenport, Iowa City, and Des Moines.

The territory south of U.S. Highway No. 80 and beyond 70 miles from the West Liberty basing point is about the same distance from the northeast Iowa heavy production area as is Des Moines and Ottumwa (the two basing points for pricing under the Des Moines order). In this circumstance if a plant were located in such unregulated territory, but regulated under the Quad Cities-Dubuque order, the conditions of attracting a supply of milk to such a plant would be the same as for a plant within the Des Moines marketing area. It may be noted further that the price applicable in such area under the Des Moines order is the same as applies at Des Moines and Ottumwa.

Accordingly, a plus location adjustment under the Quad Cities order in the amount that the Des Moines Class I price exceeds the Quad Cities Class I price should apply in this territory as well as within the Des Moines marketing area.

Any minus location adjustment under the Quad Cities-Dubuque order should be limited to territory north of U.S. Highway No. 80, as proposed by the cooperatives. As found hereinbefore handlers whose plants are located in the vicinity of the Quad Cities, Iowa City, Des Moines, and Ottumwa logically compete for supplies of milk produced in the lower priced areas to the north in Iowa, Minnesota, Wisconsin, and northwestern Illinois. The territory south of U.S. Highway No. 80 is essentially deficit production territory relative to the area north of such highway. All markets to the south of the Iowa markets such as Central Illinois, Southern Illinois, St. Louis-Ozarks, and Kansas City have Class I and uniform prices that exceed the Quad Cities-Dubuque order Class I and uniform prices. Consequently, any supplies of milk situated in Iowa to the south of U.S. Highway No. 80 in the vicinity of the Quad Cities, Iowa City, Des Moines, and Ottumwa have at least as high a value as the prices f.o.b. these respective cities. Milk supplies south of U.S. Highway No. 80 in Illinois, Missouri, and Nebraska are attracted to the higher priced markets in those States and thereby are not available at a price less than is fixed f.o.b. the Quad Cities area. Accordingly, the Quad Cities-Dubuque order location adjustment should be reduced in only that territory north of U.S. Highway No. 80.

The location adjustment under the North Central Iowa order for Zone 2 should be increased 3 cents. Zone 2 consists of the Iowa counties of Marshall, Tama, Linn, and Johnson. Cedar Rapids is located in Linn County and Iowa City is located in Johnson County. To assist in getting an adequate supply of milk to any North Central Iowa order plants at such locations, the 3-cent increase in the Cedar Rapids-Iowa City order Class I differential hereinbefore concluded to be appropriate should also be reflected at such locations under the North Central Iowa order. A plant in Marshalltown, Iowa, regulated under the North Central Iowa order is in Marshall County. Marshalltown is 48 miles northeast of Des Moines and 60 miles southwest of Waterloo. An 8-cent plus differential in this area under the North Central Iowa order will appropriately reflect the higher value of milk delivered to Marshalltown vs. Waterloo, and the lower value of milk delivered there relative to Des Moines.

There were additional proposals published in the notice dealing with matters related to location adjustments, such as; the addition of the Iowa counties of Clayton and Delaware to the minus 10-cent location adjustment zone under the Quad Cities-Dubuque order, and location adjustment credits on transfers of milk between pool plants. Proponents indicated they intend to offer testimony on such proposals later in conjunction with their recent request for a hearing on proposed expansion of the marketing area. Accordingly, no action is taken on this record with respect to such proposals.

3. *The determination of which order should regulate a plant.* The provisions of the Quad Cities-Dubuque order that relate to a distributing plant that simultaneously meets the pooling requirements of the order and also those of another order should be revised. Specifically, the plant should remain regulated under the Quad Cities-Dubuque order until after the third consecutive month in which it remained qualified but had a greater proportion of its sales of fluid milk products in another regulated marketing area and also qualified as a pool plant under the other order.

The corresponding provisions of the Des Moines order should be revised in the same manner as those of the Quad Cities-Dubuque order. No proposals were under consideration at the hearing with respect to such type of provision for the Cedar Rapids-Iowa City or North Central Iowa orders.

The Quad Cities-Dubuque and Des Moines orders presently provide that a plant that is fully subject to the pricing and payment provisions of another order and distributes a greater proportion of its Class I milk in such other market shall be exempt for the month from all but the reporting provisions of the respective orders.

A fully regulated handler under the Quad Cities-Dubuque order and a cooperative association representing the majority of producers associated with such order proposed that the "lock-in" provision be added to both the Des Moines and Quad Cities-Dubuque orders.

Proponents stated that currently neither producer organizations nor handlers can determine until the following month under which order a plant is qualified for pooling. They contended that in the past this has created uncertainty and abrupt changes in prices for producers and handlers alike.

The handler proponent said that the loss or acquisition of a chain store or school milk contract by a handler, usually representing a sizable volume of milk, makes the inclusion of a lock-in provision in both the Des Moines and Quad Cities-Dubuque orders necessary if disruptive marketing conditions are to be avoided. Such an occurrence could change a plant's pattern of distribution and ultimately result in its being regulated under another order.

Proponent handler stated that its plant faces the likelihood of becoming regulated under the Kansas City order in the near future. This, it was concluded, would come about primarily because of the plant's loss of Class I sales on school milk contracts in the Quad Cities-Dubuque market.

If the loss of these school milk sales during the summer months causes this particular plant to become regulated under the Kansas City order, it likely will disrupt milk procurement operations for the handler, because the producers presently supplying this plant will be unable to obtain full "bases" under the Kansas City order base-excess plan since their milk would have been delivered to other plants during part of the September-December base-forming period.

The cooperative association witness stated that a lock-in provision would provide needed supply and price stability to the Quad Cities-Dubuque market. As evidence of the need for more market stability, this witness cited several instances during 1970 when shifts in regulation of plants had had a sharp impact on the Quad Cities-Dubuque market.

For example, a sizable plant at Des Moines, previously regulated under the Des Moines order, became regulated under the Quad Cities-Dubuque order in September 1970, after bottling operations at the Rock Island, Ill., plant of the same handler were transferred to the Des Moines plant.

A distributing plant located in Cedar Rapids, Iowa, shifted regulation from the Quad Cities-Dubuque order to the North Central Iowa order for the months of May, June, and July 1970 because it

failed to meet the minimum pool distributing plant qualification requirements of the Quad Cities-Dubuque order.

A distributing plant located at Ottumwa, Iowa, and a supply plant at Cresco, Iowa, also experienced a change of regulation when during May 1970 they became regulated under the Quad Cities-Dubuque order after being regulated previously under the Des Moines order.

Since the Des Moines and Quad Cities-Dubuque markets are moderate in size, the introduction or loss of sizable supplies or Class I sales can have significant impact on producer returns.

The aforementioned instances of plants shifting in and out of the Quad Cities-Dubuque and Des Moines orders sufficiently demonstrate the need for a provision that will minimize such occurrences in the future. A provision of this type also would provide adequate forewarning that a shift in a plant's regulation was imminent. However, these provisions should not provide continued regulation to a plant that does not meet the pool plant qualification provisions of the Quad Cities-Dubuque order during any month that such plant would otherwise be locked-in. Not requiring a plant to qualify creates the potential for abuse of the order by associating unlimited supplies of milk with a plant which could result in distortions to the detriment of producers regularly supplying the market.

The lock-in provision would require that the Quad Cities-Dubuque order continue to regulate a plant until after the third consecutive month in which it remained qualified but had a greater proportion of its sales in the marketing area of another order. For the 3-month lock-in period, the other order, however, must permit the plant to be pooled by the Quad Cities-Dubuque order in which market it has the lesser portion of its sales. If the other order does not have such a complementary pooling provision, but requires that the plant be pooled under that order, the plant should be exempt from all but the reporting provisions of the Quad Cities-Dubuque order.

For the Quad Cities-Dubuque order to be complementary to orders with similar provisions, it should exempt from full regulation any plant with more fluid milk sales in the marketing area than in another marketing area but which is subject to full regulation under the other order. This should apply also to any plant which continues to be regulated under another order under a similar provision while having a greater proportion of its fluid milk product disposition in the Quad Cities marketing area.

A similar proposal was made for the Des Moines order and should be adopted. If such were not provided, a plant which normally would be locked-in under the Quad Cities-Dubuque order could, on the basis of its Class I distribution in the Des Moines marketing area for 1 month, become regulated under the Des Moines order. Further, a distributing plant normally regulated under the Des Moines order shifted regulation to the Quad Cities-Dubuque order for the month of May 1970.

4. *Emergency action and amendment for a temporary period. Request for emergency action.* The issuance of a recommended decision and opportunity to file exceptions thereto should be provided on the issues of this hearing.

On the basis of emergency conditions alleged by petitioners for the hearing, the hearing notice specified that evidence would be received on whether the recommended decision should be omitted.

Several witnesses requested prompt action on their proposals and specifically requested that the recommended decision be omitted. However, a substantial number of the briefs filed opposed the omission of a recommended decision.

The amendments concluded to be appropriate in this decision would reduce the Des Moines order Class I price differential 5 cents; increase the Quad Cities-Dubuque and Cedar Rapids-Iowa City Class I price differentials 3 cents; modify the location adjustment provisions of the Quad Cities-Dubuque order and North Central Iowa order; and provide a pool plant "lock-in" provision for the Des Moines and Quad Cities-Dubuque orders that would allow a distributing plant to continue to be regulated under the particular order until after the third consecutive month in which it remained so qualified but had greater sales in another regulated marketing area.

Alternatives to these amendments were proposed and interested persons, therefore, should be given an opportunity to file exceptions thereto.

Amendment for a temporary period. The amendments concluded to be appropriate in this decision should not specify a temporary period of application.

Certain proposals dealing with the merger of the Des Moines and Cedar Rapids-Iowa City orders and the marketing area expansion of the Quad Cities-Dubuque order were submitted for consideration at the hearing but were omitted from the hearing notice because of the claimed emergency nature of the hearing. The hearing notice stated that evidence would be received on whether the amendments should be made for a temporary period.

Witnesses testified that a hearing should be held in the near future to consider merger and marketing area expansion proposals. Furthermore, the same sentiment was expressed in the briefs filed.

In these circumstances, no purpose would be served by setting an expiration date on the amendments contained herein.

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 new conclusions are denied for the reasons previously stated in this decision.

Two offers of proof were made, one with respect to a petition for suspension action and one with respect to a research report. These offers have been reviewed and the action taken on them by the presiding officer is hereby affirmed for the reasons stated by such officer on the record of the hearing.

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 each of the aforesaid orders 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.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(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 tentative 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;

(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 Agreements and Order Amending the Orders

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the Quad Cities-Dubuque, Cedar Rapids-Iowa City, North Central Iowa, and Des Moines, Iowa, marketing areas is recommended as the detailed and appropriate means by which

the foregoing conclusions may be carried out:

PART 1063—MILK IN THE QUAD CITIES-DUBUQUE MARKETING AREA

1. In § 1063.52, subparagraphs (2) and (3) of paragraph (a) are revised to read as follows:

§ 1063.52 Location adjustments to handlers.

(a) * * *

(2) At a plant located outside the marketing area, north of U.S. Highway No. 80, and, except as provided in subparagraph (3) of this paragraph, 70 miles or more, by the shortest hard-surfaced highway distance as determined by the market administrator, from the nearer of the City Hall, Rock Island, Ill., or the Post Office, West Liberty, Iowa, subtract 10 cents and subtract an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 80 miles; and

(3) At a plant located in that Iowa territory beyond 70 miles from the nearer of the City Hall, Rock Island, Ill., or the Post Office, West Liberty, Iowa, and south of U.S. Highway No. 80, or within the Des Moines, Iowa, marketing area as specified in Part 1079, add any amount by which the price specified in § 1063.50(b) is exceeded by the applicable Class I price at the same location pursuant to Part 1079 regulating the handling of milk in the Des Moines, Iowa, marketing area.

2. In § 1063.61 paragraph (a) is revised to read as follows:

§ 1063.61 Plants subject to other Federal orders.

* * * * *

(a) A distributing plant, a supply plant or a plant otherwise qualified as a pool plant pursuant to § 1063.10(c) during any month in which such plant would be subject to the classification and pricing provision of another order issued pursuant to the Act unless the disposition of fluid milk products, except filled milk, from such plant to pool plants qualified under § 1063.10 and to retail and wholesale outlets in the Quad Cities-Dubuque marketing area exceeds such disposition to retail and wholesale outlets in such other marketing area and to pool plants regulated by such other order except that if a pool distributing plant qualified under § 1063.10(a) was subject to all of the provisions of this part during each of the three immediately preceding months it shall continue to be subject to all of the provisions of this part until after the third consecutive month in which it remained so qualified and had a greater proportion of its fluid milk product disposition, except filled milk, made in the manner described above in this paragraph, in such other marketing area, unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

3. Revise § 1063.50(b) to read as follows:

§ 1063.50 Basic formula and class prices.

* * * * *

(b) The Class I milk price shall be the basic formula price for the preceding month plus $1.13, and plus 20 cents.

* * * * *

PART 1078—MILK IN THE NORTH CENTRAL IOWA MARKETING AREA

Revise § 1078.52(a)(1) to read as follows:

§ 1078.52 Location differentials to handlers.

(a) * * *

(1) Zone 2 amount, plus 8 cents. Zone 2 means all the territory in the Iowa counties of Marshall, Tama, Linn, and Johnson.

* * * * *

PART 1070—MILK IN THE CEDAR RAPIDS-IOWA CITY MARKETING AREA

Revise § 1070.50(b) to read as follows:

§ 1070.50 Basic formula and class prices.

* * * * *

(b) The Class I milk price shall be the basic formula price for the preceding month plus $1.13, and plus 20 cents.

* * * * *

PART 1079—MILK IN THE DES MOINES, IOWA, MARKETING AREA

1. Revoke § 1079.17 Base zone.

2. Revise § 1079.50(b) to read as follows:

§ 1079.50 Basic formula and class prices.

* * * * *

(b) The Class I milk price shall be the basic formula price for the preceding month plus $1.20 and plus 20 cents.

3. Revise § 1079.52(a) to read as follows:

§ 1079.52 Location differentials to handlers.

(a) For producer milk received at a plant located outside the marketing area, and 60 miles or more by the shortest hard-surfaced highway distance, as measured by the market administrator from the main post offices of Des Moines and Ottumwa, Iowa, which is classified as Class I or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price specified in § 1079.50(b) shall be reduced 10 cents, and shall be reduced an additional 1.5 cents for each 10 miles or fraction thereof in excess of 75 miles from the designated post offices.

* * * * *

4. In § 1079.61, paragraph (a) is revised to read as follows:

§ 1079.61 Plants subject to other Federal orders.

* * * * *

(a) A distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless the disposition of fluid milk products, except filled milk, from such plant to pool plants qualified under § 1079.10 and to retail and wholesale outlets in the Des Moines, Iowa, marketing area exceeds such disposition to retail and wholesale outlets in such other marketing area and to pool plants regulated by such other order except that if a pool distributing plant qualified under § 1079.10(a) was subject to all of the provisions of this part during each of the 3 immediately preceding months it shall continue to be subject to all of the provisions of this part until after the third consecutive month in which it remained so qualified and had a greater proportion of its fluid milk product disposition, except filled milk, made in the manner described above in this paragraph, in such other marketing area, unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

* * * * *

Signed at Washington, D.C., on June 4, 1971.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.71-8109 Filed 6-9-71;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 1]

CERTAIN SMALL COSMETICS

Proposed Exemption From Required Quantity of Contents Statement

Notice is given that Estee Lauder, Inc., and affiliates Aramis, Inc., and Clinique Laboratories, Inc., 767 Fifth Avenue, New York, N.Y. 10022, and Jerome L. Issacs, 320 East 42d Street, New York, N.Y. 10017, have independently submitted petitions proposing that the regulations for the enforcement of the Fair Packaging and Labeling Act and the Federal Food, Drug, and Cosmetic Act (21 CFR Part 1) be amended to exempt certain packages of cosmetics from the requirement of both acts that the labels bear a quantity of contents statement.

The petition submitted by Estee Lauder, Inc., et al., proposes that the immediate container of a cosmetic containing less than one-fourth ounce avoirdupois or one-eighth fluid ounce, and enclosed in an outer retail package labeled in conformance with the requirements of both acts, be exempt from the quantity of contents declaration requirement.

The petition submitted by Jerome L. Issacs proposes that individual containers of cosmetics containing less than one-fourth ounce avoirdupois or one-eighth fluid ounce, and affixed to and marketed on a display card labeled in compliance with requirements of both

acts, be exempt from the quantity of contents declaration requirement.

Grounds given in support of the proposals are:

1. Since the immediate container is not intended to be displayed or sold separately, a quantity of contents declaration on the label of the immediate container is unnecessary.

2. Many containers are too small to accommodate a label big enough for all mandatory information.

3. The exemption, if granted, would not impinge on the consumer's right to be informed and protected.

Having considered the petitions, and other relevant information, the Commissioner of Food and Drugs concludes that the exemption should be proposed as set forth below.

Therefore, pursuant to provisions of the Fair Packaging and Labeling Act (secs. 5(b), 6(a), 80 Stat. 1298, 1299; 15 U.S.C. 1453, 1455) and the Federal Food, Drug, and Cosmetic Act (secs. 602(b)(2), 701, 52 Stat. 1054–56, as amended; 21 U.S.C. 362(b)(2), 371), and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that a new paragraph be added to § 1.1c, as follows:

§ 1.1c Exemptions for required label statements.

* * * * *

(c) *Cosmetics.* (1) Cosmetics in packages containing less than one-fourth ounce avoirdupois or one-eighth fluid ounce shall be exempt from compliance with the requirements of section 602(b)(2) of the Federal Food, Drug, and Cosmetic Act and section 4(a)(2) of the Fair Packaging and Labeling Act:

(i) When such cosmetics are affixed to a display card labeled in conformance with all labeling requirements of this part; or

(ii) When such cosmetics are sold at retail as part of a cosmetic package consisting of an inner and outer container and the inner container is not for separate retail sale and the outer container is labeled in conformance with all labeling requirements of this part.

Interested persons may, within 60 days after publication hereof in the FEDERAL REGISTER, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–62, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: May 28, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-8056 Filed 6-9-71;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 1, 43, 91]

[Docket No. 9485; Reference Notice 69-10]

MAINTENANCE REQUIREMENTS

Withdrawal of Notice of Proposed Rule Making

The purpose of this notice is to withdraw the remaining portion of Notice 69-10 (34 F.R. 5440, published on March 20, 1969) which proposed to define the term "rebuild" and to establish performance standards for such work. In Notice 69-10 the FAA solicited comments from interested persons on proposed amendments to Parts 1, 43, and 91 of the FAR's to define the term "rebuild" for aircraft, propellers, appliances, and parts as the term is now defined for aircraft engines; to establish performance standards specifically for this work, using the criteria now applied to rebuilt engines; and to permit persons operating aircraft under Part 91 to use a new maintenance record without previous operating history for aircraft, aircraft engines, propellers, appliances, or parts rebuilt by the manufacturer. In addition, Notice 69-10 proposed to provide for a maintenance manual for airplanes type certificated under Parts 23 and 25 of the Federal Aviation Regulations.

The proposals in Notice 69-10 dealing with maintenance manual requirements were adopted as Amendments 23-8 and 25-21 and published in the FEDERAL REGISTER on January 8, 1970 (35 F.R. 303). At that time the FAA indicated that the proposed amendments to Parts 1, 43, and 91 required further study prior to final rule-making action. However, based on further study and evaluation of these proposals, together with comments received in response to Notice 69-10, the FAA has determined that final regulatory action based on the proposed amendments to Parts 1, 43, and 91 of the Federal Aviation Regulations is not appropriate at this time.

Withdrawal of those proposed regulations in Notice 69-10 that were not adopted in Amendments 23-8 and 25-21 constitutes only such action and does not preclude the FAA from issuing similar notices in the future or commit the FAA to any course of action in the future.

In consideration of the foregoing, the remainder of Notice 69-10 containing proposed amendments to Parts 1, 43, and 91 is hereby withdrawn.

This withdrawal is issued under the authority of section 313(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a)), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 3, 1971.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

[FR Doc.71-8087 Filed 6-9-71;8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-39]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Kendallville, Ind.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments 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.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

A new public use instrument approach procedure has been developed for the Kendallville Municipal Airport, Kendallville Municipal Airport, Kendallville, Ind. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a 700-foot transition area at Kendallville, Ind. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration pro-

poses to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is added:

KENDALLVILLE, IND.

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of Kendallville Municipal Airport (latitude 41°28'30" N., longitude 85°15'30" W.); within 2 miles each side of the 037° radial of the Wolflake VOR, extending from the 5½-mile radius area to 6 miles southwest of the airport.

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

Issued in Kansas City, Mo., on March 10, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-8088 Filed 6-9-71;8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-48]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at South Haven, Mich.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments 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.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

Since designation of controlled airspace at South Haven, Mich., the instrument approach procedure for the South Haven Municipal Airport has been changed. Accordingly, it is necessary to alter the South Haven transition area to adequately protect aircraft executing the revised approach procedure.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

SOUTH HAVEN, MICH.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of South Haven Municipal Airport (42°21'15" N., 86°15'45" W.); and within 1.5 miles each side of the Pullman VORTAC 224° radial, extending from the 7-mile radius area to the VORTAC.

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

Issued in Kansas City, Mo., on May 14, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-8089 Filed 6-9-71;8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-57]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Willard, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments 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.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

A new public use instrument approach procedure has been developed for Willard, Ohio, Airport. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new procedure by designating a 700-foot transition area at Willard, Ohio.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (36 F.R. 2140), the following transition area is added:

WILLARD, OHIO

That airspace extending upward from 700 feet above the surface within 7.5-mile radius of the Willard Airport (latitude 41°02'15" N., longitude 82°43'45" W.); excluding that portion which overlaps the Mansfield, Ohio, 700-foot transition area.

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

Issued in Kansas City, Mo., on May 4, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-8090 Filed 6-9-71;8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-CE-62]

CONTROL ZONE AND TRANSITION AREAS

Proposed Alteration and Revocation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone and transition area at Columbia, Mo., and to revoke the transition area at Ashland, Mo.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments 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 proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, MO 64106.

Two new instrument approach procedures have been developed for the Columbia Regional Airport, Columbia, Mo., while two other approach procedures for this airport are being canceled. In addition, the Agency believes it necessary to combine the designations of controlled airspace at Columbia Municipal Airport and Columbia Regional Airport for the sake of simplification. Finally, it is necessary to enlarge the 1200-foot floor portion of the Columbia, Mo., transition area to include the entire area between Jefferson City Airport and Lee C. Fine Airport. This inclusion will provide controlled airspace for the protection of aircraft operating on direct routes from the north of Lee C. Fine Airport. Accordingly, in order to accomplish the airspace changes proposed herein it is necessary to alter the Columbia, Mo., control zone and transition area and to revoke the Ashland, Mo., transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

(1) In § 71.171 (36 F.R. 2055), the following control zone is amended to read:

COLUMBIA, MO. (REGIONAL AIRPORT)

Within a 5-mile radius of Columbia Regional Airport (latitude 38°48'49" N., longitude 92°13'12" W.).

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

COLUMBIA, MO.

That airspace extending upward from 700 feet above the surface within an 8½-mile radius of Columbia Regional Airport (latitude 38°48'49" N., longitude 92°13'12" W.); within a 6½-mile radius of Columbia Municipal Airport (latitude 38°58'19" N., longitude 92°21'49" W.); within 2½ miles each side of the Hallsville, Mo., VORTAC 193° radial extending from the 8½-mile radius area to 10 miles south of the VORTAC; and within 4½ miles east and 9½ miles west of the Columbia, Mo., VOR 003° and 183° radials, extending from 6 miles south to 18½ miles north of the VOR, excluding the portion which overlies the Jefferson City, Mo., 700-foot floor transition area; and that airspace extending upward from 1,200 feet above the surface within the area bounded on the east by V-175, on the north by V-12, on the south by V-234 and on the west by longitude 92°40'00" W., excluding the portions which overlie the Vichy, Mo., and Kaiser, Mo., transition areas.

(3) In § 71.181 (36 F.R. 2140), the following transition area is revoked:

Ashland, Mo.

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

Issued in Kansas City, Mo., on May 18, 1971.

DANIEL E. BARROW,
Acting Director, Central Region.

[FR Doc.71-8091 Filed 6-9-71;8:48 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-42]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Morrisville, Vt., Transition Area (36 F.R. 2237).

The NDB instrument approach procedure for Morrisville-Stowe State Airport, Morrisville, Vt., has been revised in accordance with the U.S. Standard for Terminal Instrument Procedures. The revised procedure will require alteration of the 700-foot floor transition area to provide controlled airspace protection for aircraft executing the 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, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 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 Morrisville, Vt., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Morrisville, Vt., 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 44°32'10" N., 72°36'55" W. of Morrisville-Stowe State Airport, Morrisville, Vt., and within 3.5 miles each side of the 034° bearing and the 214° bearing from the Morrisville RBN 44°35'13" N., 72°35'10" W., extending from the 5-mile radius area to 11.5 miles northeast 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 May 25, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71-8092 Filed 6-9-71;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-40]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Pittsfield, Mass., Transition Area (36 F.R. 2254).

A revision of the NDB instrument approach procedure for Pittsfield Municipal Airport, Pittsfield, Mass., requires alteration of the 700-foot floor transition area to provide controlled airspace protection for aircraft executing the revised 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, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal 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 Pittsfield, Mass., proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete in the description of the Pittsfield, Mass., 700-foot floor transition area, all after: "73°17'30" W.", and insert the following in lieu thereof: "of Pittsfield Municipal Airport, Pittsfield, Mass., and within 4.5 miles northwest and 6.5 miles southeast of the 061° bearing and the 241° bearing from the Pittsfield RBN

42°28'05" N., 73°11'38" W., extending from 5.5 miles southwest of the RBN to 11.5 miles northeast 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 DOT Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 25, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71-8093 Filed 6-9-71;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-EA-50]

CONTROL ZONES AND TRANSITION AREA

Proposed Alteration, Designation and Revocation

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the Columbus, Ohio (36 F.R. 2071), and Columbus, Ohio (Ohio State University Airport) (36 F.R. 2071), control zones and Columbus, Ohio, Transition Area (36 F.R. 2170); revoke the Mount Vernon, Ohio, Transition Area (36 F.R. 2239) and designate a control zone for Lockbourne Air Force Base.

A review of the airspace requirements for the Columbus, Ohio, terminal area for compliance with the U.S. Standard for Terminal Instrument Procedures indicates alteration of the control zones will be required. Further, Lockbourne Air Force Base meets current criteria for designation of a control zone. Also required is alteration of the Columbus, Ohio, 700-foot floor transition area and the revocation of the Mount Vernon, Ohio, 700-foot floor transition area, since it will be included in the Columbus, Ohio, transition area.

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

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Columbus, Ohio, Mount Vernon, Ohio, and Lockbourne Air Force Base proposes the airspace action hereinafter set forth:

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

COLUMBUS, OHIO (PORT COLUMBUS INTERNATIONAL AIRPORT)

Within a 6-mile radius of the center, 39°59'41" N., 82°53'08" W. of Port Columbus International Airport, Columbus, Ohio; within 2 miles each side of the 094° bearing from the Grandview LOM, extending from the 6-mile radius zone to 2 miles east of the Grandview LOM and within a 1-mile radius of the center, 39°55'00" N., 82°54'00" W. of Price Field, Columbus, Ohio, excluding the portion that coincides with the Columbus, Ohio (Lockbourne AFB), control zone.

2. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to designate a Columbus, Ohio (Lockbourne AFB), control zone as follows:

COLUMBUS, OHIO (LOCKBOURNE AFB)

Within a 5.5-mile radius of the center, 39°-49'00" N., 82°56'00" W. of Lockbourne AFB, Columbus, Ohio; within 1.5 miles each side of the Lockbourne TACAN 042° radial, extending from the 5.5-mile radius zone to 7 miles northeast of the TACAN; within 1.5 miles each side of the Lockbourne TACAN 229° radial, extending from the 5.5-mile radius zone to 6 miles southwest of the TACAN; within a 1.5-mile radius of center, 39°53'11" N., 82°57'53" W. of South Columbus Airport, Columbus, Ohio, and within a 1-mile radius of the center, 39°54'21" N., 82°51'17" W. of Esselburne Field, Columbus, Ohio.

3. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Columbus, Ohio (Ohio State University Airport), control zone and insert the following in lieu thereof:

Within a 5-mile radius of the center, 40°-04'40" N., 83°04'30" W. of Ohio State University Airport, Columbus, Ohio, and within 3 miles each side of the 273° bearing from the Ohio State University RBN, 40°04'47" N., 83°04'54" W., extending from the 5-mile radius zone to 8.5 miles west of the RBN. This control zone shall be effective from 0700 to 2300 hours, local time, daily.

4. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Columbus, Ohio, 700-foot floor transition area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 11.5-mile radius of the center, 39°59'41" N., 82°53'08" W. of Port Columbus International Airport, Columbus, Ohio; within a 14-mile radius of the center, 39°49'00" N., 82°56'00" W. of Lockbourne AFB, Columbus, Ohio; within an 8-mile radius of the center, 40°19'43" N., 82°31'32" W. of Mount Vernon Airport, Mount Vernon, Ohio; within an 8-mile radius of the center, 40°01'29" N., 82°27'44" W. of Licking County Airport, Newark, Ohio; within a 7-mile radius of the center, 40°-04'40" N., 83°04'30" W. of Ohio State University Airport, Columbus, Ohio; within the arc of a 25-mile radius circle centered on a point located at 39°59'59" N., 82°53'44" W., extending clockwise from the 048° bearing from this point to the 170° bearing from this point and within 3.5 miles each side of the 273° bearing from the Ohio State University RBN, 40°04'47" N., 83°04'54" W., extending from the RBN to 11.5 miles west of the RBN.

5. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to revoke the Mount Vernon, Ohio, 700-foot floor transition area.

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 DOT Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on May 20, 1971.

WAYNE HENDERSHOT,
Acting Director, Eastern Region.

[FR Doc.71-8094 Filed 6-9-71;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-NE-2]

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 Fryeburg, Maine, transition area.

A new NDB-A instrument approach procedure for Eastern Slopes Airport, Fryeburg, Maine, will require the designation of a 700-foot-floor transition area to provide controlled airspace protection for aircraft executing this procedure.

Interested persons may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, New England Region, Attention: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, 154 Middlesex Street, Burlington, MA 01803 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, Operations, Procedures and Airspace Branch, New England 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, 154 Middlesex Street, Burlington, MA.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area

of Fryeburg, Maine, proposes the airspace action hereinafter set forth:

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

FRYEBURG, MAINE

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center, 43°59'28" N., 70°56'53" W., of Eastern Slopes Airport, Fryeburg, Maine, and within 4.5 miles north and 6.5 miles south of the 118° bearing and the 298° bearing from the Fryeburg NDB, 43°59'21" N., 70°-56'58" W., extending from 5.5 miles west of the NDB to 11.5 miles east of the NDB, excluding the portions within the North Conway, N.H., area.

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 Burlington, Mass., on 25 May 1971.

FERRIS J. HOWLAND,
Director, New England Region.

[FR Doc.71-8095 Filed 6-9-71;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-NW-4]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Lewiston, Idaho, transition area.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 5651 West Manchester Boulevard, Post Office Box 92007, Worldway Postal Center, Los Angeles, CA 90009. 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. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments 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.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 5651 West Manchester Boulevard, Los Angeles, CA 90045.

A new instrument approach procedure (VOR Rwy 8) is proposed for Lewiston-Nez Perce County Airport, Lewiston, Idaho. The approach will utilize the Lewiston VOR 265° T (245° M) radial for final approach course and procedure turn. A review of the airspace requirements has revealed that the 1,200-foot portion of the transition area must be amended to provide controlled airspace protection for aircraft executing the prescribed instrument procedure. The additional proposed 1,200-foot transition area will provide controlled airspace for a designated off-airway route between Lewiston VOR and Dayton INT and also enable Seattle Center to provide additional radar service in the Walla Walla, Lewiston and Pullman area.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (36 F.R. 2140) the description of the Lewiston, Idaho transition area is amended as follows:

Delete all after "* * * 19 miles northeast of the VOR, * * *" and substitute therefor "* * * that airspace west of Lewiston bounded on the northwest by V-536, on the northeast by V-253, and on the south by V-520; and that airspace extending upward from 6,500 feet MSL within 12 miles northwest and 8 miles southeast of the Lewiston VOR 065° and 245° radials, extending from 11 miles southwest to 23 miles northeast of the VOR."

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

Issued in Los Angeles, Calif., on June 1, 1971.

ARVIN O. BASNIGHT,
Director, Western Region.

[FR Doc.71-8096 Filed 6-9-71;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-99]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Fayetteville, N.C., control zone.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, 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. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments 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 light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Fayetteville control zone described in § 71.171 (36 F.R. 2055) would be amended as follows:

"* * * southwest of the VOR * * *." would be deleted and "* * * southwest of the VOR; within 3 miles each side of Fayetteville VOR 015° radial, extending from the 5-mile radius zone to 8.5 miles north of the VOR; excluding the portion within Simmons AAF control zone * * *." would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for the proposed VOR RWY-21 Instrument Approach Procedure.

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 of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on June 1, 1971.

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

[FR Doc.71-8097 Filed 6-9-71;8:49 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-102]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Winchester, Ky., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, 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. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments 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 light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Winchester transition area described in § 71.181 (36 F.R. 2140) would be redesignated as:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Codell Airport (lat. 38°01'21" N., long. 84°-13'00" W.); within 2 miles each side of Lexington VORTAC 074° radial, extending from the 5-mile-radius area to 8 miles east of the VORTAC.

This proposed alteration is required to provide controlled airspace protection for IFR operations in the Winchester terminal area in conformance with Terminal Instrument Procedures (TERPs) and current airspace criteria.

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

Issued in East Point, Ga., on June 1, 1971.

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

[FR Doc.71-8098 Filed 6-9-71;8:49 am]

Federal Highway Administration

[49 CFR Part 391]

[Docket No. MC-7; Notice No. 71-12]

EXEMPTIONS FROM DRIVER QUALIFICATION RULES; DRIVERS OF FARM AND LIGHTWEIGHT VEHICLES

Notice of Proposed Rule Making

The Director of the Bureau of Motor Carrier Safety is considering the issuance of a rule introducing several new exemptions from the application of the driver qualification regulations in Part 391 of the Motor Carrier Safety Regulations.

The exemptions under consideration fall into three general categories. First, the driver of a motor vehicle having a gross weight, including its load, of 10,000 pounds or less would be given a general exemption from the qualification rules so long as he does not transport hazardous materials or passengers for hire. The second exempt category would include drivers of heavier motor vehicles that are controlled and operated by farmers or persons engaged in farm operations and are used in transporting supplies and agricultural produce within 150 miles of a farm and a third exempt category would be a total exemption of drivers used to transport harvesting machinery.

The Director proposes to permit the farm vehicle drivers to qualify for either a general or a limited exemption, depending on the type of vehicle he is operating. If a farm vehicle driver drives a nonarticulated vehicle, he would be treated in the same manner as the driver of a lightweight vehicle and is exempt from all of the qualification rules. A farm vehicle driver who operates an articulated vehicle to or from farms would receive an exemption from certain of the rules: The minimum driving age is reduced from 21 to 18; investigation into his background, character and driving record need not be made; he does not have to take a written test or pass a road test; and, although he must be physically qualified, he has until January 1, 1973, to be medically examined.

This proposal is part of a series of rule-making actions designed to resolve many of the issues that have arisen under the driver qualification regulations. Following the publication of revised rules relating to driver qualifications in April of 1970 (35 F.R. 6458), the Director received a large number of requests for special relief from the new rules, or particular provisions of them. The petitioners, who included public utilities, construction firms, and agricultural groups, argued that compliance with a regulatory scheme designed primarily for professional drivers of heavier vehicles posed special and unnecessary hardships. Some organizations representing farmers asked the Director to grant farmers an exemption analogous to the commercial zone exemption now enjoyed by carriers operating in urban and suburban areas (see 49 CFR 390.33). On December 31, 1970, the Director granted a limited, temporary exemption for drivers of certain farm vehicles (36 F.R. 222). He has recently extended the expiration date for that limited exemption (36 F.R. 11205). The present proposal represents an effort to arrive at a permanent solution to the issues raised by farmers and others affected by the new rules.

The Bureau of Motor Carrier Safety intends shortly to publish an invitation for public comment on further rule making dealing with the minimum age for drivers of heavier commercial motor vehicles generally.

In consideration of the foregoing, the Director, Bureau of Motor Carrier Safety, proposes to amend Part 391 of Subchapter B in Chapter III of title 49, CFR as set forth below.

Interested persons are invited to submit data, views, or arguments pertaining to the proposed amendments. Comments must identify the docket number and notice number set forth above and must be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20591. All comments received before the close of business on November 1, 1971, will be considered before further action is taken. All comments will be available for examination in the public docket room of the Bureau of Motor Carrier Safety, Room 4136, 400 Seventh Street SW., Washington, DC, before and after the closing date for comments.

Proposed effective date. It is proposed that the amendments under consideration would be effective on January 1, 1972.

This notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C., 1655, and delegations of authority of 49 CFR 1.48 and 389.4.

Issued on June 8, 1971.

ROBERT A. KAYE,
Director,
Bureau of Motor Carrier Safety.

I. A new § 391.2 would be added to Part 391 of the Motor Carrier Safety Regulations, reading as follows:

§ 391.2 General exemptions.

(a) *Drivers of lightweight vehicles.* The rules in this part do not apply to a driver who drives only a vehicle that—

(1) Has a gross weight, including its load, of 10,000 pounds or less;

(2) Is not transporting passengers for hire; and

(3) Is not carrying hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with § 177.823 of this title.

(b) *Farm vehicle drivers of nonarticulated vehicles.* The rules in this part do not apply to a farm vehicle driver who drives a nonarticulated vehicle.

II. Section 391.3 in Part 391 of the Motor Carrier Safety Regulations would be amended by adding a new paragraph (d), reading as follows:

(d) The term "farm vehicle driver" means a person who drives only a vehicle that is—

(1) Controlled and operated by a farmer;

(2) Being used to transport agricultural products or farm machinery and supplies to or from farms;

(3) Being used within 150 miles of his farm;

(4) Not being used in the operations of a for-hire carrier;

(5) Not carrying hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with § 177.823 of this title;

III. The heading of Subpart G of Part 391 of the Motor Carrier Safety Regulations would be amended to read as follows:

Subpart G—Limited Exemptions

IV. Section 391.67 in Part 391 of the Motor Carrier Safety Regulations would be amended and § 391.58 is added to read as follows:

§ 391.67 Certain drivers of articulated vehicles.

(a) The following rules in this part do not apply to a farm vehicle driver who is at least 18 years old and who drives an articulated vehicle used to transport farm products to market and supplies to or from the farm.

(1) Section 391.11(b) (1), (8), (10), (11), (12) (relating to driver qualifications);

(2) Subpart C (relating to disclosure of investigation into, and inquiries about, the background, character, and driving record of drivers);

(3) Subpart D (relating to road tests and written examinations);

(4) So much of sections 391.41 and 391.45 as require a driver to be medically examined and to have a medical examiner's certificate on his person before January 1, 1973.

(5) Subpart F (relating to maintenance of file and records);

§ 391.68 Drivers of vehicles used to transport farm harvesting machinery.

The rules of this part do not apply to drivers of vehicles used to transport farm harvesting machinery for use on farms.

V. The table of contents of Part 391 of the Motor Carrier Safety Regulations is amended (1) by adding after § 391.1 a new § 391.2 *General exemptions*, and (2) by amending the description of § 391.67 to read *"Certain drivers of articulated vehicles"* and by adding after § 391.67, a new § 391.68, to read *"Drivers of vehicles used to transport farm harvesting machinery."*

[FR Doc.71-8169 Filed 6-9-71;8:53 am]

Hazardous Materials Regulations Board

[49 CFR Parts 173, 178]

[Docket No. HM-74; Notice No. 71-16]

TRANSPORTATION OF HAZARDOUS MATERIALS

Cylinders Manufactured Outside United States

The Hazardous Materials Regulations Board is considering amendment of Parts 173 and 178 of the Department's Hazardous Materials Regulations to authorize the performance, outside the limits of the United States, of chemical analyses and tests prescribed for DOT specification compressed gas cylinders, under conditions approved by the Department. In addition, the Board is proposing to require Departmental approval of disinterested inspectors and inspection procedures prescribed for all DOT specification cylinders, whether they are made inside or outside the United States.

This proposal is based on petitions from foreign compressed gas cylinder manufacturers, received over a period of several years, requesting relief from the provisions of the regulations requiring specified chemical analyses and tests to be performed within the United States (see, for example, 49 CFR 178.36-3). In response to these petitions and in an endeavor to gather information on the necessity for continuing to require the prescribed analyses and tests to be performed within the United States, the Board sought public participation in its publication of a notice of public hearing (Docket No. HM-74, 36 F.R. 838, 35 F.R. 3836), which was held on February 23 and March 16, 1971. An additional item prompting resolution of this question was the publication by the National Highway Safety Bureau (now the National Highway Traffic Safety Administration) of motor vehicle Standard No. 208 (35 F.R. 16927), specifying occupant crash protection requirements for certain motor vehicles manufactured after July 1, 1973, including those of foreign manufacture sold in the United States. One major type of passive restraint system contemplated employs a high pressure gas cylinder, which would be subject to the requirement that chemical analyses and tests be performed within the United States.

The record of the hearing, available for inspection in the public file of the Secretary of the Board, confirms the need for greater flexibility in the regulations for those foreign manufacturers who can assure the Department of their competence and ability to produce compressed gas cylinders meeting U.S. safety standards. Questions raised in the hearing regarding the need for more effective approval and inspection procedures for domestic production of cylinders have been carefully noted, and will be treated in later rule making action. The Board is proposing, however, to withdraw the authority presently vested in the Bureau of Explosives to approve inspectors in the United States and would place within the Department the authority for approval of both domestic and foreign inspectors.

It is the Board's conclusion, on the basis of its investigations and the public record, that approval to perform specified chemical analyses and tests outside the United States may be granted to foreign manufacturers upon favorable consideration of several matters, including the acceptance of quality of production materials, manufacturing procedures, testing methods, inspection methods, and the inspectors. In addition, each foreign manufacturer requesting approval would be required to specify an agent, domiciled within the United States, upon whom service of process effectively could be made.

In consideration of the foregoing, the Board proposes to amend 49 CFR Parts 173 and 178 as follows:

I. Part 173.

In § 173.301, paragraph (i) and the introductory text of paragraph (j) would be amended to read as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders.

* * * * *

(i) *Foreign containers in domestic use.* Except as authorized by § 173.9, a charged container of foreign manufacture must not be offered for transportation in the United States unless it has been manufactured and tested in accordance with an applicable DOT Specification as set forth in Part 178 of this chapter. A request for written Departmental approval for inspection and testing of cylinders outside of the United States must be made to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590. The request for approval must be made in writing and should include at least the following information:

(1) A chemical analysis of the material and a description of its physical properties;

(2) A detailed description of manufacturing processes;

(3) A description of each method and procedure used in testing, and

(4) The identification, qualifications, number, and assignment of inspectors.

(j) *Charging of foreign containers for export.* Containers of foreign manufacture, received from foreign countries for charging with compressed gas, which were not made in accordance with a DOT specification and approved by the Department, may be charged and shipped for export only:

* * * * *

II. In Part 178.

(A) In the following sections, paragraph (a) would be amended:

178.36-3	178.44-3	178.54-3
178.37-3	178.47-3	178.58-3
178.41-3	178.48-3	
178.43-3	178.49-3	

(a) Inspection must be by competent and disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States unless otherwise approved in writing by the Department. See § 173.301(i) of this chapter.

(B) In the following sections, paragraph (a) would be amended; paragraph (b) would be added to read as follows:

178.38-3	178.51-3	178.57-3
178.39-3	178.52-3	178.61-3
178.40-3	178.53-3	178.63-3
178.42-3	178.55-3	178.68-3
178.50-3	178.56-3	

(a) For cylinders manufactured in the United States, inspection must be by competent and interested or disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States.

(b) For cylinders manufactured outside the United States, inspection must be by competent and disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States unless otherwise approved in writing by the Department. See § 173.301(i) of this chapter.

(C) In the following sections, paragraph (a) would be amended; paragraphs (b) and (c) would be redesignated paragraphs (c) and (d) respectively; a new paragraph (b) would be added to read as follows:

178.59-3
178.60-3

(a) For cylinders manufactured in the United States, inspection must be by competent and interested or disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States.

(b) For cylinders manufactured outside the United States, inspection must be by competent and disinterested inspector approved in writing by the Department. Chemical analyses and tests, as specified, must be made within the United States unless otherwise approved in writing by the Department. See § 173.301(i) of this chapter.

* * * * *

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, Department of Transportation, 400 Sixth Street SW., Washington, DC 20590. Communications received on or before September 9, 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 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 June 7, 1971.

W. J. BURNS,
Chairman, Hazardous Materials Regulations Board.

[FR Doc.71–8101 Filed 6–9–71;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 13]

[Docket No. 19182]

RADIO TELEPHONE LICENSES FOR BLIND PERSONS

Order Regarding Issuance

1. A notice of inquiry and notice of proposed rule making was released in the above-captioned proceeding on March 30, 1971 (FCC 71–295).

2. The Governor's Committee to Promote Employment of the Handicapped for the State of Maryland has requested that the time for filing written comments be extended to June 21, 1971, in order that the Committee may be afforded the opportunity to fully explore the implications of the Commission's proposed rule making. On the basis of the information contained in the request, the extension appears warranted.

3. *Accordingly, it is ordered,* That the time to file written comments is extended to June 21, 1971, and the time to file reply comments is extended to July 12, 1971.

Adopted: June 3, 1971.

Released: June 3, 1971.

[SEAL] RICHARD E. WILEY,
General Counsel.

[FR Doc.71–8136 Filed 6–9–71;8:52 am]

[47 CFR Part 73]

[Docket No. 18877; RM–1589]

INCLUSION OF CODED INFORMATION IN AURAL TRANSMISSIONS OF RADIO AND TV STATIONS

Order Extending Time for the Filing of Test Reports and Comments and Reply Comments

1. This proceeding was begun by a further notice of proposed rule making (FCC 71–152) adopted February 10, 1971, released February 16, 1971, and published in the FEDERAL REGISTER February 20, 1971, 36 F.R. 3269. The date presently designated for the filing of test reports is June 1, 1971. The dates for the submission of comments and reply comments are presently July 1, 1971 and August 2, 1971.

2. On May 25, 1971, International Digisonics Corp. (IDC) filed a request to extend the time for the filing of the above reports and the comments and reply comments. IDC states that in order to avoid any possibility of delay in the subject docket, and in the hope that a greater manpower allocation to aural system testing might enable needed data to be more rapidly obtained, it has contracted with the engineering consulting firm of Bolt, Beranek, and Newman to assist in tests of the IDC aural system. It further states that this firm has now estimated that an additional 60 days will be required to complete a meaningful test program and prepare written reports.

3. It appears that the additional time is warranted and would serve the public interest. *Accordingly, it is ordered,* That the request of International Digisonics Corp. is granted to and including August 1, 1971 for the filing of test reports and to and including September 1, 1971 for the filing of comments and October 1, 1971 for the filing of reply comments.

4. This action is taken pursuant to authority found in sections 4(i) and 303 (r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: May 28, 1971.

Released: June 1, 1971.

[SEAL] FRANCIS R. WALSH,
Chief, Broadcast Bureau.

[FR Doc.71–8137 Filed 6–9–71;8:52 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana 18434]

MONTANA

Notice of Proposed Withdrawal and Reservation of Lands

JUNE 2, 1971.

The Forest Service, U.S. Department of Agriculture, has filed application M 18434 for the withdrawal of national forest land described below from mineral location and entry under the mining laws but not from leasing under the mineral leasing laws, subject to existing valid claims.

The applicant desires the land to protect an existing fire lookout from mineral location and entry.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 316 North 26th Street, Billings, MT 59101.

The Department's regulation (43 CFR 2351.4(c)) provides that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for the purpose other than the applicant's to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

PRINCIPAL MERIDIAN, MONTANA

KOOTENAI NATIONAL FOREST

Roberts Lookout Site

T. 34 N., R. 26 W.,
Sec. 3, E½NW¼SE¼NE¼, W½NE¼SE¼NE¼.

The area described aggregates 10 acres in Lincoln County, Mont.

EUGENE H. NEWELL,
Chief,
Division of Technical Services.

[FR Doc.71-8061 Filed 6-9-71;8:46 am]

[Montana 18446]

MONTANA

Order Providing for the Opening of Public Lands

JUNE 2, 1971.

1. In an exchange of lands made under the provisions of section 8 of the Act of June 28, 1934 (48 Stat. 1269), as amended (43 U.S.C. 315g), the following lands have been reconveyed to the United States:

PRINCIPAL MERIDIAN, MONTANA

T. 3 S., R. 55 E.,
Sec. 13, SE¼;
Sec. 24, N½ and SW¼.
T. 3 S., R. 56 E.,
Sec. 17, SW¼NW¼ and W½SW¼;
Sec. 18, Lots 1, 2, 3, and 4, S½NE¼, E½W½, NE¼SE¼, and S½SE¼;
Sec. 19, E½;
Sec. 29, N½N½ and SE¼NE¼;
Sec. 30, Lot 1, N½NE¼, and NE¼NW¼.

The areas described aggregate 1,938.70 acres.

2. The lands are located approximately 20 miles south-southeast of Powderville, Mont., in Carter County. The lands have been acquired to further Federal programs. They are grazing lands and have values for watershed protection, wildlife habitat, and outdoor recreation. Public lands in this area have been classified for multiple use management.

3. Subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands are hereby open to application, petition, location, and selection. All valid applications received at or prior to 10 a.m., July 12, 1971, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

4. The mineral rights in the lands were not exchanged and their status is not affected by this order.

5. Inquiries concerning the lands should be addressed to the Bureau of Land Management, 316 North 26th Street, Billings, MT 59101.

EUGENE H. NEWELL,
Chief,
Division of Technical Services.

[FR Doc.71-8062 Filed 6-9-71;8:46 am]

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

BAKERSFIELD LIVESTOCK AUCTION CO. ET AL.

Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Name, location of stockyard, and date of posting

Bakersfield Livestock Auction Co., Bakersfield, Calif., Nov. 6, 1959.

Gridley Auction & Sales Yard, Gridley, Calif., Nov. 18, 1959.

Lassen Auction Yard, Susanville, Calif., Oct. 29, 1959.

Stockton Livestock Commission Co., Stockton, Kans., Oct. 22, 1957.

Oak Grove Livestock Auction, Oak Grove, La., Apr. 1, 1959.

Notice or other public procedure has not preceded promulgation of the foregoing rule since it is found that the giving of such notice would prevent the due and timely administration of the Packers and Stockyards Act and would, therefore, be impracticable and contrary to the public interest. There is no legal warrant or justification for not deposting promptly a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule granting an exemption or relieving a restriction and, therefore, may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective upon publication in the FEDERAL REGISTER (6-10-71).

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 3d day of June 1971.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.71-8128 Filed 6-9-71;8:51 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Notice of Filing of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 1A2654) has been filed by National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235, proposing that § 121.1202 *Whole fish protein concentrate* (21 CFR 121.1202) be amended to provide for the safe use of anchovies of the genus *Engraulis* as a kind of fish from which whole fish protein concentrate may be made.

Dated: June 2, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-8058 Filed 6-9-71;8:45 am]

SYRACUSE UNIVERSITY RESEARCH CORP.

Notice of Withdrawal of Food Additive Petition

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Syracuse University Research Corp., 600 East Genessee Street, Syracuse, N.Y. 13202, has withdrawn its petition (FAP OH2522), notice of which was published in the FEDERAL REGISTER of April 15, 1970 (35 F.R. 6158), proposing that § 121.2505 *Slimicides* (21 CFR 121.2505) be amended to provide for the safe use of the ethyl ester of 4-bromoacetoacetic acid as a slimicide in the manufacture of paper and paperboard that contact food.

Dated: June 1, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-8059 Filed 6-9-71;8:45 am]

[DESI 762]

[Docket No. FDC-D-314; NDA 762 et al.]

CERTAIN SINGLE-ENTITY INJECTABLE VITAMIN PREPARATIONS

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following vitamin preparations for parenteral use:

1. Pyridoxine Hydrochloride Injection; Abbott Laboratories, 14th and Sheridan Road, North Chicago, Ill. 60064 (NDA 3-088).

2. Hexavibex Steri-Vials containing pyridoxine hydrochloride; Parke, Davis and Co., Joseph Campau at the River, Detroit, Mich. 48232 (NDA 3-727).

3. Ribozyme Injection containing riboflavin sodium phosphate; Philadelphia Ampoule Laboratories, 400 Green Street, Philadelphia, Pa. 19123 (NDA 10-415).

4. Hyrye Injection containing riboflavin sodium phosphate; S. F. Durst & Co., 5317 North Third Street, Philadelphia, Pa. 19120 (NDA 9-515).

5. Thiamine Hydrochloride Injection; High Chemical Co., 1760 North Howard Street, Philadelphia, Pa. 19122 (NDA 762).

6. Aquasol A Parenteral containing vitamin A; U.S.V. Pharmaceutical Corp., 800 Second Avenue, New York, New York 10017 (NDA 6-823).

7. Berubigen Crystalline Sterile Solution containing cyanocobalamin; The Upjohn Co., 7171 Portage Road, Kalamazoo, Mich. 49002 (NDA 6-798).

8. Dodecavite Injection containing cyanocobalamin; U.S.V. Pharmaceutical Corp. (NDA 7-152).

9. Redisol Injectable containing cyanocobalamin; Merck, Sharpe and Dohme, Division of Merck and Co., Inc., Westpoint, Pa. 19486 (NDA 6-668).

10. Ducobee Depot Injection containing cyanocobalamin; Breon Laboratories, Inc., Subsidiary of Sterling Drug, Inc., 90 Park Avenue, New York, New York 10016 (NDA 11-809).

11. Rubramin PC Injection containing cyanocobalamin; E. R. Squibb and Sons, Inc., Georges Road, New Brunswick, N.J. 08903 (NDA 6-799).

12. Sytobex Injection containing cyanocobalamin; Parke, Davis and Co. (NDA 7-085).

13. Vitamin B_{12} Concentrate Injection containing cobalamin concentrate; Taylor Pharmacal Co., Inc., 1222 West Grand Avenue, Decatur, Ill. 62525 (NDA 10-707).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drugs without approval.

A. *Effectiveness classifications.*

The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that:

1. *Pyridoxine hydrochloride injection.* a. Pyridoxine hydrochloride injection is effective for the treatment of pyridoxine deficiency.

b. Pyridoxine hydrochloride lacks substantial evidence of effectiveness for use in treating certain cases of pellagra, beriberi, polyneuritis, and cheilosis.

2. *Riboflavin sodium phosphate injection.* a. Riboflavin sodium phosphate injection is effective for use in the treatment of riboflavin deficiency.

b. Riboflavin sodium phosphate injection lacks substantial evidence of effectiveness for use in the treatment of psoriasis.

3. *Thiamine hydrochloride injection.* a. Thiamine hydrochloride injection is effective for use in the treatment of thiamine deficiency when oral administration is not feasible or gastrointestinal absorption is impaired.

b. Thiamine hydrochloride injection lacks substantial evidence of effectiveness in the treatment of pernicious vomiting of pregnancy, during acute episodes of hyperpyrexia, and in the hypermetabolism of hyperthyroidism.

4. *Vitamin A injection.* a. Vitamin A injection is effective for use in: (i) resistant vitamin A deficiency states; (ii) hyperkeratosis associated with vitamin A deficiency; and (iii) in conditions of vitamin A deficiency where gastrointestinal absorption is impaired or when the use of an oral preparation is not feasible.

b. Vitamin A injection lacks substantial evidence of effectiveness for use in acne vulgaris.

5. *Cyanocobalamin or cobalamin concentrate injection.* a. Cyanocobalamin or cobalamin concentrate injection is effective for use in: (i) pernicious anemia with or without neurologic manifestations; (ii) megaloblastic anemia following gastrectomy or associated with gastric carcinoma; (iii) megaloblastic anemia due to "blind loop" syndrome; (iv) megaloblastic anemia due to *Diphylloobothrium latum* (fish tapeworm) infestation; (v) nutritional megaloblastic anemia involving vitamin B_{12} deficiency; (vi) Schilling test.

b. Cyanocobalamin or cobalamin injection lacks substantial evidence of effectiveness for use in folic acid deficiency states or megaloblastic anemias associated with folic acid deficiency, sprue, liver disease, pregnancy, or the puerperium.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* These vitamin preparations are in sterile aqueous solution or sterile oleaginous suspension form suitable for parenteral administration.

2. *Labeling conditions.* a. The labels bear the statement "Caution: Federal law prohibits dispensing without prescription."

b. The drugs are labeled to comply with all requirements of the Act and regulations. Their labeling bears adequate information for safe and effective use of the drugs and is in accord with the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970. The "Indications" sections are as follows:

INDICATIONS

1. *Pyridoxine Hydrochloride Injection.* Indicated in the treatment of pyridoxine deficiency.

2. *Riboflavin sodium phosphate injection.* Indicated in the treatment of riboflavin deficiency.

3. *Thiamine hydrochloride injection.* Indicated in the treatment of thiamine deficiency when oral administration is not feasible or gastrointestinal absorption is impaired.

4. *Vitamin A injection.* Indicated (a) in the treatment of resistant vitamin A deficiency states; (b) for hyperkerotosis associated with vitamin A deficiency; and (c) in conditions of vitamin A deficiency where gastrointestinal absorption is impaired or when the use of an oral preparation is not feasible.

5. *Cyanocabalamin or cobalamin concentrate injection.* Indicated for use in (a) pernicious anemia with or without neurologic manifestations; (b) megaloblastic anemia following gastrectomy or associated with gastric carcinoma; (c) megaloblastic anemia due to "blind loop" syndrome; (d) megaloblastic anemia due to *Diphyllobothrium latum* (fish tapeworm) infestation; (e) nutritional megaloblastic anemia involving vitamin B_{12} deficiency; (f) Schilling test.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled *Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study*, published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a) (1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application, as described in paragraph (a) (3) (i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of the notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Promulgation of the proposed order may cause any related drug for human use offered for the indications for which substantial evidence of effectiveness is lacking to be a new drug for which an approved new drug application is not in effect. Any such drug then on the market would be subject to regulatory proceedings.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing, together with a well-organized and full factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in section 130.12(a) (5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the NAS–NRC report has been furnished to each firm referred to above. Any other interested person may obtain a copy by request to the Food and Drug Administration, Press Relations Office (CE–200), 200 C Street SW., Washington, D.C. 20204.

Communications forwarded in response to this announcement should be identified with the reference number DESI 762, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD–100), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.

Request for Hearing (identify with Docket number): Hearing Clerk, Office of General Counsel (GC–1), Room 6–62, Parklawn Building.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD–5), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: May 7, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-8060 Filed 6-9-71;8:45 am]

[Docket No. FDC–D–344; NDA 12–064]

UPJOHN CO.

Combination Drug Containing Medroxyprogesterone Acetate, Ethoxzolamide and Ectylurea

NOTICE OF OPPORTUNITY FOR HEARING ON PROPOSAL TO WITHDRAW APPROVAL OF NEW DRUG APPLICATION

In a notice (DESI 12064) published in the FEDERAL REGISTER of October 15, 1970 (35 F.R. 16201), the Food and Drug Administration announced its conclusions pursuant to evaluation by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group of the following combination drug for oral use: Cytran Tablets containing medroxyprogesterone acetate, ethoxzolamide, and ectylurea; The Upjohn Co., 7171 Portage Road, Kalamazoo, Michigan 49002 (NDA 12–064).

The announcement stated that the Food and Drug Administration has considered the Academy report, as well as other available information, and concludes that there is a lack of substantial evidence within the meaning of the Federal Food, Drug, and Cosmetic Act, that this fixed combination drug will have the effect that it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling, i.e., for relief of premenstrual tension. The Commissioner announced his intention to initiate proceedings to withdraw approval of the new-drug application.

The holder of the new-drug application and any interested person who might be adversely affected by removal of the drug from the market were invited to submit pertinent data bearing on the proposal within 30 days after publication of the notice. There was no response to the notice.

Therefore, notice is given to the Upjohn Co. and to any interested person who may be adversely affected, that the Commissioner of Food and Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the above-named new-drug application, and all amendments and supplements applying thereto, on the grounds that new information before the Commissioner with respect to said drug, evaluated together with the evidence available to him when the application was approved, shows there is a lack of substantial evidence that the fixed-combination drug will have the

effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the applicant, and any interested person who would be adversely affected by an order withdrawing such approval, an opportunity for a hearing to show why approval of the new-drug application should not be withdrawn.

Within 30 days after publication hereof in the FEDERAL REGISTER, such persons are required to file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-62, 5600 Fishers Lane, Rockville, Md. 20852, a written appearance electing whether:

1. To avail themselves of the opportunity for a hearing; or

2. Not to avail themselves of the opportunity for a hearing.

If such persons elect not to avail themselves of the opportunity for a hearing the Commissioner without further notice will enter a final order withdrawing approval of the new-drug application. Failure of such persons to file a written appearance of election within said 30 days will be construed as an election by such persons not to avail themselves of the opportunity for a hearing.

The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

If such persons elect to avail themselves of the opportunity for a hearing they must file, within 30 days after publication of this notice in the FEDERAL REGISTER, a written appearance requesting the hearing, giving the reasons why approval of the new-drug application should not be withdrawn, together with a well-organized and full factual analysis of the clinical and other investigational data they are prepared to prove in support of their opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing. When it clearly appears from the data in the application and from the reasons and factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner will enter an order on these data, making findings and conclusions on such data.

If a hearing is requested and justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after the expiration of such 30 days, a written notice of the time and place at which the hearing will commence (35 F.R. 7250, May 8, 1970; 35 F.R. 16631, October 27, 1970).

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: May 25, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-8057 Filed 6-9-71;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-71-100]

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

Bylaws

The bylaws of the Government National Mortgage Association, duly adopted by the Secretary of Housing and Urban Development on September 1, 1968, pursuant to section 308 of the National Housing Act (12 U.S.C. 1723), are hereby amended, pursuant to such section 308, to revise the second sentence of Section 3.05, *The President*, to read as follows: "The President may prescribe, amend, and rescind regulations (for publication in the FEDERAL REGISTER or otherwise), requirements, and procedures governing the manner in which the general business of the Association will be conducted and, in the exercise of discretion, shall have power to provide for individual exceptions thereto."

(Government National Mortgage Association Bylaws (35 F.R. 2606, 2607); Section 308, National Housing Act; 12 U.S.C. 1723)

Effective date. This amendment is effective June 9, 1971.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.71-8107 Filed 6-9-71;8:50 am]

[Docket No. D-71-104]

REGIONAL ADMINISTRATOR AND DEPUTY REGIONAL ADMINISTRATOR, REGION IX (SAN FRANCISCO)

Redelegation of Authority With Respect to Surplus Real Property

The Regional Administrator and the Deputy Regional Administrator, Region IX (San Francisco), each is authorized to exercise the authority of the Secretary of Housing and Urban Development to dispose of the hereinafter described property, together with any improvements and related personal property located thereon, transferred to the Secretary by the Administrator of General Services on March 12, 1971, pursuant to section 414(a) of the Housing and Urban Development Act of 1969 (40 U.S.C. 484(b)):

Preble-Sachem Housing Project, San Diego, Calif., identified more particularly in the Report of Excess Real Property received by GSA on May 21, 1963, from the Department of the Navy. (GSA Control No. N-CAL-789.)

(Secretary's delegation, 36 F.R. 5004, Mar. 16, 1971, effective Mar. 8, 1971)

Effective date. This redelegation of authority is effective as of March 31, 1971.

SAMUEL C. JACKSON,
Assistant Secretary for Community Planning and Management.

[FR Doc.71-8108 Filed 6-9-71;8:50 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RADAR APPROACH CONTROL FACILITY AT PERRIN AFB, SHERMAN, TEX.

Notice of Closing

Notice is hereby given that on or about July 1, 1971, the Radar Approach Control Facility (RAPCON) at Perrin AFB, Sherman, Tex., will be closed. Services to the general aviation public of Sherman, Tex., formerly provided by this facility will be provided by the Fort Worth Air Route Traffic Control Center, Fort Worth, Tex. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Fort Worth, Texas on June 1, 1971.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc.71-8099 Filed 6-9-71;8:49 am]

CIVIL AERONAUTICS BOARD

[Docket No. 21866-4]

DOMESTIC PASSENGER FARE INVESTIGATION; PHASE 4—JOINT FARES

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding is assigned to be held on July 21, 1971, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington DC, before the Board.

Dated at Washington, D.C., June 4, 1971.

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

[FR Doc.71-8130 Filed 6-9-71;8:52 am]

[Docket No. 21866-5]

DOMESTIC PASSENGER FARE INVESTIGATION; PHASE 5—DISCOUNT FARES

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding is assigned to be held on July 14, 1971, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington DC, before the Board.

Dated at Washington, D.C., June 4, 1971.

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

[FR Doc.71-8131 Filed 6-9-71;8:52 am]

[Docket No. 22690]

CARIBBEAN-ATLANTIC AIRLINES, INC.-EASTERN AIR LINES, INC., ACQUISITION CASE

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding is assigned to be held on June 30, 1971, at 10 a.m., local time, in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the Board.

Dated at Washington, D.C., June 4, 1971.

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

[FR Doc.71-8132 Filed 6-9-71;8:52 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 18912, 18913; FCC 71R-179]

FOLKWAYS BROADCASTING CO., INC., AND HARRIMAN BROADCASTING CO.

Memorandum Opinion and Order Enlarging Issues

In regard applications of Folkways Broadcasting Co., Inc., Harriman, Tenn., Docket No. 18912, File No. BPH-5495; F. L. Crowder, trading as Harriman Broadcasting Co., Harriman, Tenn., Docket No. 18913, File No. BPH-5537; for construction permits.

1. This proceeding involves the mutually exclusive applications of Folkways Broadcasting Company, Inc. (Folkways) and F. L. Crowder, trading/as Harriman Broadcasting Co. (Crowder), for a construction permit to establish a new FM broadcast station on Channel 224A at Harriman, Tenn. By Order, FCC 70-736, released July 14, 1970 (35 FR 11597, published July 18, 1970), the Commission designated the applications for consolidated hearing on several issues, including financial and Suburban issues against both applicants; an issue to determine whether Harriman is qualified to be a Commission permittee in light of the Commission's determination in Harriman Broadcasting Co., 9 FCC 2d 731, 10 RR 2d 981 (1967),[1] that F. L. Crowder had engaged in the trafficking of broadcast stations; and a standard comparative issue. In response to various petitions filed by the applicants herein, the Review Board specified a Rule 1.65 issue[2] and a false logging issue[3] against Folkways and a § 1.65 issue against Crowder.[4] Presently before the Review Board is a petition for enlargement of issues, filed August 3, 1970, by Folkways,[5] requesting the addition of ex parte, lottery and misrepresentation issues against Crowder.

2. Since many of Folkways' allegations in the instant petition are related to an earlier proceeding involving the same parties as here, a synopsis of the earlier proceeding would be helpful in evaluating the requests now made by Folkways. In 1961, Crowder filed an application for a construction permit for a new AM station in Harriman, Tenn. On December 10, 1962, Folkways, licensee of standard broadcast Station WHBT in Harriman,[6] filed a petition to deny the Crowder application and requested, in the alternative, that the application be designated for hearing on Carroll, financial, trafficking, Surburban and misrepresentation issues. The latter request was based on alleged misrepresentations to the Commission concerning Crowder's Suburban survey. The Commission denied Folkways' petition and granted Crowder's application without hearing on January 12, 1966 (2 FCC 2d 320, 6 RR 2d 709). In regard to Folkways' requests for Suburban and misrepresentation issues, the Commission concluded that, in view of Crowder's survey and his experience in, and familiarity with, the area to be served by the proposed Harriman AM station, neither issue was warranted.[7] Folkways appealed the Commission's action to the U.S. Court of Appeals for the District of Columbia Circuit, which, on January 5, 1967, reversed and remanded the case, with directions that a hearing be held on the trafficking and Carroll issues. See Folkways Broadcasting Company, Inc. v. FCC, 126 U.S. App. D.C. 123, 375, F. 2d 299, 8 RR 2d 2089. With respect to the Commission's disposition of the Suburban and related misrepresentation issues, the Court could find no reason to set aside that action although the Court did note that its decision to require a hearing on the trafficking issue was influenced by the record on the misrepresentation question. 126 U.S. App. D.C. at 125, 375 F. 2d at 301, 8 RR 2d at 2092. In the meantime, Crowder had built Station WXXL pursuant to his construction permit and had been granted program test authority on August 11, 1966.

3. After the Court's January 5, 1967, decision, Folkways requested the Commission to order WXXL off the air pending the required hearing; in its Memorandum Opinion and Order (7 FCC 2d 161, 9 RR 2d 819, released Mar. 3, 1967) designating the Crowder application for expedited hearing on trafficking and Carroll issues, the Commission granted a temporary authorization to Crowder to permit the continued operation of WXXL, subject to cancellation upon further order.[8] By order (FCC 67-550), released May 16, 1967, the Commission directed that the hearing record be certified to it for final decision; however,

---

[1] Affirmed sub nom. Crowder v. FCC, 130 U.S. App. D.C. 198, 399 F. 2d 569, 13 RR 2d 2073, cert. denied 393 U.S. 962 (1968).

[2] See 26 FCC 2d 175, 20 RR 2d 528 (1970). In the same memorandum opinion and order, the Board modified existing Issue 5 (the effect of the Commission's Harriman decision) to insure that Crowder's past conduct would be considered in evaluating the applicant's comparative qualifications. By subsequent Order, FCC 71R-47, 27 FCC 2d 614, 21 RR 2d 158, released Feb. 10, 1971, the § 1.65 issue was broadened to encompass additional matters and to include an inquiry into Folkways' compliance with § 1.514.

[3] See FCC 71R-55, 27 FCC 2d 619, 21 RR 2d 163, released Feb. 17, 1971.

[4] See FCC 71R-63, —— FCC 2d ——, 21 RR 2d 211, released Feb. 23, 1971.

[5] Other related pleadings before the Board for consideration are: (a) Partial opposition, filed Aug. 13, 1970, by the Broadcast Bureau; (b) erratum to (a), filed Aug. 14, 1970, by the Bureau; (c) opposition, filed Aug. 31, 1970, by Harriman; (d) supplement to (c), filed Sept. 10, 1970, by Harriman; (e) reply to oppositions, filed Sept. 11, 1970, by Folkways; (f) petition for leave to file response to (e) and response, filed Sept. 25, 1970, by Harriman; and (g) motion ne recipiatur and opposition to (f), filed Oct. 9, 1970, by Folkways.

[6] Crowder was formerly licensee of WHBT, which he assigned in June of 1956 to Folkways for $80,000.

[7] Folkways had contended before the Commission that Crowder had concealed matters concerning letters submitted by the applicant in support of an asserted familiarity with community needs and interests. In regard to 15 letters submitted in an amendment to the Crowder application, Folkways disputed the relevance of eight, claiming that they were from sources outside of Harriman and that the letters only discussed the availability of program material. Folkways asserted that the other letters were misleading since they had been obtained by Walter H. Scarborough, former commercial manager of WHBT, who had offered interviewees prepared statements indicating their support of a new Harriman station. Folkways also noted that three interviewees subsequently rescinded or modified their letters. The Commission concluded that, notwithstanding subsequent recissions or modifications, the letters indicated that a survey had been made and that the manner in which the survey was made did not suggest misrepresentation on the part of the applicant. 2 FCC 2d at 322-323, 6 RR 2d at 713.

[8] Folkways appealed the grant of this temporary authority to the Court of Appeals, which found that the grant was improper and ordered the cessation of the WXXL operation. The effectiveness of the court order was subsequently stayed pending the Commission's final decision.

upon consideration of the record, the Commission concluded that disposition of the trafficking issue would be facilitated by the preparation of an initial decision on that issue by the Hearing Examiner. Subsequently, the Commission disagreed with the Hearing Examiner's conclusion that Crowder had not trafficked in broadcast authorizations and, in its Decision (9 FCC 2d 731, 10 RR 2d 981 released Aug. 9, 1967), denied Crowder's application for an AM station in Harriman. In concluding that Crowder had trafficked in broadcast authorizations, the Commission found specific instances of misrepresentation by Crowder in regard to the trafficking inquiry.[9] In view of its conclusion that Crowder should be disqualified under the trafficking issue, the Commission did not reach the Carroll issue or a petition for an order in the nature of enlargement of issues, filed by Folkways on June 12, 1967, wherein Folkways had requested that a separate misrepresentation issue be specified in the proceeding to permit the consideration of Crowder's disqualification on the basis of record evidence relating to alleged misrepresentations and concealments by Crowder. Exceptions to the Hearing Examiner's initial decision dealing with the matter of Crowder's misrepresentations to the Commission, filed by Folkways, were also denied by the Commission as not of decisional significance or as unnecessary. Upon appeal, the Commission's Decision was upheld. See Crowder v. FCC, 130 U.S. App. D.C. 198, 399 F. 2d 569, 13 RR 2d 2073, cert. denied 393 U.S. 962 (1968). Now, in the instant proceeding, Folkways and Harriman are competing applicants for an FM station in Harriman, and the Commission has specified an issue which would assess the impact of its 1967 Decision on Crowder's qualifications to be an FM permittee.

EX PARTE ISSUES

4. In its petition to enlarge issues, Folkways initially requests that an issue be specified to determine whether Crowder has solicited ex parte presentations concerning the merits of the prior proceeding and the pending FM proceeding in violation of § 1.1201, et seq., of the Commission's rules.[10] In support of this request, petitioner refers to material allegedly circulated in Harriman during August and September of 1967, which suggested that letters be directed to President Johnson and to the Commission in an effort to restore the WXXL operation. Folkways contends that Crowder's campaign to protest the termination of Station WXXL consisted of the distribution of such material in the Harriman area, of the appearance of a new automobile in the Harriman area with a sign urging the continuation of the WXXL operation and of the use of third parties to obtain reversal of the Commission's action. In regard to the last-mentioned technique, Folkways points to copies of letters sent to then President Johnson in September of 1967 by Mrs. Ann Weidemann and Dr. Martin Rywell and to a copy of a letter, dated January 14, 1969, from Patrick O'Shea, a former employee of Station WXXL, to President Nixon, all of which were forwarded to the Commission. In these letters, the writers protest the "injustice" perpetrated by the Commission on Crowder in terminating the WXXL operation. These ex parte attempts, Folkways urges, are violative of the Commission's rules, reflect on the character qualifications of Crowder and should be pursued in the context of this FM proceeding.

5. In opposition, Crowder initially maintains that petitioner has failed to show that an ex parte presentation was made to "decision-making Commission personnel"; respondent notes that the President of the United States is not included in that category of persons defined in § 1.1205. In addition, Crowder contends that Folkways has not demonstrated that Crowder was personally involved in any attempt to solicit a prohibited presentation; in an attached affidavit, Crowder denies such involvement.[11] Moreover, Crowder suggests that the communications referred to by Folkways did not amount to prohibited presentations within the meaning of the Commission's ex parte rules since they represented voluntary acts by members of the public and were not, in any event, directed to decision-making Commission personnel. Finally, Crowder challenges the timeliness of Folkways' request by arguing that the petitioner should have brought the matter of claimed ex parte presentations to the Commission's attention in 1967. In a supplement to his opposition pleading, Crowder supplies an affidavit of O'Shea, which allegedly was not previously available and which will be considered by the Board, wherein O'Shea avers that Crowder had no knowledge of the letters written to the President and to the Commission's Executive Director by him (O'Shea) and that Crowder had not requested the preparation of such letters. According to O'Shea, his letters were merely intended to seek information concerning the Commission's decision to terminate the WXXL operation.[12]

6. In reply to Crowder and the Broadcast Bureau, Folkways first notes that Crowder, in his affidavit, admits his knowledge of the fact that communications were sent. On this basis, petitioner argues that Crowder had an affirmative duty to inform the Commission, through its Executive Director, of the full circumstances surrounding the submission of the letters and that such failure on Crowder's part constituted a violation of § 1.1245.[13] Second, Folkways points to the "void of explanation" in Crowder's opposition pleading concerning his alleged lack of knowledge of these letters by "close, continuing associates." In this regard, petitioner attempts to show that Weidemann and Rywell are political associates of Crowder. In addition, Folkways contends that the near concurrency of the dates of the Rywell and Weidemann letters (September 2 and 3, 1967, respectively) and the association between these letter-writers and Crowder "completely erode any inferential suggestion that Crowder did not have concurrent knowledge of their activities." In any event, Folkways claims that Crowder's apparent failure to notify the Commission of such activities pursuant to § 1.1245 emasculates the premise of the Bureau's defense of Crowder, i.e., his lack of knowledge. Folkways next points to the absence of any explanation by Crowder as to the pattern which allegedly emerges here when the following are considered: The pamphlets circulated in Harriman; the printed card form for transmittal to the President; the letters from Weidemann, Rywell, and O'Shea; and the letters to the Commission from two Congressmen concerning the instant FM proceeding. These latter letters, copies of which are attached to Folkways' reply pleading, allegedly demonstrate that Crowder solicited their presentation to the Commission and that the Congressmen involved had not been informed by Crowder of the restricted nature of the FM proceeding.[14] Folkways also claims that Crowder's denial of involvement is insufficient as a defense since he does not

[9] In its decision, the Commission terminated the operation of Station WXXL as of Aug. 15, 1967.

[10] Folkways contends that since the FM applications were pending before the Commission during the period of these alleged ex parte presentations, these attempts are also violative of the restrictions imposed by the Commission's ex parte rules on the FM proceeding.

[11] In regard to the material allegedly circulated in the Harriman area during 1967, Crowder either denies any knowledge thereof or states that he did not request such material to be directed to the President. In regard to the Weidemann and Rywell letters, Crowder asserts that they were sent without his knowledge; however, he states that he did not know of O'Shea's letter until after it was written.

[12] The Bureau opposes the addition of an ex parte issue on the ground that Folkways has failed to show that Crowder or anyone acting on his behalf with his knowledge thereof was responsible for the distribution of the materials in the Harriman area or for the transmittal of the alleged ex parte communications.

[13] Rule 1.1245 requires that a party to a restricted proceeding who has substantial reason to believe that an unauthorized ex parte presentation has been solicited, attempted or made, or who has information regarding such a presentation shall advise the Executive Director of all the facts and circumstances thereof which are known to him.

[14] The Dec. 16, 1969, letter of Congressman Joe L. Evins notes that Crowder's FM application has been pending for more than 3 years and urges that a hearing be held and appropriate consideration be given Crowder's application. Congressman Evins, in his letter to the Chairman of the Commission, states that consideration of his request and a "report of action hereon will be most appreciated by Mr. Crowder." In his lettter of May 13, 1970, to the Commission's Chairman, Senator Albert Gore also notes the pendency of the Crowder FM application since 1966 and requests information on the status of the application and expected Commission action. Neither letter indicates the writer's knowledge of the pending Folkways' FM application.

deny his alleged solicitation of prohibited presentations in regard to the FM case. In this regard, Folkways points to Crowder's contacts with the legislators noted above and to the fact that Crowder has been represented at all times by counsel which would negate the need for congressional inquiries concerning the status of the FM proceeding. The petitioner dismisses Corwder's argument that prohibited presentations were not made since they were not directed to decision-making personnel of the Commission; Folkways contends that indirect attempts to influence the Commission are prohibited by the ex parte rules. In conclusion, Folkways asserts that Crowder's statement represents a "masterpiece of understatement," which fails to answer satisfactorily the serious questions raised by the petitioner and which, by its careful wording, seeks to avoid any admission concerning Crowder's knowledge of the activities of his close associates. In such circumstances, Folkways contends that issues are required to inquire into Crowder's alleged attempts to influence Commission proceedings and his alleged failure to inform the Commission of ex parte activities on his behalf.[15]

[15] Crowder has filed a petition for leave to submit a response to Folkways' reply pleading, arguing that he should be permitted to comment on the new material contained in the reply. Even though Folkways has opposed the request, we have decided to grant Crowder's petition in order to enable our consideration of all relevant materials and arguments. In ordinary circumstances, however, we would frown upon an additional round of pleadings. In his response, Crowder maintains that: (1) The congressional letters are not prohibited presentations, but are status inquiries directed to administrative delay, and there is no evidence of an attempt to influence a Commission proceeding by him or the Congressmen; (2) he had no duty to advise the Commission of these communications (Rywell, Weidemann, and O'Shea letters) since they did not constitute prohibited presentations and since he had no knowledge of the facts and circumstances surrounding their preparation; (3) in any event, Folkways, as a party, had a duty to advise the Commission of the presentations; (4) Crowder did not solicit the Rywell and Weidemann letters, as attested to by their attached statements; (5) his earlier statement refutes any charge that he did not deny participation in prohibited activities in regard to the FM case; and (6) an affidavit attached to Folkways' reply from John Mayton, who states that he heard a Reverend Human indicate that Crowder knew of the distribution of leaflets concerning WXXL, is double hearsay and should be rejected. Folkways, in opposition to Crowder's response, makes the following points; (1) Crowder has now joined issue as to the claim of improper activities concerning both the AM and FM case; (2) Crowder has not denied his solicitation of congressional inquiries and has not explained the need for same; (3) Crowder has failed to supply affidavits from Rywell and Weidemann and their unsworn statements do not resolve the questions about Crowder's knowledge of their letters and his duty to inform the Commission about the letters; and (4) Crowder has not responded to the essence of Mayton's affidavit and has not supplied a sworn statement from Reverend Human.

7. As an initial point of departure, the Board is constrained to comment briefly on the nature of the showings before us in regard to Folkways' request for ex parte issues against Crowder. In its pleadings, the petitioner essentially relies on circumstantial evidence for its assertion that Crowder solicited prohibited presentations in regard to the WXXL operation and failed in his duty to inform the Commission of activities designed to influence the ultimate outcome of the AM proceeding. For example, Folkways points to what it considers to be a "pattern," which is allegedly apparent from the distribution of certain materials in the Harriman area and from letters written by close associates of Crowder at about the time of the Commission's termination of the WXXL operation. With respect to the instant FM proceeding, Folkways primarily relies on the two Congressional inquiries apparently requested by Crowder. This showing, in and of itself, leaves something to be desired in terms of the clear requirements of § 1.229, since it assumes Crowder's knowledge of, and participation in, prohibited ex parte activities. On the other hand, Crowder's response consists of a carefully worded denial of knowledge of, and participation in, such activities. For example, in his affidavit, Crowder maintains that he did not know of the Weidemann letter "until after it was sent"; that the Rywell letter was sent without his knowledge; and that he did not know about the O'Shea letters "until after the letters were written." Moreover, Crowder makes no mention of his apparently close associations with the letter writers. He also relies on an affidavit by O'Shea and on the unsworn statements of Rywell and Weidemann, which clearly could have been produced much earlier and in proper form. Even though the matter of the Congressional inquiries was raised in Folkways' reply and was used, in part, as the basis for Crowder's response thereto (see note 15, supra), no further affidavit was submitted by him to explain the circumstances surrounding his requests for these inquiries.

8. On this basis, then, the Board can only conclude that serious questions have been raised concerning Crowder's compliance with the Commission's ex parte regulations which have not been satisfactorily answered and which, as a result, require exploration in a hearing context. We do perceive a possible pattern in certain activities related to the Commission's decision to terminate the WXXL operation: leaflets were distributed in the Harriman area, urging members of the public to write the President and the Commission about the latter's action; a prepared form for direction to the President was also circulated, protesting the Commission's action and the "injustice" done to Crowder; a new car with a sign on it promoting the continuation of WXXL was seen in the Harriman area; and letters from associates of Crowder, dated within a day of each other, were sent to the President, protesting the WXXL termination. In response, Crowder has seen fit to rely on a somewhat guarded denial of knowledge and involvement, on an affidavit of O'Shea which seems to be inconsistent with Crowder's statement in regard to the latter's knowledge of the O'Shea letters,[16] and on unsworn statements of Rywell and Weidemann. Given the relatively small size of the Harriman community, the concurrent distribution of certain materials in the Harriman area and written protests from Crowder associates, and the nature of Crowder's statement in response to Folkways' charges, a serious question is raised as to whether Crowder, either directly or indirectly, solicited prohibited ex parte presentations relating to the Commission's decision to terminate the WXXL operation.[17] See Pacifica Foundation, 25 FCC 2d 787, 20 RR 2d 249 (1970); Voice of Reason, Inc., 22 FCC 2d 931, 18 RR 2d 1049 (1970). The fact that the Weidemann, Rywell and O'Shea letters were directed to the President who does not fit within the definition of "decision-making Commission personnel" under § 1.1205 is not controlling here since it could reasonably be expected that such letters would be forwarded to the Commission and since these letters, in fact, were forwarded to the Commission. Moreover, we have held that the failure to designate specific decision-making personnel, of the Commission as the desired recipients of prohibited presentations does not excuse an applicant's solicitation of such presentations. Pacifica Foundation, supra. In any event, we note that the leaflets distributed in the Harriman area urged the public to write to both the President and the Commission about the WXXL matter. In similar vein, the solicitation of members of the public is not a controlling consideration, as Crowder urges, since the solicitation by interested persons or their agents of written ex parte presentations from the general public is prohibited by § 1.1225(a). See Report and Order in Docket No. 15381, 1 FCC 2d 49, at 59, 5 RR 2d 1681, at 1694 (1965).

9. A serious question is also raised as to Crowder's activities in regard to the congressional inquiries which were directed to the Commission's Chairman, apparently at Crowder's request, seeking information about the status of his FM application. Senator Gore's letter is clearly a request for a status report while Congressman Evins' letter has the elements of both a status inquiry and a complaint directed to the factor of administrative delay. Neither letter exhibits the writer's knowledge of the

[16] As pointed out in note 11 and paragraph 7, supra, Crowder stated that he did not know about O'Shea's letters until after they were written. O'Shea, in his affidavit, states flatly that Crowder had no knowledge of his letters.

[17] It should be noted that the Commission's restrictions regarding ex parte presentations in adjudicative proceedings continue to apply during the pendency of judicial review pursuant to the provisions of § 1.1203(a). As indicated to paragraph 3, supra, the Commission's decision to deny Crowder's AM application was released on Aug. 9, 1967, and judicial review was not completed until 1968.

pending Folkways' application, and Crowder has made no attempt to explain the circumstances surrounding his requests for congressional assistance. As a result, we cannot know the reasons that prompted the letters. While it is clear that the ex parte rules do not prohibit congressional complaints directed to administrative delay[18] and do permit parties to restricted proceedings to make their own status inquiries (§ 1.1227(e)), parties are prevented from soliciting status inquiries from others on their behalf. Report and order in Docket No. 15381, 1 FCC 2d at 60, 5 RR 2d at 1695–6; Fine Music, Inc., supra. Such solicitation is prohibited since the enlistment of such assistance by a party raises doubts about the purpose of the inquiry which could effectively undermine public confidence in the integrity of the Commission's proceedings. Therefore, the question of whether Crowder solicited prohibited presentations in regard to the FM proceeding must also be explored at the hearing.[19] See Al G. Stanley, FCC 70–849, —— FCC 2d ——, 19 RR 2d 1179. Finally, we agree with Folkways that an inquiry into Crowder's compliance with § 1.1245 (see note 13, supra) is warranted. Crowder's statement discloses that he had knowledge of the Weidemann letter after it was sent and of the O'Shea letters after they were written; moreover, he has apparently conceded that the congressional inquiries were made at his request. Since the candor of parties to restricted proceedings is required in order to protect the integrity of the Commission's processes and since we have concluded that serious questions exist about Crowder's solicitation of ex parte presentations, his failure to report his knowledge thereof to the Commission's Executive Director pursuant to § 1.1245 assumes added significance.[20] While it is true that the reporting requirement extends to all parties with information about prohibited presentations or the solicitation thereof, we decline to attach responsibility to Folkways in this regard, as Crowder urges, since the activities under consideration relate to the latter's interests and since, in any event, Folkways has brought these matters to the Commission's attention through its petition to enlarge issues.[21]

[18] Azalea Corp., 10 FCC 2d 364, 11 2d 541 (1967); Fine Music, Inc., 8 FCC 2d 529, 10 RR 2d 400 (1967).

[19] Our conclusion in regard to Crowder's activities on behalf of his FM application lends added support to our earlier determination to accord substantial weight to the pattern established as a result of certain activities related to the WXXL termination in spite of Crowder's denial of involvement.

[20] Compare American Broadcasting Companies, Inc., 23 FCC 2d 136, 19 RR 2d 36 (1970).

[21] Our decision to inject ex parte issues against Crowder is based, in part, upon our inability to place complete reliance on Crowder's statement in response to Folkways' charges. If the record developed under the issues specified herein sheds further light on the question of Crowder's candor, then appropriate findings and conclusions can be drawn in regard thereto. See —— FCC 2d at ——, 21 RR 2d at 215, n. 8.

LOTTERY ISSUE

10. Folkways alleges that, during July of 1967, a "Fish for Money" promotion was broadcast on WXXL and that, since the promotion involved the elements of a lottery, i.e., prize, chance, and consideration, an appropriate issue should be specified against Crowder. According to the petitioner, the plan required the purchase of an automobile or truck value at $500 or more from the Harriman Motor Co., which would entitle a customer to "fish" for prizes in varying amounts from $1 to $100. Folkways contends that only those members of the public who paid the necessary consideration—the purchase of an automobile or truck worth at least $500—could obtain a prize. In an attached affidavit, Tom Jackson, who was commercial manager of Folkways' AM station (WHBA) in Harriman during the period in question, explains that WHBT was also approached by the car dealer concerning the purchase of spot announcements for the "Fish for Money" promotion, but that the station, upon advice of counsel, declined to carry the announcements on the ground that the scheme constituted a lottery. Mr. Jackson also states that WXXL, on the other hand, did broadcast such announcements during July 1967, and, on the basis of a tape recording of such an announcement, he quotes the contents thereof.[22] In petitioner's view, the fact that the scheme was part of a sales promotion by a local retailer or that the broadcast was a commercial spot announcement cannot be used to justify the claimed violations of section 1304 of title 18, U.S.C., and § 73.122 of the Commission's rules. In similar vein, Folkways contends that the element of chance is not eliminated in such a promotion simply because each purchaser receives a prize. Relying on the Board's action in United Television Co., Inc., 20 FCC 2d 278, 17 RR 2d 738 (1969), petitioner requests that an issue relating to these promotional announcements on WXXL be included in this proceeding.[23]

11. Crowder again relies on his attached affidavit to oppose Folkways' request for a lottery issue. Initially, he contends that the petitioner has not shown the necessary good cause for the belated request. Noting that Folkways has been in possession of the relevant information since 1967 and that the petitioner made no attempt to advise him that the promotion might constitute a lottery, Crowder argues that Folkways should not now be rewarded for such behavior by the enlargement of issues. In any event, Crowder contends that the "Fish for Money" promotion did not amount to a lottery since it was merely a scheme to give cash discounts to members of the public who purchased goods from the car dealer during a certain period of time and since the element of chance was not present. Finally, Crowder discounts the need for the requested issue by asserting that there is no evidence of an intentional violation of the lottery statute or Commission regulation; in fact, he states that he has no recollection of the promotional announcements in question.

12. As to Crowder's procedural objection, the Board agrees with the Broadcast Bureau's assertion that Folkways should not be faulted for the filing of the instant request. The promotional announcements under consideration herein were apparently broadcast for a 3- or 4-week period during the month of July 1967, and, as indicated in paragraph 3, supra, the Commission's decision in the earlier proceeding, which resulted in Crowder's disqualification, was released on August 9, 1967. Therefore, in light of the status of the AM proceeding at the time of the broadcast of these announcements and the result ultimately reached by the Commission in its 1967 decision, we are reluctant to question Folkways' diligence. In any event, the matters raised by the petitioner in regard to the WXXL announcements are serious enough to warrant our consideration. The Edgefield-Saluda Radio Co., 5 FCC 2d 148, 8 RR 2d 611 (1966). For example, we note that Crowder, in his opposition, does not dispute the allegation that announcements on behalf of a "Fish for Money" promotion were broadcast on Station WXXL during the period in question. Similarly, he does not dispute that the elements of prize and consideration were present in the promotion, although he does question whether the scheme contained the element of chance.[24] In spite of Crowder's contention, we believe that the "Fish for Money" promotion, as described in the pleadings before us, contained all of the elements of a lottery, including chance. In essence, prizes (cash awards), which

[22] The announcement reads as follows:

Something fishy is going on at Harriman Motor Co. during their big July sale. We know Tom Rice has blown his stack cause during this sale if you purchase new or used cars or trucks valued at $500 or more you can fish for cash. Every customer who trades or buys during July will win cash and at Harriman Motor Co. you can see the latest, freshest versions of Mustangs * * *.

[23] The Broadcast Bureau supports Folkways' request, but would reword the issue framed by the petitioner. According to the Bureau, Folkways' issue presupposes that the announcements in question promoted a lottery; the Bureau would prefer to alter the issue to inquire into whether the promotional scheme, in fact, constitute a lottery in violation of the statute and Commission regulation. The Bureau also suggests that Folkways cannot be faulted for the filing of its request in view of the status of the earlier AM proceeding at the time the alleged promotional announcements were broadcast on WXXL. Folkways, in its reply pleading, does not object to the rewording of the issue.

[24] While neither section 1304 of Title 18, U.S.C., nor § 73.122 defines a lottery, it is well established that the necessary elements thereof are, in combination: (1) the awarding of a prize; (2) upon a contingency determined by chance; (3) to a person who has, directly or indirectly, paid or agreed to pay a consideration for the chance to win the prize. See FCC v. American Broadcasting Company, 74 S. Ct. 593, 347 U.S. 284, 10 RR 2030 (1954).

varied in amount and which were not within the control of the parties involved, were given to customers of the Harriman Motor Co. The Noble Broadcasting Corp., 1 FCC 2d 154, 157, 5 RR 2d 915, 922 (1965); Northern Virginia Broadcasters, Inc., 4 RR 660 (1949). As a result, the Board is not persuaded by Crowder's cash discount theory or by the fact that each purchaser or customer received something of value.[25] Since a serious question has been raised as to whether announcements advertising a lottery promotion were broadcast on Station WXXL in violation of Federal statute and Commission regulation, an appropriate issue is warranted and will be specified by the Board. Glenn West, 26 FCC 2d 1015, 20 RR 2d 697 (1970); United Television Co., Inc., 20 FCC 2d 278, 17 RR 2d 738 (1969); Keith L. Reising, 3 FCC 2d 904, 8 RR 2d 62 (1966). We also believe that a serious question has been raised concerning Crowder's efforts prior to the broadcast of such announcements to insure that they did not, in fact, promote a lottery. Crowder's claimed reliance on others, i.e., the station's program director and the local motor company, his disclaimer of knowledge of the broadcast of such announcements by WXXL and his attempt to fault Folkways for not informing him of the situation cannot be viewed as consistent with his responsibility to supervise and control all material broadcast over his station. See Glenn West, supra; Public Notice of June 3, 1969, concerning "Applicability of Lottery Statute to Contests and Sales Promotions," 18 FCC 2d 52, 16 RR 2d 1559;[26] Keith L. Reising, supra. Accordingly, we will, on our own motion, also specify an issue inquiring into Crowder's apparent failure to control his station's programing in regard to the "Fish for Money" promotion. However, in view of the isolated nature of Crowder's alleged misconduct, we will confine the scope of the issues relating to the promotional announcements and supervisory responsibility to Crowder's comparative qualifications. Glenn West, supra; Keith L. Reising, supra.

MISREPRESENTATION ISSUE

13. Folkways also requests that an issue be specified to determine whether Crowder misrepresented to, or concealed from the Commission material matters in connection with his prior application for an AM station in Harriman (WXXL), including misrepresentations and concealments by Crowder in the hearing record of the AM proceeding. In support of this request, petitioner first points to what it claims are misrepresentations by Crowder in regard to "trade-out practices." Noting that the AM case involved an economic impact or Carroll issue and that evidence was adduced thereunder as to Crowder's commercial practices at Station WXXL, Folkways underscores Crowder's repeated testimony to the effect that he had not engaged in trade-our practices at the station. In contrast, the petitioner introduces an affidavit of James L. Johnson, dated July 31, 1970, wherein the affiant states that he made wooden call sign letters for Crowder for Station WXXL and that he received, in return, four 15-minute programs worth $48 and $2 in cash. In petitioner's view, the context of this alleged misrepresentation by Crowder reinforces the seriousness thereof since the AM proceeding had evolved, in part, from inconsistent representations made by Crowder (see paragraph 2, supra). Folkways also argues that Crowder made further misrepresentations in regard to the community survey he submitted with the AM application. According to the petitioner, Crowder's AM application, as originally filed, contained no showing as to the reason for its filing and did not reflect any expression of local need or desire for the new station; however, Crowder then filed an amendment to the application wherein he represented that a survey had been made, as evidenced by certain letters addressed to him by various community leaders, and that his station's proposed programing had been discussed with the letter-writers. Folkways also notes that Crowder, in opposition to a petition to deny the AM application, had averred that the letter-writers had been fully apprised of the facts of his proposal and had directed their letters to him. At the hearing, however, Folkways points out that it was shown that a number of the letter-writers had been given preformed responses to sign, that Crowder had not discussed his programing proposal with them, and that the letters had been obtained for Crowder by a Mr. Scarborough. Moreover, Folkways asserts that, during the hearing, Crowder offered no explanation for these variances in representations. While the petitioner concedes that the Commission did not specifically consider these other claimed misrepresentations in its 1967 Decision, it suggests that such matters could be explored under the issue specified herein which takes account of the Commission's earlier Decision or could be used to supplement the findings and conclusions in the AM proceeding.

14. In opposition, Crowder raises a procedural objection in regard to the matter of trade-out practices; he argues that this aspect of Folkways' petition is untimely since Folkways could have raised the point during the earlier proceeding. In regard to the merits of the request, Crowder, in his affidavit, explains that the preoperational arrangement with the sign-maker was not a "trade-out" in the ordinary sense since it did not involve a regular advertiser or merchant. According to Crowder, when he was queried about trade-out practices in the AM proceeding, he assumed that such questioning referred only to regular dealings with advertiser-merchants. Addressing himself to Folkways' allegations about the community survey, Crowder notes that Folkways raised essentially the same questions in its exceptions to the Initial Decision in the AM proceeding, which were denied by the Commission, and that the Commission's action is res judicata as to the requested misrepresentation issue. The Bureau also opposes Folkways' instant request. The Bureau would have the Board fault Folkways for not having raised the trade-out matter in the earlier case unless the petitioner makes a persuasive showing that it did not previously know of the arrangement and could not have obtained such information through the exercise of due diligence prior to the conclusion of the AM proceeding. Like Crowder, the Bureau is of the opinion that inquiry into claimed misrepresentations relating to Crowder's community survey is precluded as a result of the Commission's denial of Folkways' exceptions, although the Bureau does recognize that the Commission did not specifically address itself to the matters raised here in its 1967 decision.

15. Folkways replies that the Board cannot accept Crowder's explanation for his prior testimony about trade-out practices since, at the AM hearing, he made no attempt to disclose his claimed distinction between the arrangement with the sign-maker and regular, operational trade-outs even though he was queried on the subject several times. The petitioner also suggests that the Bureau's position might have been different if it could have considered Crowder's eventual admission about the arrangement with the sign-maker and if it had recalled the expedited nature of the AM proceeding, which, according to Folkways, afforded it no real opportunity to pursue the matter. Folkways asserts that it could not have documented its charges about the claimed trade-out prior to the closing of the hearing record on May 22, 1967, and that the relevant material, though still not in affidavit form, was not received until thereafter.[27] Regarding the alleged misrepresentations about Crowder's community survey, Folkways claims that these matters were not "decisionally resolved" by the Commission since Crowder's application had been denied on other grounds; therefore, the petitioner renews its request for an appropriate issue in this proceeding.

---

[25] See Wolf v. Federal Trade Commission, 135 F. 2d 564 (7th Cir. 1943); Keller v. Federal Trade Commission, 132 F. 2d 59 (7th Cir. 1942).

[26] In its Public Notice, the Commission stated:

Finally, licensees are reminded of their responsibility to exercise reasonable diligence to make sure that promotions advertised over their facilities are not lotteries * * *. In order to assure himself that his facilities are not being used for unlawful purposes, he should take all reasonable steps to learn whether the promotion in its actual operation is being conducted as a lottery. (18 FCC 2d at 53, 16 RR 2d at 1560–61).

See also Folkways Broadcasting Co., Inc., 27 FCC 2d 619, 21 RR 2d 163 (1971).

[27] In the text of its reply pleading, Folkways refers to a written and witnessed statement by Johnson, dated July 19, 1969. However, Johnson's statement, attached to the reply pleading, is dated May 19, 1967.

16. The Board does not believe that the requested issue is warranted on the basis of the showings made by Folkways. In regard to the alleged trade-out by Crowder, Folkways has not demonstrated its diligence in pursuing the matter; it has not revealed when it first became aware of the information contained in the Johnson affidavit of July 31, 1970. As indicated in note 27, supra, such information was apparently available as early as May 19, 1967, prior to the close of the record in the AM proceeding. Even if the Review Board were inclined to overlook the procedural deficiency indicated above, however, we would discount the significance of petitioner's showing. For example, we cannot conclude, as Folkways does, that Crowder's testimony relative to trade-out practices was prompted by a desire to deceive the Commission. The practice of trading broadcast time for goods and services is not prohibited by Commission policy, and we can perceive no reason why Crowder would engage in alleged misrepresentations from which he could gain no benefit or advantage. Moreover, Crowder's explanation as to the interpretation of his testimony in the AM proceeding is not inherently improbable and, in any event, has not been effectively challenged by other examples of similar arrangements. Without more, a misrepresentation issue is not warranted merely on the basis of this one arrangement and Crowder's testimony aobut trade-out practices.

17. Similarly, we cannot conclude that such an issue is required on the basis of Folkways' showing concerning Crowder's community survey and representations about that survey. As indicated in paragraph 2, supra, Folkways had filed a petition to deny Crowder's AM application and, in the alternative, had requested that issues be specified against Crowder, including a Suburban and a related misrepresentation issue. The basis for the latter request involved essentially the same matters which Folkways now brings to our attention. See note 7, supra. However, the Commission concluded that the request for Suburban and misrepresentation issues was not properly supported and that the issues were not necessary. See 2 FCC 2d at 322–23, 6 RR 2d at 713. While the Court, on appeal of this initial Commission action, ultimately remanded the AM proceeding to the Commission for hearing on trafficking and Carroll issues, it nonetheless agreed with the Commission's disposition of the Suburban and misrepresentation questions: In the present case, the Commission states that, "as a matter of judgment, the manner in which the survey was made leaves something to be desired," with which we agree; but our review of the record leaves us unconvinced that the Commission's clearance of Crowder on this issue should be set aside. We are of a like mind on the related issue of misrepresentation, or failure to disclose any material fact, regarding the survey of community tastes, needs and desires. (126 U.S. App. D.C. at 125, 375 F. 2d at 301, 8 RR 2d at 2092). After hearing was held on the trafficking and Carroll issues, the Commission proceeded to deny exceptions to the Examiner's initial decision as not of decisional significance or as unnecessary, which exceptions had been taken by Folkways and which involved the matter of alleged misrepresentations relating to the Crowder's community survey. Similarly, the Commission did not reach Folkways' request for the specification of a separate misrepresentation issue to permit Crowder's disqualification on that ground on the basis of record evidence. While we do not agree with the Bureau and Crowder that the Commission's action in denying certain exceptions of Folkways automatically disposes of the instant request, we do believe that the matter of the community survey has been effectively considered in the prior AM proceeding at both the pre- and post-designation stages and has been discounted in the ultimate resolution of Crowder's qualifications by both the Commission and the Court. Moreover, the issues already specified in this FM proceeding provide for an adequate consideration of Crowder's past behavior, including his misrepresentations to the Commission in the course of the trafficking inquiry, and we do not see how the matters now raised by Folkways, which could only be introduced at hearing under a separate issue, would significantly aid in the resolution of this case. We would also note that petitioner's suggested course of action would entail the consideration of some very stale material[28] and would, of necessity, unduly prolong this FM proceeding.

18. *Accordingly, it is ordered,* That the petition for leave to file response to reply of Folkways, filed September 25, 1970, by F. L. Crowder, trading as Harriman Broadcasting Co., is granted, and the responsive pleading is accepted; and the motion ne recipiatur, filed October 9, 1970, by Folkways Broadcasting Co., Inc., is denied; and

19. *It is further ordered,* That the petition for enlargement of issues, filed August 3, 1970, by Folkways Broadcasting Co., Inc., is granted to the extent indicated herein and is denied in all other respects; and

20. *It is further ordered,* That the isues in this proceeding are enlarged by the addition of the following issues:

(a) To determine whether F. L. Crowder, trading as Harriman Broadcasting Co., has solicited or encouraged others to make ex parte presentations on his behalf in the instant proceeding and/or in Docket No. 17255 in violation of § 1.1225 of the Commission's rules, and, if so, the effect thereof on the applicant's requisite or comparative qualifications;

(b) To determine whether F. L. Crowder, trading as Harriman Broadcasting Co., failed to disclose information concerning ex parte presentations in the instant proceeding and/or in Docket No. 17255 in violation of § 1.1245 of the Commission's rules, and, if so, the effect thereof on the applicant's requisite or comparative qualifications.

(c) To determine the facts and circumstances surrounding the advertisement by standard broadcast Station WXXL in July of 1967, of a promotion entitled "Fish for Money" and whether such announcements constituted the advertisement of a lottery in contravention of section 1304 of title 18, U.S.C., and § 73.122 of the Commission's rule, and, if so, the effect thereof on the comparative qualifications of F. L. Crowder, trading as Harriman Broadcasting Co.;

(d) To determine whether F. L. Crowder, trading as Harriman Broadcasting Co., failed to exercise reasonable diligence, control, and supervision of Station WXXL's programing to insure that announcements broadcast concerning the "Fish for Money" promotion did not advertise a lottery, and, if so, the effect thereof on the comparative qualifications of F. L. Crowder, trading as Harriman Broadcasting Co.

21. *It is further ordered,* That the burden of proceeding with the introduction of evidence under the issues added herein shall be on Folkways Broadcasting Co., Inc., and the burden of proof under said issues shall be on F. L. Crowder, trading as Harriman Broadcasting Co.

Adopted: June 2, 1971.

Released: June 4, 1971.

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

[FR Doc.71-8135 Filed 6-9-71;8:52 am]

[28] For example, Crowder's opposition to Folkways' petition to deny the AM application, upon which Folkways relied to support the instant request, was filed on Jan. 8, 1963.

FEDERAL POWER COMMISSION

[Docket No. RI71-1062, etc.]

ATLANTIC RICHFIELD CO. ET AL.

Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

JUNE 2, 1971.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Each respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
RI71-1062	Atlantic Richfield Co.	458	6	El Paso Natural Gas Co. (Brown Bassett Field, Terrell County, Tex., Permian Basin).	$420	5- 7-71		7- 8-71	17.2545	17.5656	RI70-662.
RI71-1063	Texaco, Inc.	232	5	Transwestern Pipeline Co. (South Kermit Plant, Winkler County, Tex., Permian Basin).	33,544	5-13-71		7-14-71	18.0394	[1] 21.0	RI68-459.
RI71-1064	Shell Oil Co.	383	1	El Paso Natural Gas Co. (Toro Field, Reeves County, Tex., Permian Basin).	33,469	4-23-71		[2] 6-24-71	[2] 22.0	26.5	
RI71-1065	Atlantic Richfield Co.	28	39	El Paso Natural Gas Co. (Spraberry Field, Midland, Glasscock, Upton, and Reagan Counties, Tex., Permian Basin).	2,996	5- 7-71		8- 2-71	19.8364	20.3450	RI71-355.
	do	240	12		10	5- 7-71		8- 2-71	19.8364	20.3450	RI71-355.
	do	29	19	El Paso Natural Gas Co. (Payton-Devonian Field, Ward and Pecos Counties, Tex., Permian Basin).	163	5- 7-71		8- 2-71	18.3105	18.8191	RI71-355.
	do	140	16	El Paso Natural Gas Co. (University Block 9 Field, Andrews County, Tex., Permian Basin).	5,285	5- 7-71		8- 2-71	16.7846	17.2933	RI71-355.
	do	208	13	El Paso Natural Gas Co. (Headlee Plant, Ector County, Tex., Permian Basin).	(4)	5- 7-71		8- 2-71	19.6682	20.1725	RI71-355.
	do	243	[1] 20	El Paso Natural Gas Co. (Jalmat Field, Lea County, N. Mex., Permian Basin).	(4)	5- 7-71		8- 2-71	18.4138	18.9253	RI71-355.
	do	245	12	El Paso Natural Gas Co. (Drinkard Field, Lea County, N. Mex.,) (Permian Basin).	212	5- 7-71		8- 2-71	18.4138	18.9253	RI71-355.
	do	11	16	El Paso Natural Gas Co. (Langlie-Mattix Field, Lea County, N. Mex.) (Permian Basin).	134	5- 7-71		8- 2-71	[3] 18.4138	[3] 18.9253	RI71-353.

See footnotes at end of document.

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf: Rate in effect	Cents per Mcf: Proposed increased rate	Rate in effect subject to refund in dockets Nos.
	....do....	15	16	....do....	197	5-7-71	....	8-2-71	[6] 18.4138	[6] 18.9253	RI71-353.
	....do....	19	15	....do....	174	5-7-71	....	8-2-71	[6] 18.4138	[6] 18.9253	RI71-355.
	....do....	17	15	El Paso Natural Gas Co. (South Eunice Field, Lea County, N. Mex.) (Permian Basin).	334	5-7-71	....	8-2-71	[6] 18.4138	[6] 18.9253	RI71-353.
	....do....	18	17	El Paso Natural Gas Co. (Justis Field, Lea County, N. Mex., Permian Basin).	28	5-7-71	....	8-2-71	[6] 18.4138	[6] 18.9253	RI71-353.
	....do....	20	30	El Paso Natural Gas Co. (Langlie-Mattix and other Fields, Lea County, N. Mex.) (Permian Basin).	19,361	5-7-71	....	8-2-71	[6] 18.4138	[6] 18.9253	RI71-355.
	....do....	26	17	El Paso Natural Gas Co. (Slaughter Gas Plant, Hockley County, Tex.) (Permian Basin).	1,553	5-7-71	....	8-2-71	19.6466	20.1509	RI71-355.
RI71-1066	Aztec Oil & Gas Co. et al.	35	9	El Paso Natural Gas Co. (Mesa Verde Formation, San Juan County, N. Mex.) (San Juan Basin).	2,470	5-7-71	....	7-8-71	[7] [33] 14.0536	[7] [33] 15.2886	RI64-566.
RI71-1067	Mobil Oil Corp.	315	6	Northern Natural Gas Co. (Baggett Field, Crockett County, Tex.) (Permian Basin).	1,069	5-6-71	....	7-7-71	17.0638	18.0675	RI68-408.
RI71-1068	Tenneco Oil Co.	160	9	El Paso Natural Gas Co. (Jalmat Field, Lea County, N. Mex., Permian Basin).	2,064	5-10-71	....	7-11-71	13.34	17.50	
RI71-1069	Felmont Oil Corp.	16	[13] 4	Transcontinental Gas Pipe Line Corp. (Ship Shoal Block 239 Unit, Offshore Louisiana).	892	5-3-71	....	6-18-71	[35] 17.0	[35] 21.25	
RI71-1070	Cities Service Oil Co.	178	[2] [15] 29	Tennessee Gas Pipeline Co., a division of Tenneco Inc. (West Delta Area, Offshore Louisiana) (Disputed Area).	24,938	5-3-71	....	6-18-71	[35] 21.5	[8] [10] [35] 22.375	RI71-677.
RI71-1071	Belco Petroleum Corp.	16	[14] 5	Texas Gas Transmission Corp. (North Maurice Field, LaFayette Parish, Southern Louisiana).	....	5-7-71	6-7-71	[36] Accepted	....	....	RI71-686.
	....do....	16	[11] [12] 6	....do....	138,700	5-7-71	....	6-22-71	[35] 21.25	[8] [13] [25] 26.0	
RI71-1072	Skelly Oil Co., et al.	123	12	Southern Natural Gas Co. (Dexter Field, Marion and Walthall Counties, Miss.).	358,239	5-12-71	....	11-12-71	20.6 [35] 21.5527	[33] 27.88533	RI71-686.
RI71-1073	Mobil Oil Corp.	69	[11] [12] 28	United Gas Pipe Line Co. (Cameron Meadows et al., Fields, Cameron Parish, Southern Louisiana).	65,244	5-10-71	....	6-25-71	[35] 22.375	[8] [33] 23.75	RI71-492.
RI71-1074	Union Oil Co. of California.	120	[13] 15	Tennessee Gas Pipeline Co. (Rollover Field, Vermilion Area, Offshore Louisiana).	....	5-10-71	6-10-71	[38] Accepted	....	....	RI71-564.
	....do....	120	[16] 16	....do....	[17] 787,500	5-10-71	....	6-25-71	[18] [35] 19.75	[8] [17] [18] [35] 22.375	RI71-564.
RI71-1075	Crystal Oil Co. et al.	26	....	United Gas Pipe Line Co.	[19] 121,423	5-10-71	....	6-25-71	....	[8] [19] [35] 24.0	
		26	1	(Bethany Field, Panola County, Tex. Railroad District No. 6).	....	4-15-71	5-16-71	[37] Accepted	....	....	
					670	4-29-71	....	[23] 6-30-71	[21] 11.9000	15.0	
	....do....			....do....	446	....	....	....	[22] [24] 11.9033	[24] 15.0	
RI71-1076	Chevron Oil Co.	30	4	Cimmarron Gas Transmission Co. (Southwest Enville Field, Love County, Okla., Other Area).	8,417	[28] 4-29-71	....	7-2-71	[25] [26] [27] 18.1565	[25] [26] [27] 19.5596	RI68-582.
	....do....	31	7	....do....	1,403	[28] 4-29-71	....	7-2-71	[25] [26] [27] 18.1565	[25] [26] [27] 19.5596	RI68-170.
RI71-1077	Hunt Oil Co. et al.	47	[29] 7	Texas Gas Transmission Corp. (Red Rock-North Shongaloo Field, Webster and Claiborne Parishes, Northern Louisiana).	500	5-7-71	....	7-8-71	[20] [35] 18.75	[20] [31] [35] 19.75	
RI71-1078	Texaco, Inc.	103	4	Lone Star Gas Co. (Doyle Field, Stephens County, Okla., Other Area).	1,349	5-10-71	....	11-10-71	17.9	[32] 20.9	RI70-42.
RI71-1079	Southwest Gas Producing Co., Inc.	17	3	Arkansas Louisiana Gas Co. (Vixen Field, Caldwell Parish, Northern Louisiana).	4,000	5-10-71	....	7-11-71	[32] [35] 18.5	[32] [35] 20.5	
RI71-1080	Gulf Oil Corp.	423	4	United Gas P/L Co. (Hainesville Dome Field, Wood County, RR. District No. 6).	3,830	4-30-71	....	7-1-71	15.0	[21] 17.66	

FOOTNOTES:

[1] Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[2] Contractual due rate is 27.2 cents.
[3] Initial rate prescribed in temporary certificate issued May 14, 1971, in Docket No. CI71-772.
[4] Or 1 day from date of initial delivery, whichever is later.
[5] No sales being made under this rate schedule at the present time.
[6] Old gas well gas only. Does not include casinghead gas under letter agreement dated June 22, 1967 (Supplement No. 12).
[7] Subject to 0.4467 cents per Mcf compression charge where applicable.
[8] Includes 1-cent minimum guarantee on liquids.
[9] Increase resulting from termination of moratorium in Southern Louisiana pursuant to Order No. 413 as amended Oct. 27, 1970.
[10] Pertains to gas produced from the basic contract acreage.
[11] Based on Favored Nations provisions of the contract. Applicant states that a rate of 22.7833 cents is applicable.
[12] Includes documents required by Opinion No. 567.
[13] Applicable only to sales from reservoirs specified therein.
[14] Renegotiated contract rate is 27 cents.
[15] Agreement dated May 4, 1971, provides, among other things, for the renegotiated rates specified therein.
[16] Amendment dated Apr. 29, 1971, provides among other things for extension of contract term and for renegotiated rates specified therein.
[17] As corrected.
[18] Applicable to all gas except gas sold from reservoirs discovered after Oct. 1, 1968.
[19] Includes 1 cent for delivery of Offshore gas to Onshore.
[20] Applicable to gas sold from reservoirs discoverdd after Oct. 1, 1968.
[21] Contract dated Dec. 4, 1970, which provides for increased rate and supersedes contracts dated May 7, 1956, and June 5, 1952, on file under Crystal Oil Co. (Operator) et al., FPC GRS No. 7 and Bert Fields, Jr. (Operator) et al., FPC GRS No. 4, respectively.
[22] Current rate under Crystal's RS No. 7, includes 0.15-cent tax reimbursement.
[23] Current rate under Field's RS No. 4, includes 0.1533-cent tax reimbursement.
[24] Pursuant to Order No. 423.
[25] Base rate subject to downward B.t.u. adjustment.
[26] Base rate subject to upward and downward B.t.u. adjustment.
[27] Includes upward B.t.u. adjustment.
[28] Includes tax reimbursement.
[29] Corrected by filing of May 13, 1971.
[30] Applicable only to acreage added by Supplement No. 6.
[31] Base rate subject to downward B.t.u. adjustment.
[32] Applicant filing from initial certificated rate to initial contract rate.
[33] Unilateral rate increase. Primary term of contract has expired.
[34] Includes 1.5-cent tax reimbursement.
[35] Not used.
[36] The pressure base is 15.025 p.s.i.a.
[37] Accepted to become effective on the dates shown in the "Effective Date" column.
[38] Accepted to become effective on the dates shown in the "Effective Date" column with the express condition that this acceptance of the agreement does not constitute authorization under section 7 of the Natural Gas Act to initiate sales from the additional acreage dedicated to the contract by the agreement.
[39] Accepted to become effective on the date shown in the "Effective Date" column. The acceptance of the agreement filed by Union Oil Company of California is subject to the conditions prescribed elsewhere in this order.

The agreement filed by Union under its Rate Schedule No. 120 in addition to providing for the proposed increased rate involved here also provides for future escalations to any higher area ceiling rate prescribed or allowed to be collected by the Commission. These provisions do not conform with § 154.93(b-1) of the Commission's regulations. Consistent with Commission action taken on similar filings not in conformity with § 154.93(b-1), the agreement is accepted for filing upon expiration of statutory notice with the condition that these provisions will only apply upon the approval of a just and reasonable rate, or settlement rate, in an applicable area rate proceeding, for gas of comparable quality and vintage.

All of the southern Louisiana increases are suspended for a period ending 45 days from the date of filing or 1 day from the contractually due date, which ever is later, consistent with prior Commission action on southern Louisiana increases exceeding the area rates set forth in Opinions Nos. 546 and 546-A. The proposed increased rates in areas outside southern Louisiana filed by Texaco and Skelly which exceed the corresponding rate limitation for increased rates in southern Louisiana are suspended for 5 months upon expiration of statutory notice period. All of the other increases are suspended for periods ending 61 days from the dates of filing or for 1 day from the contractually due date, whichever is later.

Certain respondents request either waiver of notice or effective dates for which adequate notice was not given. Good cause has not been shown for granting these requests and they are denied.

All of the producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR Ch. I, Pt. 2, § 2.56).

[FR Doc.71-8016 Filed 6-9-71;8:45 am]

[Docket No. CP71-275]

TENNESSEE GAS PIPELINE CO.

Notice of Application

JUNE 3, 1971.

Take notice that on May 19, 1971, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (applicant), Post Office Box 2511, Houston, TX 77001, filed in Docket No. CP71-275 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the delivery of natural gas to Midwestern Gas Transmission Co. (Midwestern), an existing customer, at an additional delivery point for a term ending November 1, 1971, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is presently authorized to sell a maximum daily volume of 600,780 Mcf of natural gas to Midwestern through two delivery points. Applicant explains that it has commenced the purchase of natural gas on a best-efforts basis from National Chemical Co. (National) and that the volumes of gas so purchased are delivered to Midwestern, for the account of applicant, at an interconnection of the facilities of National and Midwestern near Owensboro, Ky. These volumes are accepted by Midwestern in lieu of equivalent volumes to be delivered by applicant at one of the two existing delivery points.

Applicant states that this action was undertaken pursuant to § 157.22(d) of the regulations under the Natural Gas Act (18 CFR 157.22(d)) because of an emergency supply situation existing in its Southwest Louisiana supply area, and that there are no additional sales proposed or facilities necessary to implement the aforementioned delivery. Continuation of the emergency deliveries are stated to be in furtherance of the policy set forth in § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 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.71-8105 Filed 6-9-71;8:50 am]

[Docket No. CP71-277]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

JUNE 3, 1971.

Take notice that on May 20, 1971, Transcontinental Gas Pipe Line Corp. (applicant), Post Office Box 1396, Houston, TX 77001, filed in Docket No. CP71-277 an application pursuant to section 7(b) of the Natural Gas Act for an order of the Commission permitting and approving the abandonment of various facilities, 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 abandon the following facilities:

(1) Approximately 0.13 mile of 6-inch transmission purchase pipeline known as the Union Oil-North White Lake purchase facilities, Vermilion Parish, La.

(2) Approximately 0.46 mile of 4-inch transmission purchase pipeline and one metering and regulator station and related facilities known as the J. Ray McDermott-Bancker purchase facilities, Vermilion Parish, La.

(3) Approximately 0.69 mile of 4-inch transmission purchase line and one metering and regulator station and related facilities known as the Tidewater-Gueydan purchase facilities, Vermilion Parish, La.

(4) Approximately 0.42 mile of 8-inch transmission purchase line and one metering and regulating station and related facilities known as the Tennessee Gas No. 2 Block 77 purchase facilities, Vermilion Area, Offshore Louisiana.

(5) Approximately 6.58 miles of 6-inch transmission purchase line known as Shell-Bear purchase line and approximately 2.37 miles of 4-inch gathering line and related gathering M&R station known as the Sun-Cowpen Creek purchase facilities, Beauregard Parish, La.

(6) Approximately 0.86 mile of 4-inch transmission purchase line and one metering and regulator station and related facilities known as the Union Block 35 No. 2 purchase facilities, Vermilion Area, Offshore Louisiana.

(7) Approximately 2.11 miles of 4-inch transmission purchase line and one metering and regulator station and related facilities known as the ODECO Block 129A purchase facilities, Eugene Island Area, Offshore Louisiana.

(8) Approximately 0.33 mile of 4-inch field gathering line and one metering and regulator station and related facilities known as the Trice-Bancker purchase facilities, Vermilion Parish, La.

Applicant states that these facilities were used to take into its pipeline system supplies of natural gas purchased from various producers in the respective fields and that said deliveries have been terminated because of exhaustion of reserves. Applicant further states that the metering and regulating stations and appurtenant facilities, where possible, will be salvaged for use at other company locations and that the pipelines will be abandoned in place.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 21, 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 permission and approval for the proposed abandonment are 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.71-8106 Filed 6-9-71;8:50 am]

FEDERAL RESERVE SYSTEM

FEDERAL OPEN MARKET COMMITTEE

Authorization for System Foreign Currency Operations

In accordance with § 271.5 of its Rules Regarding Availability of Information, there is set forth below paragraph 3 of the Committee's Authorization for System Foreign Currency Operations, as amended by action taken at its meeting on March 9, 1971.

3. Currencies to be used for liquidation of System swap commitments may be purchased from the foreign central bank drawn on, at the same exchange rate as that employed in the drawing to be liquidated. Apart from any such purchases at the rate of the drawing, all transactions in foreign currencies undertaken under paragraph 1(A) above shall, unless otherwise expressly authorized by the Committee, be at prevailing market rates and no attempt shall be made to establish rates that appear to be out of line with underlying market forces.

NOTE: For paragraph 1 of the authorization, see 34 F.R. 9044; for paragraph 2, see 35 F.R. 9297; and for paragraphs 4 through 10, see 32 F.R. 9583.

By order of the Federal Open Market Committee, June 2, 1971.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc.71-8051 Filed 6-9-71;8:45 am]

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive of March 9, 1971

In accordance with § 271.5 of its Rules Regarding Availability of Information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on March 9, 1971.[1]

The information reviewed at this meeting suggests that real output of goods and services, which declined in the fourth quarter of 1970, is rising in the current quarter primarily because of the resumption of higher automobile production. Although the unemployment rate has edged down recently, it remains high. Wage rates in most sectors are continuing to rise at a rapid pace. Movements in major price measures have been diversed; most recently, the rate of advance moderated for consumer prices and wholesale prices of industrial commodities, but wholesale prices of farm products and foods rose sharply. Bank credit increased considerably further in February, as business loans strengthened substantially and banks again made sizable additions to their holdings of securities. The money stock both narrowly and broadly defined expanded sharply in February. Short-term interest rates and mortgage rates have fallen further in recent weeks but yields on new issues of corporate and municipal bonds have risen considerably, in part as a result of the very heavy calendar of offerings. The overall balance of payments deficit in January and February was exceptionally large. Imports increased more rapidly than exports in January, and capital outflows have been stimulated by widened short-term interest rate differentials. In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions conducive to the resumption of sustainable economic growth, while encouraging an orderly reduction in the rate of inflation and the attainment of reasonable equilibrium in the country's balance of payments.

To implement this policy, System open market operations until the next meeting of the Committee shall be conducted with a view to maintaining prevailing money market conditions while accommodating any downward movements in long-term rates; provided that money market conditions shall be modified if it appears that the monetary and credit aggregates are deviating significantly from the growth paths expected.

By order of the Federal Open Market Committee, June 2, 1971.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc.71-8052 Filed 6-9-71;8:45 am]

[1] The Record of Policy Actions of the Committee for the meeting of Mar. 9, 1971, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FIRST TEXAS BANCORP, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(1)), by First Texas Bancorp, Inc., Georgetown, Tex., for prior approval by the Board of Governors of action whereby applicant would become a bank holding company through the acquisition of at least 66 percent of the voting shares of American State Bank, Killeen, Tex., of at least 82 percent of the voting shares of Citizens State Bank, Georgetown, Tex., and of at least 46 percent of the voting shares of First National Bank, Lampasas, Tex.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Dallas.

By order of the Board of Governors, June 4, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8053 Filed 6-9-71;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-106]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in an electric service rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the North Carolina Utilities Commission in a proceeding (Docket No. E–2, Sub 201) involving electric service rates of the Carolina Power & Light Co.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: June 4, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71–8118 Filed 6–9–71;8:51 am]

SECURITIES AND EXCHANGE COMMISSION

[70–5029]

AMERICAN ELECTRIC POWER CO., INC.

Notice of Proposed Issue and Sale of Notes to Banks and to Dealer in Commercial Paper by Holding Company, Exception From Competitive Bidding, and Capital Contributions to Subsidiary Companies

JUNE 4, 1971.

Notice is hereby given that American Electric Power Co., Inc. (AEP), 2 Broadway, New York, NY 10004, 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(b) and 12 of the Act and Rule 50(a)(5) 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.

AEP requests, pursuant to section 6(b) of the Act, that it be authorized to issue and sell, from time to time prior to June 30, 1973, short-term notes (including commercial paper) in an aggregate face amount of not more than $150 million to be outstanding at any one time. The amount of bank notes and commercial paper to be outstanding includes any such previously authorized notes which may be outstanding (File No. 70–4779).

The proceeds from the sale of the short-term notes are to be applied by AEP, together with other funds, to make additional investments in certain of its public-utility subsidiary companies to assist them in financing the costs of their respective construction programs and for other corporate purposes. AEP requests authority to make capital contributions from time to time prior to June 30, 1973, to five of its public-utility subsidiary companies, as follows: $80 million to Ohio Power Co. (Ohio), $30 million to Appalachian Power Co. (Appalachian), $50 million to Indiana & Michigan Electric Co. (I&M), $5 million to Kentucky Power Co. (Kentucky), and $2 million to Wheeling Electric Co. (Wheeling). The construction programs of the five subsidiary companies for the period June 1, 1971, through December 31, 1972, are estimated as follows: $340 million for Ohio, $144 million for Appalachian, $268 million for I&M, $13,605,000 for Kentucky, and $2,550,000 for Wheeling.

The notes to be sold to banks will bear interest not greater than the prime commercial rate then in effect, will mature not more than 270 days from the date of issue or reissue thereof, and will be prepayable at any time without premium or penalty. AEP will file with the Commission by amendment a list of the banks to which it proposes to issue and sell the proposed notes, and no such notes will be issued and sold prior to the issuance of an order by the Commission in connection therewith.

AEP proposes to issue and sell, from time to time prior to June 30, 1973, commercial paper to a dealer in commercial paper (dealer). The commercial paper notes will be of varying maturities with no such notes maturing more than 270 days after the date of issue, and none will be repayable prior to maturity. Such notes, in denominations of not less than $50,000 and not more than $5 million, will be issued and sold by AEP directly to the dealer at a discount rate which will not be in excess of the discount rate per annum prevailing at the date of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days if such commercial paper notes would have an effective interest cost which exceeds the effective interest cost at which AEP could borrow from banks. The dealer will reoffer the commercial paper notes to not more than 200 of such dealer's customers, identified and designated in a nonpublic list prepared by the dealer in advance, at a discount rate of one-eighth of 1 percent per annum less than the discount rate to AEP. It is expected that such customers of the dealer will hold the commercial paper notes to maturity, but, if any such customer wishes to resell such commercial paper prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase such commercial paper sold by it and reoffer it to other customers on the list.

It is stated that AEP will retire any notes to banks or commercial paper issued and sold pursuant to the authorization of the Commission in this proceeding on or before December 31, 1973, from internal cash resources and with the proceeds of the sale of common stock and such other securities as the Commission may authorize.

AEP requests an exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper. AEP states that it is not practical to invite competitive bids for commercial paper and that current rates for commercial paper for such prime borrowers as AEP are published daily in financial publications. AEP also requests authority to file certificates under Rule 24 with respect to the issue and sale of commercial paper hereafter consummated pursuant to this proceeding on a quarterly basis.

The application-declaration states that fees and expenses of approximately $2,500 are to be incurred by AEP in connection with the proposed transactions. It is further stated that the capital contributions of AEP to Appalachian require authorization by the State Corporation Commission of Virginia and the Public Service Commission of West Virginia, that the capital contributions to Wheeling require authorization of the Public Service Commission of West Virginia, such authorizations to be filed by amendment, and that no other 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 June 28, 1971, request in writing that a hearing be held in respect of 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 should the Commission 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] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8065 Filed 6-9-71;8:46 am]

[24NY-6960]

AT-YOUR-SERVICE LEASING CORP.

Order Permanently Suspending Regulation A Exemption

JUNE 1, 1971.

At-Your-Service Leasing Corp. (Issuer), 449 60th Street, West New York, NJ, a New Jersey corporation, filed with the Commission on October 23, 1969, a notification and offering circular, and subsequently filed amendments thereto, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933 pursuant to section 3(b) thereof and Regulation A thereunder, with respect to a public offering of 100,000 shares of its $0.01 par value common stock at $3 per share.

On January 28, 1971, the Commission issued an order, pursuant to Rule 261 of Regulation A, temporarily suspending the exemption. The order alleged that the notification and offering circular contained untrue and misleading statements of material facts in that, among other things, disclosure was not made that a certain individual would participate as an underwriter in the offering and that he had been enjoined from violations of section 5 of the Act; the issuer failed to conduct the offering in accordance with the terms set forth in the offering circular which stated that funds received under the offering would be returned to subscribers unless a minimum number of shares were sold within 90 days and that the money received during the 90-day period would be deposited in a special account; the offering circular stated that 100,000 shares would be issued only if the issuer received $300,000 (less commissions and expenses) when in fact the Issuer received only $127,500 despite the issuance of 100,000 shares to the public; the recital in the offering circular of the use of proceeds omitted any allocation for payment of part of a management consultant fee; and a firm other than the one named in the offering circular acted as transfer agent for the issuer. It was further alleged that the use of the offering circular was in violation of section 17(a) of the Act.

Counsel for the issuer filed a statement that the issuer did not intend to request a hearing, that it consented to the entry of an order permanently suspending the exemption under Regulation A, and that it intended to file a registration statement under the Securities Act for the primary purpose of offering rescission to purchasers in the Regulation A offering.

In view of the foregoing, it is appropriate to enter an order permanently suspending the exemption.

Accordingly, it is ordered, Pursuant to Rule 261 of Regulation A under the Securities Act of 1933, that the exemption from registration with respect to the offering of securities by At-Your-Service Leasing Corp. be, and it hereby is, permanently suspended.

For the Commission, by the Office of Opinions and Review, pursuant to delegated authority.

THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8066 Filed 6-9-71;8:46 am]

[24A-1972]

AUTRY ENTERPRISES, INC.

Order Permanently Suspending Regulation A Exemption

JUNE 2, 1971.

Autry Enterprises, Inc. (Issuer), Atlanta, Ga., a Georgia corporation, filed with the Commission on November 3, 1969 a notification and offering circular for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933 pursuant to section 3(b) thereof and Regulation A thereunder, with respect to a proposed public offering of 60,000 shares of its $0.50 par value common stock at $5 per share.

The Commission on October 7, 1970 issued an order pursuant to Rule 261 of Regulation A temporarily suspending the exemption. The order alleged, among other things, that no Regulation A exemption was available for securities of the issuer under Rule 252(d) in that an officer of the issuer and an unnamed underwriter were subjects of injunctions against violations of the Securities Act; that the terms and condition of Regulation A were not complied with in that the aggregate offering price as computed under Rule 253(c)(2) exceeded the $300,000 limitation imposed by Rule 254(a); and that the notification and offering circular omitted required information and contained materially misleading statements respecting, among other things, the Issuer's predecessors, affiliates, and underwriters, previous sales of unregistered securities, the purchase prices of and amounts due on various properties acquired by the Issuer, and material transactions between the Issuer and its officers and directors.

The Issuer filed an answer denying various allegations and requesting a hearing to determine whether that order should be vacated or an order entered permanently suspending the exemption. Subsequently, however, the Issuer withdrew its request for a hearing.

In view of the foregoing it is appropriate to enter an order permanently suspending the exemption.

Accordingly, it is ordered, Pursuant to Rule 261 of Regulation A under the Securities Act of 1933, that the exemption from registration with respect to the above public offering of securities by Autry Enterprises, Inc., be, and it hereby is, permanently suspended.

For the Commission, by the Office of Opinions and Review, pursuant to delegated authority.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8067 Filed 6-9-71;8:46 am]

[File No. 1-4847]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

JUNE 3, 1971.

The common stock, 2 cents par value, of Ecological Science Corp. being traded on the American Stock Exchange, the Philadelphia - Baltimore - Washington Stock Exchange and the Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 4, 1971 through June 13, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc. 71-8068 Filed 6-9-71;8:46 am]

[811-2132]

FIRST OF LOUISVILLE EQUITY FUND

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

JUNE 4, 1971.

Notice is hereby given that First Louisville Equity Fund (Applicant), an open-end diversified investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that the Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant represents that it registered under the Act on October 19, 1970. Applicant further represents that on April 5, 1971, the U.S. Supreme Court held that the operation of the applicant as a collective investment fund is prohibited by

federal banking laws. Accordingly, its registration statement filed under the Securities Act of 1933 has been withdrawn. Applicant has issued no securities; has not engaged in any business activities and does not intend to engage in any business activities; and it has no assets.

Section 3(c)(1) of the Act excepts from the definition of investment company any issuer whose outstanding securities are beneficially owned by not more than 100 persons, and which is not making and does not presently propose to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, 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. terested person may, not later than June 28, 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, if any, of fact or law proposed to be controverted or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time later than said date as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in 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] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8069 Filed 6-9-71;8:46 am]

[70-5030]

INDIANA & MICHIGAN ELECTRIC CO.

Notice of Proposed Issue and Sale of Notes to Banks and to Dealers in Commercial Paper and Exception From Competitive Bidding

JUNE 3, 1971.

Notice is hereby given that Indiana & Michigan Electric Co. (I&M), 2101 Spy Run Avenue, Fort Wayne, IN 46801, an electric utility subsidiary company of American Electric Power Co., Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

I&M requests that from the date of the granting of this application to June 30, 1973, the exemption from the provisions of section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the Act, relating to the issue of short-term notes, be increased to the extent necessary to cover the issuance and sale of notes to banks and to dealers in commercial paper up to the maximum amounts allowable under its Articles of Acceptance. I&M proposes to issue short-term notes to banks and commercial paper dealers in an aggregate amount not to exceed $63,500,000 outstanding at any one time, including short-term notes presently outstanding, such amount being the maximum allowable under I&M's Articles of Acceptance as of April 30, 1971. Increases in this amount may be authorized by supplemental order of the Commission. The notes are to be issued from time to time prior to June 30, 1973, as funds are required, provided that none of the notes will mature later than December 31, 1973.

The proceeds from the issue and sale of the notes will be used by I&M to reimburse its treasury for past expenditures made in connection with its construction program, to pay part of the cost of its future construction program, and for other corporate purposes. Such construction expenditures for the second half of 1971 and for the year 1972 are estimated to total $93 million and $175 million, respectively. The application states that, unless otherwise authorized by the Commission, all of the short-term debt of I&M will be retired prior to December 31, 1973, from internal cash resources, debt or equity financing, or cash capital contributions.

Each note payable to a bank to be issued by I&M will be dated as of the date of the borrowing which it evidences and will mature not more than 270 days after the date of issuance or renewal thereof. Each such note will bear interest no greater than the prime rate of commercial banks at the time of issuance or in effect from time to time and will be prepayable at any time without premium or penalty. I&M will not effect any borrowings from banks pursuant to this application until an amendment thereto has been filed setting forth the name or names of the banks from which such borrowings are to be effected and such amendment shall have been granted by order of the Commission.

The commercial paper will be in denominations of not less than $50,000 nor more than $5 million and will be of varying maturities, with no maturity more than 270 days after the date of issue; none will be prepayable prior to maturity. The commercial paper notes will be sold directly to not more than two dealers at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity more than 90 days at an effective interest cost which exceeds the effective interest cost at which I&M could borrow from banks. The dealers will reoffer the commercial paper notes to not more than 100 of their customers identified and designated in a list (nonpublic) prepared in advance. It is expected that I&M's commercial paper notes will be held by each dealer's customers to maturity, but if the customers wish to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer them to others in its group of 100 customers.

I&M requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper and that current rates for commercial paper of prime borrowers such as I&M are published daily in financial publications. I&M also requests authority to file certificates under Rule 24 with respect to the issue and sale of commercial paper hereafter consummated pursuant to this proceeding on a quarterly basis.

The application states that expenses related to the proposed transactions are estimated at $2,500. It is further stated 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 June 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 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 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, as filed or as it may be amended, may be granted 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] THEODORE L. HUMES, *Associate Secretary.*

[FR Doc.71-8070 Filed 6-9-71;8:46 am]

[70-5032]

JERSEY CENTRAL POWER & LIGHT CO. AND NEW JERSEY POWER & LIGHT CO.

Notice of Proposed Intrasystem Sale and Acquisition of Utility Assets

JUNE 4, 1971.

Notice is hereby given that Jersey Central Power & Light Co. (JCP&L) and New Jersey Power & Light Co. (NJP&L), Madison Avenue at Punch Bowl Road, Morristown, NJ 07960, both public-utility subsidiary companies of General Public Utilities Corp., a registered holding company, have filed a declaration, pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

JCP&L proposes to sell and NJP&L proposes to acquire certain utility assets now owned by JCP&L consisting primarily of transformers and related equipment and voltage regulators, a circuit breaker and transmission equipment, at the orignal cost thereof or in the case of used equipment at the original cost thereof less depreciation to the date of sale or transfer, or, if the assets are already being used by NJP&L, to the date when such use commenced. If the sales and acquisitions had been consummated at December 31, 1970, the aggregate consideration would have been approximately $210,144. The actual consideration will be of a lesser amount to reflect additional depreciation accruing after December 31, 1970. It is stated that the assets have ceased to be useful to JPC&L in the operation of its utility business and that the assets are needed by NJP&L in the operation of its utility business. It is further stated that the transaction is not being made pursuant to a written agreement.

The Board of Public Utility Commissioners of the State of New Jersey has approved the proposed sales by JCP&L. It is stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. The total fees and expenses, all of which are to be paid by JCP&L, are estimated at $1,800, including $1,600 for legal fees.

Notice is further given that any interested person may, not later than June 30, 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 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 declarants 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 filed or as it may be 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 its 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] THEODORE L. HUMES, *Associate Secretary.*

[FR Doc.71-8071 Filed 6-9-71;8:46 am]

[70-5031]

NEW JERSEY POWER & LIGHT CO. AND JERSEY CENTRAL POWER & LIGHT CO.

Notice of Proposed Intrasystem Sale and Acquisition of Utility Assets

JUNE 4, 1971.

Notice is hereby given that New Jersey Power & Light Co. (NJP&L) and Jersey Central Power & Light Co. (JSP&L), Madison Avenue at Punch Bowl Road, Morristown, NJ 07960, both public-utility subsidiary companies of General Public Utilities Corp., a registered holding company, have filed a declaration, pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

NJP&L proposes to sell and JCP&L proposes to acquire certain utility assets now owned by JCP&L consisting primarily of transformers and related equipment and switchgear, circuit breaker, and miscellaneous equipment, at the original cost thereof or in the case of used equipment at the original cost thereof less depreciation to the date of sale or transfer, or, if the assets are already being used by JCP&L, to the date when such use commenced. If the sales and acquisitions had been consummated at December 31, 1970, the aggregate consideration would have been approximately $124,084. The actual consideration paid will be of a lesser amount to reflect additional depreciation accruing after December 31, 1970. It is stated that the assets have ceased to be useful to NJP&L in the operation of its utility business and that the assets are needed by JPC&L in the operation of its utility business. It is further stated that the transaction is not being made pursuant to a written agreement.

The Board of Public Utility Commissioners of the State of New Jersey has approved the proposed sales by NJP&L. It is stated that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. The total fees and expenses, all of which are to be paid by NJP&L, are estimated at $1,800, including $1,600 for legal fees.

Notice is further given that any interested person may, not later than June 30, 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 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 declarants 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 filed or as it may be 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 its 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] THEODORE L. HUMES, *Associate Secretary.*

[FR Doc.71-8072 Filed 6-9-71;8:47 am]

[70-5033]

OHIO POWER CO.

Notice of Proposed Issue and Sale of Notes to Banks and to Dealers in Commercial Paper and Exception From Competitive Bidding

JUNE 3, 1971.

Notice is hereby given that Ohio Power Co. (Ohio), 301 Cleveland Avenue SW.,

Canton, OH 44701, an electric utility company of American Electric Power Co., Inc., a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Ohio requests that from the date of the granting of this application to June 30, 1973, the exemption from the provisions of section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the Act, relating to the issue of short-term notes, be increased to the extent necessary to cover the issuance and sale of notes to banks and to dealers in commercial paper up to the maximum amounts allowable under its Articles of Incorporation. Ohio proposes to issue short-term notes to banks and commercial paper dealers in an aggregate amount not to exceed $95,500,000 outstanding at any one time, including short-term notes presently outstanding, such amount being the maximum allowable under Ohio's Articles of Incorporation as of April 30, 1971. Increases in this amount may be authorized by supplemental order of the Commission. The notes are to be issued from time to time prior to June 30, 1973, as funds are required, provided that none of the notes will mature later than December 31, 1973.

The proceeds from the issue and sale of the notes will be used by Ohio to reimburse its treasury for past expenditures made in connection with its construction program, to pay part of the cost of its future construction program, and for other corporate purposes. Such construction expenditures for the second half of 1971 and for the year 1972 are estimated to total $95 million and $245 million, respectively. The application states that, unless otherwise authorized by the Commission, all of the short-term debt of Ohio will be retired prior to December 31, 1973, from internal cash resources, debt or equity financing, or cash capital contributions.

Each note payable to a bank to be issued by Ohio will be dated as of the date of the borrowing which it evidences and will mature not more than 270 days after the date of issuance or renewal thereof. Each such note will bear interest no greater than the prime rate of commercial banks at the time of issuance or in effect from time to time and will be prepayable at any time without premium or penalty. Ohio will not effect any borrowings from banks pursuant to this application until an amendment thereto has been filed setting forth the name or names of the banks from which such borrowings are to be effected and such amendment shall have been granted by order of the Commission.

The commercial paper will be in denominations of not less than $50,000 nor more than $5 million and will be of varying maturities, with no maturity more than 270 days after the date of issue; none will be prepayable prior to maturity. The Commercial paper notes will be sold directly to not more than two dealers at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity more than 90 days at an effective interest cost which exceeds the effective interest cost at which Ohio could borrow from banks. The dealers will reoffer the commercial paper notes to not more than 100 of their customers identified and designated in a list (nonpublic) prepared in advance. It is expected that Ohio's commercial paper notes will be held by each dealer's customers to maturity, but if the customers wish to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer them to others in its group of 100 customers.

Ohio requests exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof on the grounds that it is not practicable to invite competitive bids for commercial paper and that current rates for commercial paper of prime borrowers such as Ohio are published daily in financial publications. Ohio also requests authority to file certificates under Rule 24 with respect to the issue and sale of commercial paper hereafter consummated pursuant to this proceeding on a quarterly basis.

The application states that expenses related to the proposed transactions are estimated at $2,500. It is further stated 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 June 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 which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request would 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 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, as filed or as it may be amended, may be granted 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] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8073 Filed 6-9-71;8:47 am]

[File No. 24SF-3676]

PHYSICS TECHNOLOGY LABORATORIES, INC.

Order Temporarily Suspending Exemption Statement of Reasons Therefor, and Notice of Opportunity for Hearing

JUNE 3, 1971.

I. Physics Technology Laboratories, Inc. (PTL), 7841 El Cajon Boulevard, La Mesa, CA, was incorporated in California on December 27, 1961. It has been engaged in the development and production of a barbed wire type of metal tape, a device to apply thin coatings of materials to various surfaces and other products. PTL filed a notification under Regulation A with the San Francisco Office on January 29, 1971, and amendments to the notification on March 19 and April 12, 1971. The commencement of the offering has not been authorized and no official effective date for the offering has been established by PTL.

II. The Commission, on the basis of information reported to it by its staff, has reasonable cause to believe that:

A. The terms and conditions of Regulation A have not been complied with in that the securities included in the filing have been offered to the public before 10 days have elapsed after the filing of an amendment to the notification, and are now being offered, by Financial Services, Inc., the underwriter of PTL.

B. The offering is being made or would be made in violation of section 17 of the Securities Act of 1933, as amended, by Financial Services, Inc., the underwriter of PTL, in that false and misleading information has been given in the offer of the securities (1) to the effect that the Commission has authorized commencement of the offering, that the offer has been oversold and that some purchasers of the stock intend to resell their shares immediately for quick profits and (2) in that unsupported predictions and projections about the future sales of the products of PTL have been made to the public by PTL and Financial Services, Inc.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended.

It is ordered, Pursuant to Rule 261(a), subparagraph 1 of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that, if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the 30th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8074 Filed 6-9-71;8:47 am]

DEPARTMENT OF LABOR

Office of the Secretary

EVANGELINE SHOE CORP.

Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of February 8, 1971, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-54) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance submitted on behalf of workers formerly employed by the Evangeline Shoe Corp., Manchester, N.H. In this report, the Commission being equally divided, made no finding with respect to whether articles like or directly competitive with the women's and misses' footwear produced by Evangeline Shoe Corp. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers at the plant concerned. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended to accept the findings of those Commissioners who found injury as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Acting Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation. Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 F.R. 18342; 36 F.R. 7625; 29 CFR Part 90). In that recommendation he noted that layoffs resulting from increased imports started in the latter part of July 1969. After due consideration, I make the following certification:

All workers (hourly, salaried, and piecework) of the Evangeline Shoe Corp., Manchester, N.H. who became or will become unemployed or underemployed after July 24, 1969 are eligible to apply for adjustment assistance under title III, chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C. this 3d day of June 1971.

GEORGE H. HILDEBRAND,
Deputy Under Secretary, International Affairs.

[FR Doc.71-8063 Filed 6-9-71;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Notice 47]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

JUNE 4, 1971.

The following applications are governed by Special Rule 100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's General Policy Statement Concerning Motor Carrier Licensing Procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 30844 (Sub-No. 359), filed May 14, 1971. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, Waterloo, IA 50704. Applicant's representatives: Paul Rhodes (same address as applicant) and Truman A. Stockton, Jr., 1650 Grant Street Building, Denver, Colo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, packinghouse products, and commodities* used by packinghouses as described in appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Sterling, Colo., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

it be held at Washington, D.C., or Denver, Colo.

No. MC 31435 (Sub-No. 8), filed May 20, 1971. Applicant: OVERLAND TRANSPORTATION COMPANY, a corporation, 184 Massilon Road, Akron, OH 44305. Applicant's representatives: Robert R. Redmon and Jack R. Turney, Jr., 2001 Massachusetts Avenues NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from Marietta, Ohio, to points in North Carolina, South Carolina, and Banning, La Grange, and Thomaston, Ga., and Lynchburg, Va. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Marietta or Columbus, Ohio.

No. MC 33641 (Sub-No. 96), filed May 19, 1971. Applicant: IML FREIGHT, INC., 2175 South, 3270 West, Salt Lake City, UT 84110. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in cargo vans and/or containers, and empty cargo vans and containers, between ports of entry located in California, Oregon, and Washington, on the one hand, and, on the other, points in the continental United States, restricted to shipments having a prior or subsequent movement by water or air. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 34227 (Sub-No. 6), filed May 14, 1971. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, INC., 15 Broadway Street, Cortez, CO 81321. Applicant's representative: David R. Parker, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: (1) *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses*, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business; and (2) *commodities*, the transportation of which is partially exempt under section 203(b)(6) of the Interstate Commerce Act, when moving in the same vehicle and at the same time as the commodities described in (1) above; under contract with Associated Grocers of Colorado, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Albuquerque, N. Mex.

No. MC 41404 (Sub-No. 97) (Correction), filed April 22, 1971, published in the FEDERAL REGISTER issue of May 20, 1971, and republished in part as corrected this issue. Applicant: ARGO-COLLIER TRUCK LINES CORPORATION, Post Office Box 440, Fulton Highway, Martin, TN 38237. Applicant's representative: Tom D. Copeland (same address as above). NOTE: The purpose of this partial republication is to reflect the correct spelling of applicant's name as ARGO-COLLIER TRUCK LINES CORPORATION, in lieu of ARCO-COLLIER TRUCK LINES CORPORATION, inadvertently shown in previous publication. The rest of the application remains as previously published.

No. MC 51143 (Sub-No. 3), filed May 14, 1971. Applicant: B. & B. TRANSPORTATION, INC., 37 Ryder Avenue, Cranston, RI 02920. Applicant's representative: Russell B. Curnett, 36 Circuit Drive, Edgewood Station, Providence, RI 02905. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, and empty malt-beverage containers*, between points in that part of Maine south of U.S. Highway 2 and west of Maine Highway 27, including points on the indicated portions of the highways specified, on the one hand, and, on the other, Waterville, Maine. NOTE: Applicant states that the requested authority can be tacked with its presently held authority in MC 51143 wherein as here pertinent it holds authority to transport malt beverages, and empty malt-beverage containers, between Cranston, Providence, and Warwick, R.I., on the one hand, and, on the other, points in Massachusetts; and beverages, between points in Essex County, Mass., on the one hand, and, on the other, points in that part of Maine south of U.S. Highway 2 and west of Maine Highway 27, including points on the indicated portions of the highway specified. If a hearing is deemed necessary, applicant requests it be held at Providence, R.I., or Boston, Mass.

No. MC 57941 (Sub-No. 6), filed May 14, 1971. Applicant: CITY TRANSFER COMPANY, a corporation, 1712 South Central Avenue, Phoenix, AZ 85003. Applicant's representative: Donald E. Fernaays, 4114–A North 20th Street, Phoenix, AZ 85016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fire extinguishing compounds* in bags, and bulk, *water* in bulk, in tank vehicles, between Phoenix, Ariz., on the one hand, and, on the other, points in New Mexico. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pheonix, Ariz.

No. MC 61592 (Sub-No. 216), filed May 21, 1971. Applicant: JENKINS TRUCK LINE, INC., 3708 Elm Street, Bettendorf, IA 52722. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. 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;* (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, between points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 64932 (Sub-No. 496), filed May 21, 1971. Applicant: ROGERS CARTAGE CO., a corporation, 1439 West 103d Street, Chicago, IL 60603. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dispersant and refrigeration gases*, in bulk, in tank vehicles, from East Chicago, Ind., to Grand Forks, N. Dak. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 65626 (Sub-No. 26), filed May 17, 1971. Applicant: FREDONIA EXPRESS, INC., Post Office Box 222, Fredonia, NY 14063. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Baltimore, Md., to points in New York and *empty containers*, on return from points in New York to Baltimore, Md. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y .

No. MC 67500 (Sub-No. 5), filed May 17, 1971. Applicant: BLUE RIDGE TRUCKING COMPANY, a corporation, Koon Development, Asheville, N.C. 28803. Applicant's representative: James N. Golding, Post Office Box 7316, 4 South Pack Square, Asheville, NC 28807. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment): (1) from Murphy, N.C., over U.S. Highway 19 to Blairsville, Ga., thence over U.S. Highway 76 to Hiawassee, Ga., and return over the same route serving the intermediate points of Ranger, N.C., Young Harris, Ga., the plantsite of Owenby Manufacturing Co. at Iva Log, Ga., Blairsville, Ga., and serving the plantsite of Owenby Manufacturing Co. on Town Creek School Road south of Blairsville, Ga., as an off-route point. NOTE: Common

control may be involved. The application is accompanied with a motion to dismiss. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., Charlotte or Asheville, N.C.

No. MC 70083 (Sub-No. 19), filed May 13, 1971. Applicant: DRAKE MOTOR LINES, INC., 20 Olney Avenue, Cherry Hill, NJ 08034. Applicant's representatives: Louis P. Haffer and Andrew P. Goldstein, 1730 Rhode Island Avenue NW., Washington, DC 20036, and Leonard C. Zucker (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those in bulk, those which require special equipment, household goods as defined by the Commission, and classes A and B explosives); (1) between points in Dade County, Fla.; and (2) between points in Dade County, Fla., on the one hand, and, on the other, points in Broward County, Fla., restricted to shipments having an immediately prior or subsequent containerized movement by water moving under the bill of lading of a nonvessel operating common carrier by water. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

No. MC 72442 (Sub-No. 34), filed May 17, 1971. Applicant: AKERS MOTOR LINES, INCORPORATED, Post Office Box 579, Gastonia, NC 28052. Applicant's representatives: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301, and Lennox O. Boyles, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, tobacco, liquor, commodities in bulk, commodities requiring special equipment and household goods as defined by the Commission), serving Farmingdale, Long Island, N.Y., as an off-route point in connection with the carrier's existing regular route operation. NOTE: Applicant states that it presently holds authority to serve Farmingdale, Long Island, N.Y., and this application is merely for the purpose of clarifying its authority to serve points in its commercial zone. Applicant further states no duplicating authority sought. The application is accompanied with a motion to dismiss. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 96881 (Sub-No. 11), filed May 13, 1971. Applicant: ORVILLE M. FINE, doing business as FINE TRUCK LINE, 1211 South Ninth Street, Fort Smith, AR 72901. Applicant's representative: Thomas Harper or Don A. Smith, Post Office Box 43, Kelley Building, Fort Smith, AR 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Paris and Bonham, Tex., over U.S. Highway 82, serving no intermediate points, and serving Bonham, Tex., for interline purposes only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Fort Smith or Little Rock, Ark.

No. MC 99776 (Sub-No. 6) filed May 19, 1971. Applicant: BUCKNER TRUCKING, INC., 8802 Liberty Road, Houston, TX 77028. 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: *Lumber and lumber products, including plywood, particle board, and composition board*, from points in Walker and Polk Counties, Tex., to points in Oklahoma, Kansas, Missouri, Tennessee, Arkansas, Louisiana, Mississippi, and Alabama. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary applicant requests it be held at Houston or Dallas, Tex., or Shreveport, La.

No. MC 103993 (Sub-No. 636), filed May 20, 1971. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial movements and *buildings and sections of buildings*, from points in Saratoga County, N.Y., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y.

No. MC 106398 (Sub-No. 543), filed May 14, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representatives: Irvin Tull (same address as above) and Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Perry County, Ill., to points in the United States (except Alaska and Hawii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 106398 (Sub-No. 544), filed May 17, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representatives: Irvin Tull (same address as above) and Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, from points in Faulkner County, Ark., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Memphis, Tenn.

No. MC 106398 (Sub-No. 545), filed May 17, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, OK 74151. Applicant's representatives: Irvin Tull (same address as above) and Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buildings*, complete, knocked down, or in sections, including all component parts, materials, supplies and fixtures, and when shipped with such buildings, accessories used in the erection and construction, and completion thereof, from Parkersburg, W. Va., to points in California, Arizona, Colorado, Delaware, Florida, Idaho, Kansas, Maryland, Minnesota, Montana, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, Wyoming, and the District of Columbia; and (2) *underfloor electrical distribution systems, and component parts* when moving as a part of the same shipment with the described commodities, from Parkersburg, W. Va., to points in Arizona, California, Colorado, Florida, Georgia, Idaho, Kansas, the Upper Peninsula of Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Texas, Utah, Washington, and Wyoming. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack, and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control and dual may be involved. If a hearing is deemed necessary, applicant requests it be held at Parkersburg, W. Va.

No. MC 107002 (Sub-No. 407), filed May 19, 1971. Applicant: MILLER TRANSPORTERS, INC., Post Office Box 1123, U.S. Highway 80 West, Jackson, MS 39205. Applicant's representatives: John J. Borth (same address as applicant) and H. D. Miller, Jr., Post Office Box

22567, Jackson, MS 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Jacksonville and Lynn Haven, Fla., to points in Jackson County, Miss. NOTE: Applicant states that although tacking is not contemplated at this time, the authority sought could be combined with other authorities held by it to serve points in Arkansas, Louisiana, Mississippi, and Tennessee. If a hearing is deemed necessary, applicant requests it be held at Mobile, Ala., or New Orleans, La.

No. MC 107103 (Sub-No. 6), filed May 20, 1971. Applicant: ROBINSON CARTAGE CO., a corporation, 2712 Chicago Drive SW., Grand Rapids, MI 49509. Applicant's representative: Robert D. Schuler, 1 Woodward Avenue, Suite 1700, Detroit, MI 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which because of size or weight require the use of special equipment or specialized handling, and *related machinery parts, and related contractors' materials and supplies* when their transportation is incidental to the transportation by carrier of commodities which because of size or weight require the use of special equipment or specialized handling, between points in Muskegan, Ottawa, and Kent Counties, Mich., on the one hand, and, on the other, points in the United States (except those in Alaska, Connecticut, Hawaii, Illinois, Wisconsin, Maryland, Massachusetts, Michigan, New Jersey, New York, Pennsylvania, and West Virginia). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 107295 (Sub-No. 512), filed May 10, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representatives: Dale L. Cox and Mach Stephenson, 100 South Main Street, Farmer City, IL 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sheet metal products, and equipment, materials, and supplies* used in the installation of sheet metal products, from the plantsite and storage facilities of Penn Supply & Metal Corp., at Philadelphia, Pa., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 107295 (Sub-No. 513), filed May 12, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, 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: *Flakeboard, or particle board plywood lauan, hardboard, and when shipped therewith, molding and accessories*, from Elkhart, Ind., to points in Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107295 (Sub-No. 515), filed May 20, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representatives: Dale L. Cox and Max Stephenson, Post Office Box 146, Farmer City, IL 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board*, from Truman, Ark., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 107403 (Sub-No. 809), filed May 17, 1971. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representatives: John E. Nelson (same address as above) and Gerald K. Gimmel, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, in bulk, from the facilities used by A. E. Staley Manufacturing Co. at or near Morrisville, Pa., to points in Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, and West Virginia, restricted to the transportation of shipments originating at the named origins and destined to the named States. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107403 (Sub-No. 810), filed May 17, 1971. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representatives: John E. Nelson (same address as above), and Gerald K. Gimmel, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Liquid chemicals*, in bulk, from the plantsite and/or storage facilities of Georgia-Pacific Corp., at or near Plaquemine, La., to points in the United States (except Alaska and Hawaii). Restriction: Restricted to the transportation of shipments originating at the above-described origins and destined to the above-described destinations. NOTE: Common control may be involved. If a hearing is deemer necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 107403 (Sub-No. 812), filed May 20, 1971. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representatives: John E. Nelson (same address as applicant) and Harry C. Ames, Jr., 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer and fertilizer solution*, from points in Sumter County, Ga., to points in Alabama and Florida. NOTE: Applicant states that the authority sought herein can be tacked with existing authority held by applicant, however it has no present intention to tack and therefore does not identify the points or territories which could be served through such tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requested it be held at Washington, D.C.

No. MC 108119 (Sub-No. 30), filed May 14, 1971. Applicant: E. L. MURPHY TRUCKING CO., a corporation, 3303 Sibley Memorial Highway, St. Paul, MN 55111. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, which because of size or weight require special handling or the use of special equipment; (2) *related parts, materials, and supplies* when the transportation of such items is incidental to the transportation by carrier of commodities which by reason of size or weight require special handling or the use of special equipment; and, (3) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery tools, parts, and supplies* moving in connection therewith; restricted against the transportation of farm machinery, between points in Minnesota on the one hand, and, on the other, points in Ada and Jerome Counties, Idaho. NOTE: Common control may be involved. Applicant states that it intends to tack the requested authority with its existing authority in Minnesota. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 109397 (Sub-No. 256), filed April 15, 1971. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, Post Office Box 113, Joplin, MO 64801. Applicant's representatives: A. N. Jacobs (same address as applicant) and

Max G. Morgan, 600 Leininger Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and table sauces*, from the facilities of Del Monte Corp. in Alameda, Oakland, San Leandro, San Jose, and Sacramento, Calif., to points in Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 128814 and Subs thereunder, therefore, dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Dallas, Tex.

No. MC 109540 (Sub-No. 24, filed May 19, 1971. Applicant: YEARY TRANSFER COMPANY, INC., Post Office Box 398, Lexington, KY. Applicant's representative: Harry Ross, 848 Warner Building, Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete and concrete products*, between points in Kentucky, on the one hand, and, on the other, points in West Virginia, Ohio, Indiana, Illinois, and Tennessee. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lexington or Louisville, Ky., or Cincinnati, Ohio.

No. MC 109551 (Sub-No. 5), filed May 21, 1971. Applicant: MILLER TRUCKING, INC., 1001 South Fourth Street, Gas City, IN. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum billet or pigs, and aluminum scrap*, from Booneville, Ind., to Coldwater, Mich., and from Coldwater, Mich., to Booneville, Ind. NOTE: Applicant holds contract carrier authority in MC 74958. Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 110098 (Sub-No. 112), filed May 10, 1971. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Road, Post Office Box 20380, San Antonio, TX 78220. Applicant's representatives: Donald L. Stern, 530 Univac Building, 7400 West Center Road, Omaha, NE 68106, and T. W. Cothren (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in containers; *supplies, materials, ingredients, containers, machinery, and advertising materials* used in the manufacturing, packing, and distribution of foodstuffs, between the plantsite of Anderson, Clayton & Co., located near Fresno (Fresno County), Calif., on the one hand, and, on the other, the plantsites of Anderson, Clayton & Co., located at Sherman (Grayson County), Tex., and near Jacksonville (Morgan County), Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Fort Worth, Tex., or San Francisco, Calif.

No. MC 110098 (Sub-No. 113), filed May 10, 1971. Applicant: ZERO REFRIGERATED LINES, a corporation, 1400 Ackerman Road, Post Office Box 20380, San Antonio, TX 78220. Applicant's representatives: Donald L. Stern, 530 Univac Building, 7400 West Center Road., Omaha, NE 68106, and T. W. Cothren (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, cooked, cured, or preserved, with or without vegetable, milk, egg, or fruit ingredients, other than frozen, from Fort Madison, Iowa, to points in Texas. NOTE: Applicant states that it intends to tack with its authority under subs 13, and 93 at any points in Texas, to provide a through service to New Mexico, Arizona, California, and Nevada. No duplicate authority is sought. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Forth Worth, Tex.

No. MC 110525 (Sub-No. 1002), filed May 11, 1971. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representatives: Thomas J. O'Brien (same address as applicant) and Leonard A. Jaskiewicz, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, from the plantsite and/or storage facilities of Georgia-Pacific Corp., at or near Plaquemine, La., to points in the United States (except Alaska and Hawaii), restricted to the transportation of shipments originating at the above-described origins and destined to the above-described destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Washington, D.C.

No. MC 110525 (Sub-No. 1003), filed May 17, 1971. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representatives: Thomas J. O'Brien (same address as applicant) and Leonard A. Jaskiewicz, Suite 501, 1730 M Street, NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, in bulk, from facilities used by A. E. Staley Manufacturing Co. at or near Morrisville, Pa., to points in Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to the transportation of shipments originating at the named origins and destined to the named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 110798 (Sub-No. 5), filed May 10, 1971. Applicant: WILLISTON-SCOBEY TRANSFER, a corporation, Plentywood, Mont. 59254. Applicant's representative: Loren J. O'Toole, 209 North Main, Plentywood, MT 59254. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission and those requiring special equipment): (1) between Plentywood, Mont., and Williston, N. Dak., serving the intermediate points of Westby, Mont., East Westby, Fortuna Air Force Base, and Fortuna, N. Dak.; from Plentywood over Montana Highway 5 to the Montana-North Dakota State line, thence over North Dakota Highway 5 to junction U.S. Highway 85, thence over U.S. Highway 85 to Williston, N. Dak., and return over the same route; (2) between Opheim, Mont., and Glasgow, Mont., over Montana Highway 247; and (3) between Plentywood, Mont., and the port of entry on the international boundary line between the United States and Canada located at or near Raymond, Mont., serving the intermediate point of Raymond, Mont.; from Plentywood over Montana Highway 5 to junction Montana Highway 256, thence over Montana Highway 256 to the port of entry on the international boundary line between the United States and Canada located at or near Raymond, Mont., and return over the same route. NOTE: If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 111545 (Sub-No. 158), filed May 17, 1971. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road SE., Marietta, GA 30060. Applicant's representative: Robert E. Born, Post Office Box 6426, Station A, Marietta, GA 30060. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Castings*, from Lufkin, Tex., to points in the United States (excluding Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 111729 (Sub-No. 318), filed May 3, 1971. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representatives: John M. Delany

(same address as above) and Russell S. Bernhard, 1625 K Street NW., Washington, DC. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Business papers, records, and audit and accounting media of all kinds, and advertising material moving therewith;* (a) between Litchfield, Mich., on the one hand, and, on the other, Edgerton and Edon, Ohio, and Fremont, Ind.; (b) between Litchfield, Mich., on the one hand, and, on the other, the port of entry on the United States-Canada boundary line located at or near Detroit, Mich.; (c) between Minneapolis, Minn., on the one hand, and, on the other, points in Lincoln, Rock and Washington Counties, Wis.; (d) between Philadelphia International Airport, Philadelphia, Pa., on the one hand, and, on the other, Hamilton Square and Trenton, N.J., on traffic having an immediately prior or subsequent movement by air; (e) between La Guardia Airport, N.Y., on the one hand, and, on the other, Trumbull, Conn., on traffic having an immediately prior or subsequent movement by air; (f) between Great Neck, N.Y., on the one hand, and, on the other, Beltsville, Md., Carbondale, Pa., and Nashua, N.H.; (2) *small production machine repair parts,* restricted against the transportation of packages or articles weighing in the aggregate more than 95 pounds from one consignee on any one day; (a) between Litchfield, Mich., on the one hand; and, on the other, Edgerton and Edon, Ohio, and Fremont, Ind.;

(b) Between Litchfield, Mich., on the one hand, and, on the other, the port of entry on the United States-Canada boundary line located at or near Detroit, Mich.; (3) *Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies, and advertising material moving therewith* (excluding motion picture film used primarily for commercial theatre and television exhibition); (a) between Philadelphia International Airport, Philadelphia, Pa., on the one hand, and, on the other, Hamilton Square and Trenton, N.J., on traffic having an immediately prior or subsequent movement by air; (b) between La Guardia Airport, N.Y., on the one hand, and, on the other, Trumbull, Conn., on traffic having an immediately prior or subsequent movement by air; (4) *proofs, cuts, copy, advertising poster material, and material related thereto,* restricted to traffic having an immediately prior or subsequent movement by air; (a) between South Bend, Ind., on the one hand, and, on the other, points in Michigan on and south of Michigan Highway 55; (b) between South Bend, Ind., on the one hand, and, on the other, points in Indiana; and (c) between South Bend, Ind., on the one hand, and, on the other, points in Cook, Du Page, Lake, and Will Counties, Ill.; (5) *small parts* used in the manufacture of kitchen cabinets, restricted to the transportation of packages or articles weighing in the aggregate less than 100 pounds from one consignor to one consignee on any one day; between Great Neck, N.Y., on the one hand, and, on the other, Beltsville, Md., Carbondale, Pa., and Nashua, N.H.; (6) *computer parts, business machine parts, assemblies, and supplies pertaining thereto,* restricted against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any one day; between Des Moines, Iowa, on the one hand, and, on the other, points in Iowa and Nebraska, having an immediately prior or subsequent movement by air;

(7) *Small replacement and repair parts for tractors, farm machinery, and industrial and material handling equipment,* restricted to articles or packages weighing in the aggregate more than 100 pounds from one consignor to one consignee on any one day; (a) between Troy, Mich., on the one hand, and, on the other, points in Indiana, Ohio, and points in Kentucky on and east of Interstate Highway 65; (b) between Troy, Mich., on the one hand, and, on the other, Bloomington, Caledonia, Danville, Des Plaines, Dundee, Evanston, Manteno, Mattoon, Mendota, Milford, Mokena, Monee, Onarga, Orland Park, Ottawa, Pontiac, Thomasboro, Warrensville, and Waukegan, Ill.; (c) between Troy, Mich., on the one hand, and, on the other, Cameron, Huntington, Parkersburg, St. Albans, and Wheeling, W. Va.; (d) between Troy, Mich., on the one hand, and, on the other, points in Allegheny, Armstrong, Butler, Cambria, Crawford, Erie, Fayette, Greene, Indiana, Mercer, Somerset, and Washington Counties, Pa.; and (8) *ophthalmic goods and business papers and records* moving therewith; (a) between Jacksonville, Tampa, Miami, and Orlando, Fla., on the one hand, and, on the other, Jacksonville, Tampa, St. Petersburg, West Palm Beach, Sarasota, North Miami Beach, and Orlando, Fla., on traffic having a prior or subsequent movement by air; and (b) between Atlanta, Ga., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Mississippi, North Carolina, South Carolina, and Tennessee. NOTE: Applicant now holds contract carrier authority under its No. MC 112750 and subs, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 112801 (Sub-No. 122), filed May 21, 1971. Applicant: TRANSPORT SERVICE CO., a corporation, Post Office Box 50272, Chicago, IL 60650. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean products and blends,* dry, in bulk, from Cedar Rapids, Iowa, to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 113267 (Sub-No. 264), filed May 10, 1971. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Bags, and bagging,* (1) from Birmingham, Ala., to points in Georgia, Louisiana, Mississippi, and Tennessee; and (2) from New Orleans, La., to Birmingham, Ala. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or New Orleans, La.

No. MC 113267 (Sub-No. 265), filed May 14, 1971. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses,* as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site of Aristo Kansas Meat Packers, Inc., at or near Holton, Kans., to points in Louisiana, Mississippi, Kentucky, Tennessee, Alabama, Georgia, Florida, North Carolina, and South Carolina, restricted to traffic originating at the above-named origins and destined to the named destinations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 113267 (Sub-No. 266), filed May 14, 1971. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Paper and paper articles,* from points in Escambia County, Fla., to points in Indiana, Illinois, Iowa, Kentucky, Michigan, Minnesota, Ohio, Oklahoma, Tennessee, and Wisconsin, and St. Louis, Mo., and its commercial zone and that part of Arkansas within the commercial zone of Memphis, Tenn. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Memphis, Tenn.

No. MC 113459 (Sub-No. 65), filed May 17, 1971. Applicant: H. J. JEFFRIES TRUCK LINE, INC., Post Office Box 94850, Oklahoma City, OK 73109. Applicant's representative: James W. High-

tower, 136 Wynnewood Professional Building, Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Axles, wheels, axle parts, hub and drum assemblies, wheel rims, and related parts and accessories*, from Newton, Kans., to points in Wisconsin, Illinois, and Indiana; and (2) *pallets and gondolas*, from Newton, Kans., to Chicago, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 113678 (Sub-No. 426), filed May 14, 1971. Applicant: CURTIS, INC., Post Office Box 16004, Stockyards representatives: Duane W. Acklie and Richard Peterson, Post Office Box 806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides, dry acids, and chemicals, in bulk, and liquid commodities, in bulk, in tank vehicles), from the plantsite and warehouse facilities of Aristo Kansas Meat Packers, a division of Aristo Foods, Inc., located at or near Holton, Kans., to points in Illinois, Indiana, Michigan, Ohio, Pennsylvania, New York, Massachusetts, New Jersey, Maryland, Delaware, Connecticut, Rhode Island, New Hampshire, Maine, Vermont, West Virginia, Virginia, Kentucky, North Carolina, South Carolina, and the District of Columbia, restricted to traffic originating at the plantsite and warehouse facilities of Aristo Kansas Meat Packers. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Omaha, Nebr.

No. MC 113828 (Sub-No. 190), filed May 11, 1971. Applicant: O'BOYLE TANK LINES, INCORPORATED, Post Office Box 30006, Washington, DC 20014. Applicant's representatives: William P. Sullivan, 1819 H Street NW., Federal Bar Building West, Washington, D.C. 20006, and John F. Grimm (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from points in St. Mary's County, Md., to points in Delaware. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114019 (Sub-No. 215), filed May 10, 1971. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry corn products*, from North Bergen, N.J., to points in New Jersey, New York, Pennsylvania, Maryland, Delaware, and Connecticut, restricted to traffic having a prior movement by rail. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 114091 (Sub-No. 85), filed May 17, 1971. Applicant: HUFF TRANSPORT CO., INC., 2114 South 41 Street, Louisville, KY 40211. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, KY 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Murray, Ky., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Louisville, Ky.

No. MC 114123 (Sub-No. 39), filed May 17, 1971. Applicant: HERMAN R. EWELL, INC., East Earl, Pa. 17519. Applicant's representative: John M. Musselman, 400 North Third Street, Harrisburg, PA 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, in bulk, from facilities used by A. E. Staley Manufacturing Co. at or near Morrisville, Pa., to points in Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to the transportation of shipments originating at the named origins and destined to the named States. NOTE: Applicant also holds contract carrier authority under MC 118661 and subs thereunder, therefore dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 114265 (Sub-No. 10), filed May 17, 1971. Applicant: RALPH SHOEMAKER, doing business as SHOEMAKER TRUCKING COMPANY, 8624 Franklin Road, Boise, ID 83705. Applicant's representative: Raymond D. Givens, Box 964, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Farm machinery and equipment*, from points in Ada and Canyon County, Idaho, to points in Idaho, Oregon, California, Washington, Montana, Utah, Wyoming, Colorado, North Dakota, South Dakota, and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho.

No. MC 114312 (Sub-No. 21), filed May 18, 1971. Applicant: ABBOTT TRUCKING, INC., Route 3, Delta, OH 43515. Applicant's representative: James M. Burtch, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer ingredients*, from Marseilles, Ill., to points in the Lower Peninsula of Michigan. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 114632 (Sub-No. 44), filed May 17, 1971. Applicant: APPLE LINES, INC., Post Office Box 507, Madison, SD 57042. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat 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 M.C.C. 209 and 766 (except hides and commodities in bulk), from Holton, Kans., to points in Illinois, Missouri, Iowa, Wisconsin, Minnesota, North Dakota, South Dakota, Indiana, and Nebraska. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Omaha, Nebr.

No. MC 115311 (Sub-No. 118), filed May 17, 1971. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, Post Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products and accessories*, from the plantsite of Georgia Pacific Corp. at Brunswick, Ga., to points in Alabama, North Carolina, South Carolina, Tennessee, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 115311 (Sub-No. 119), filed May 17, 1971. Applicant: J & M TRANSPORTATION CO., INC., Post Office Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, Post

Office Box 872, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum products and accessories*, from the plantsite of Georgia-Pacific Corp. at Marietta, Ga., to points in Alabama, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 115495 (Sub-No. 20), filed May 14, 1971. Applicant: UNITED PARCEL SERVICE, INC., 300 North Second Street, St. Charles, IL 60174. Applicant's representatives: S. Harrison Kahn, 733 Investment Building, Washington, D.C. 20005, and Irving R. Segal, 1719 Packard Building, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading); (1) between points in Montana, Idaho, Nevada, Utah, Arizona, Washington, Oregon, and California; and (2) between points in Montana, Idaho, Nevada, Utah, Arizona, Washington, Oregon, and California, on the one hand, and, on the other, points in Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Illinois, Tennessee, and Mississippi. Restrictions: (a) No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment; and (b) no service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day. NOTE: Applicant states it intends to tack the requested authority with its existing authority held in MC 115495 subs 3, 4, 14, and 16. Applicant further states it will interline with its affiliated company, United Parcel Service, Inc., New York, N.Y., within the scope of the authority of the New York company. Applicant now holds contract carrier authority under its No. MC 13426 and subs, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 115648 (Sub-No. 23), filed May 19, 1971. Applicant: LUTHER LOCK, doing business as LUTHER LOCK TRUCKING, 974 Gilchrist, Post Office Box 290, Wheatland, WY 82201. Applicant's representative: Ward A. White, Post Office Box 568, Cheyenne, WY 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Stone, stone aggregates, and rock, faced or split*, from points in Albany, Laramie, Platte, and Converse Counties, Wyo., to points in Washington, Oregon, California, Nevada, Arizona, North Dakota, Minnesota, Wisconsin, Illinois, Michigan, Indiana, Missouri, Arkansas, Tennessee, Louisiana, Utah, points in Texas east of U.S. Highway 75 (Interstate Highway 45) and south of U.S. Highway 80 (Interstate Highway 20), and points in Albany, Laramie, Platte, and Converse Counties, Wyo.; and (b) *rock, faced or split*, from points in Albany, Laramie, and Platte Counties, Wyo., to points in Colorado, Idaho, Kansas, Nebraska, South Dakota, Iowa, New Mexico, Oklahoma, Montana, and points in Texas on and west of U.S. Highway 75 (Interstate Highway 45) and on and north of U.S. Highway 80 (Interstate Highway 20). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cheyenne, Wyo., or Denver, Colo.

No. MC 115917 (Sub-No. 23), filed May 17, 1971. Applicant: UNDERWOOD & WELD COMPANY, INC., Post Office Box 247, Crossnore, NC 28616. Applicant's representative: Wilmer B. Hill, 705 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt and salt products* (except in bulk), from the plantsites and warehouse facilities of International Salt Co., at Cleveland, Ohio, to points in Alabama, Florida, Georgia, Kentucky, Maryland, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia; and (2) *pepper*, ground, in packages, in mixed loads with *salt and salt products*, from the plantsites and warehouse facilities of International Salt Co., at Watkins Glen, N.Y., to points in Alabama, Florida, Virginia, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 116101 (Sub-No. 10), filed May 17, 1971. Applicant: QUICK AIR FREIGHT, INC., Port Columbus, Cargo Building, Columbus, Ohio. Applicant's representatives: James R. Stiverson and Edwin H. van Deusen, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical distribution equipment*, in emergency service, from Oxford, Ohio to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 117167 (Sub-No. 2), filed May 13, 1971. Applicant: WHEELER'S TOWING & SERVICE, INC., 5050 L Street, Omaha, NE 68117. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wrecked, disabled, inoperative, stolen, abandoned, and repossessed motor vehicles and cargo trailers* by use of wrecker equipment only, between Omaha, Nebr., and Council Bluffs, Iowa, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); and (2) *wrecked, disabled, inoperative, stolen, abandoned, and repossessed motor vehicles* (except automobiles), in truckaway service, between Omaha, Nebr., and Council Bluffs, Iowa, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 117815 (Sub-No. 176), filed May 17, 1971. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Aristo Kansas Meat Packers, Division of Aristo Foods, Inc., at or near Holton, Kans., to points in Illinois, Indiana, Iowa, Minnesota, Michigan, Ohio, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Omaha, Nebr.

No. MC 117940 (Sub-No. 47), filed May 20, 1971. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C to appendix I to the report in *Descriptions in Motor Carriers Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles, and hides), from the plantsite and/or storage facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. Restricted to traffic originating at the named origins and destined to

the named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 119160 (Sub-No. 4), filed May 13, 1971. Applicant: H. E. SPANN & COMPANY, INC., Post Office Box 1111, Mount Pleasant, TX 75455. Applicant's representative: Mert Starnes, The 904 Lavaca Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Gravel, sand, rock, coliche, shell, iron ore, ready-mix asphalt, riprap, aggregate, dirt, bulk cement mixed with sand, crushed limestone, flexible base, and sand mixed with stone, gravel and crushed stone or rock*, in bulk, in dump trucks or trailers with dump bodies, from points in Miller and Lafayette Counties, Ark., to points in Arkansas (except points in Little River, Columbia, Hempstead, Howard, Sevier, and Polk Counties, Ark.), Louisiana (except points in Webster, DeSoto, Bossier, and Caddo Parishes, La.), Oklahoma (except points in McCurtain, Pushmataha, Bryan, Choctaw, and Atoka Counties, Okla.) and Texas (except points in Grayson, Collin, Fannin, Hunt, Lamar, Hopkins, Red River, Titus, Camp, Bowie, Morris, Cass, Marion, Harrison, and Panola Counties, Tex.). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 119399 (Sub-No. 27), filed May 17, 1971. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Post Office Box 1375, Joplin, MO 64801. Applicant's representative: David L. Sitton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry chemicals, including fertilizer and fertilizer materials*, in bulk and in packages, from Military and Hallowell, Kans., to points in Arkansas, Colorado, Iowa, Missouri, Nebraska, Oklahoma, and Texas, and (2) *Fertilizer and fertilizer materials*, dry, in bulk or in packages; *insecticides, fungicides, and herbicides*, except liquid in bulk, also in mixed shipments with manufactured fertilizer and fertilizer materials, from points on the Arkansas and Verdigris Rivers in Oklahoma to points in Arkansas, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, Texas, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Oklahoma City, Okla.

No. MC 119531 (Sub-No. 151), filed May 7, 1971. Applicant: DIECKBRADER EXPRESS, INC., 5391 Wooster Road, Cincinnati, OH 45226. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Suite 1625, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic material*, expanded, from Cincinnati, Ohio, to points in Illinois, Indiana, Kentucky, Michigan, Pennsylvania, and West Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant request it be held at Chicago, Ill., or Cincinnati, Ohio.

No. MC 119619 (Sub-No. 54), filed May 10, 1971. Applicant: DISTRIBUTORS SERVICE CO., a corporation, 2000 West 43d Street, Chicago, IL 60609. Applicant's representative: Arthur J. Piken, 1 Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats*, cooked, cured, or preserved, with or without vegetable, milk, egg, or fruit ingredients, other than frozen, from the plantsite facilities utilized by Armour-Dial, Inc., at Fort Madison, Iowa, to points in Illinois, Ohio, Minnesota, West Virginia, New York, Pennsylvania, and Connecticut; and (2) *meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from points in Indiana, Illinois, Missouri, Minnesota, Kansas, Nebraska, and Wisconsin, to the plantsite facilities used by Armour-Dial, Inc., at Fort Madison, Iowa. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119669 (Sub-No. 23) (Correction), filed May 3, 1971, published in the FEDERAL REGISTER issue of May 27, 1971, and republished in part as corrected this issue. Applicant: TEMPCO TRANSPORTATION, INC., 546 South 31A, Columbus, IN. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603. NOTE: The sole purpose of this partial republication is to show the correct docket number assigned. The rest of the application remains as previously published.

No. MC 119777 (Sub-No. 213), filed May 10, 1971. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Madisonville, Ky. 42431. Applicant's representative: William G. Thomas (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Laundry and dry cleaning equipment, metal stampings, casting, and parts, attachments, and accessories*, used in the assembly and/or manufacture of laundry and dry cleaning equipment, between the plantsite of Huebsch Originators, American Laundry & Machine Industries, Division of McGraw-Edison, Madisonville, Ky., and points in the United States (except Hawaii). NOTE: Applicant states that the requested authority can be tacked but not feasible. It has no present intention to tack, therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 119815 (Sub-No. 9), filed May 11, 1971. Applicant: INTERSTATE HIGHWAY EXPRESS, INC., 814 Norton Avenue, Bedford, IN 47421. Applicant's representative: Walter F. Jones, Jr., Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Rough castings*, from Amite, La., to Bedford, Ind.; and (2) *munition deactivating furnaces, machine parts, and clam shell bucket bails*, from Bedford, Ind., to points in the United States (except Hawaii), restricted to traffic originating at or destined to the plantsite of Bedford Machine Co., Inc., Bedford, Ind., and under contract with Bedford Machine Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Indianapolis, Ind.

No. MC 123407 (Sub-No. 83), filed May 14, 1971. Applicant: SAWYER TRANSPORT, INC., 2424 Minnehaha Avenue South, Minneapolis, MN 55404. Applicant's representative: Robert W. Sawyer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wallboard, pulpboard, and hardboard; materials and accessories used in the installation thereof*, from Pulaski County, Ark., to points in the United States in and east of Montana, Wyoming, Colorado, New Mexico, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Little Rock, Ark.

No. MC 123407 (Sub-No. 84), filed May 21, 1971. Applicant: SAWYER TRANSPORT, INC., 2424 Minnehaha Avenue, Minneapolis, MN 55404. Applicant's representative: Robert W. Sawyer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board, plywood, building materials; and materials, accessories, and supplies used in the installation thereof*, from Lakeville, Minn., to points in Iowa, Michigan, Minnesota,

Montana, Nebraska, North Dakota, South Dakota, Wisconsin, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 124211 (Sub-No. 185), filed May 17, 1971. Applicant: HILT TRUCK LINE, INC., Post Office Drawer 988 D.T.S., Omaha, NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts, accessories, and supplies, and petroleum products*, from Council Bluffs, Iowa, to points in the United States (except Alaska and Hawaii). Restriction: The authority sought herein, to the extent it duplicates authority presently held by applicant, shall not be construed as conferring more than one operating right severable by sale or otherwise. NOTE: Applicant states that the requested authority can be tacked with its pending certificate in MC 124211 Sub-No. 141, tacking would take place at origin involved in subject application, to provide a through service. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 124711 (Sub-No. 11), filed May 17, 1971. Applicant: BECKER AND SONS, INC., 2643 West Central El Dorado, KS 67042. Applicant's representative: Erle W. Francis, Suite 719, 700 Kansas Avenue, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals, including fertilizer and fertilizer materials*, in bulk, and in packages, from Military, Kans., and Hallowell, Kans., to points in Arkansas, Colorado, Iowa, Missouri, Nebraska, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Topeka, Kans.

No. MC 124735 (Sub-No. 13), filed May 17, 1971. Applicant: R. C. KERCHEVAL, JR., 4424 Fourth Avenue South, Seattle, WA 98134. Applicant's representative: Joseph O. Earp, 411 Lyon Building, 607 Third Avenue, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Trailer axles and parts, suspensions, landing gear, fifth wheels, hitches and parts thereof, and mechanical refrigeration units*, from Montgomery, Ala.; Marshfield, Springfield, and Warrenton, Mo.; Holland, Mich.; and Minneapolis, Minn.; to Portland Oreg.; under contract with Standard Parts & Equipment Co., Portland, Oreg. NOTE: If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 125194 (Sub-No. 15), filed May 14, 1971. Applicant: STATE LINE DAIRY, INC., 1015 State Line Road, Niles, MI 49120. Applicant's representative: J. M. Neath, Jr., 900, One Vandenberg Center, Grand Rapids, MI 49502. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Milk and dairy products and filled or imitation milk and dairy products, fruit drinks, and salads*, from Indianapolis, Ind., to points in Indiana, under contract with The Kroger Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Lansing or Detroit, Mich.

No. MC 125513 (Sub-No. 6), filed May 19, 1971. Applicant: HOWARD G. SLAUGHTER, doing business as SLAUGHTER BEVERAGE TRANSPORT, Rural Delivery 1, Townsend, Del. 19734. Applicant's representative: Howard G. Slaughter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages* (except in bulk, in tank vehicles), from Winston-Salem, N.C., to Wilmington and Milford, Del. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Wilmington, Del., Philadelphia, Pa., or Washington, D.C.

No. MC 126222 (Sub-No. 11), filed May 17, 1971. Applicant: JOSEPH A. SIEFERT AND JOSEPH J. SIEFERT, a partnership, doing business as SIEFERT BROS. TRUCKING CO., U.S. Highway 51 South, Post Office Box 310, DuQuoin, IL 62832. Applicant's representative: Ernest A. Brooks II, 1301 Ambassdor Building, St. Louis, Mo. 63101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Toys and games*, from the plantsite of Turco Manufacturing Co. at DuQuoin, Ill., to points in the United States (except Alaska and Hawaii), under a continuing contract with Turco Manufacturing Co. at DuQuoin, Ill. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 128642 (Sub-No. 7), filed May 17, 1971. Applicant: SKYLINE TRANSPORT, INC., 6120 Eastborune Avenue, Baltimore, MD 21224. Applicant's representative: J. Meredith Russell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn products*, in bulk, from Facilities used by A. E. Staley Manufacturing Co. at or near Morrisville, Pa., to points in Connecticut, Delaware, Florida, Georgia, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia. Restricted to the transportation of shipments originating at the named origins and destined to the named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128791 (Sub-No. 8), filed April 21, 1971. Applicant: L & S BOAT TRANSPORTATION COMPANY, INC., 5924 Ulmerton Road, Clearwater, FL 33516. Applicant's representative: Dale E. Lewis (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats, boat parts, equipment and supplies* moving in connection therewith, from Burlington, and Monmouth Counties, N.J., to points in Florida, Georgia, South Carolina, North Carolina, Alabama, and Louisiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 128862 (Sub-No. 11), filed May 6, 1971. Applicant: B. J. CECIL TRUCKING, INC., Box C, Claypool, AZ 85532. Applicant's representative: Earl H. Carroll, 363 North First Avenue, Phoenix, AZ 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Shredded tin scrap*, from points in Arizona to points in Grant County, N. Mex., and (2) *copper cement*, from points in Arizona to McGill, Nev. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Tyrone, N. Mex.

No. MC 129340 (Sub-No. 1), filed May 17, 1971. Applicant: A. C. ENTERPRISES, INC., Post Office Box 927, Parkersburg, WV. Applicant's representative: James R. Stiverson and Edwin H. van Deusen, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives), between points in Marshall, Ohio; Cabell, Mason, Jackson, Lincoln, Putnam, Monongalia, Preston, Taylor, Upshur, Barbour, Tucker, Wayne, Randolph, Grant, Mineral, Hampshire, Hardy, Berkeley, Jefferson, Morgan, Pendleton, Pocahontas, and that part of Harrison, Braxton, Lewis, Marion, and Wetzel north and east of U.S. Highway 19 and 250, Counties, W. Va.; Greenup, and Boyd Counties, Ky.; points in Belmont, Lawrence, and Gallia Counties, Ohio; Garrett and Allegheny Counties, Md.; Washington and Green Counties, Pa.; on the one hand, and, on the other the, Kanawha County Airport near Charleston, W. Va.; the Huntington Ashland Airport near Huntington, W. Va.; the Wood County Airport, near Parkersburg, W. Va.; the Cleveland-Hopkins Airport, near Cleveland, Ohio; the Greater Cincinnati Airport (in Kentucky) near Cincinnati, Ohio; the Greater Pittsburgh Airport, near Pittsburgh, Pa.; the Detroit Metropolitan Airport near Detroit, Mich., restricted to shipment having a prior or subsequent movement by air. Lawrence and Gallia Counties, Ohio, restricted against traffic between Cleveland-Hopkins and Greater Cincinnati Airports. NOTE: Applicant

states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Columbus, Ohio.

No. MC 127900 (Sub-No. 1), filed April 30, 1971. Applicant: GROOME TRANSPORTATION, INC., Byrd Airport, Sandston, Va. Applicant's representative: M. Bruce Morgan, 201 Azar Building, Glen Burnie, Md. 21061. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except in bulk), having immediately prior or immediately subsequent movement by air, (1) between Philadelphia International Airport, Philadelphia, Pa., on the one hand, and, on the other, Richard E. Byrd Airport, Sandston, Va.; Norfolk Municipal Airport, at or near Norfolk, Va., and Patrick Henry Airport, at or near Newport News, Va.; and (2) between Byrd Airport, Sandston, Va.; and Norfolk Municipal Airport, at or near Norfolk, Va., and Patrick Henry Airport, at or near Newport News, Va. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Richmond, Va.

No. MC 133220 (Sub-No. 3), filed May 10, 1971. Applicant: RECORD TRUCK LINE, INC., Box 11, Henderson, TN 38340. Applicant's representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Building, Memphis, TN 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fire prevention sprinkler systems and fire prevention sprinkler systems parts, accessories, and attachments;* and (2) *power piping, pipe fittings, pipe connections, castings and valves,* from the plantsites and warehouse facilities of Grinnell Corp., Grinnell Co., Inc., and Grinnell Industrial Piping Co. at Atlanta, Ga., Dallas, Tex., and Kernersville, N.C., to points in the United States (except Alaska and Hawaii); and (3) *materials used in the fabrication, assembly, and installation of* (1) and (2) above from points in the United States (except Alaska and Hawaii) to the named plant and warehouse sites of Grinnell Corp., Grinnell Co., Inc., and Grinnell Industrial Piping Co. under continuing contract or contracts with Grinnell Corp., Grinnell Co., Inc., and Grinnell Industrial Piping Co. NOTE: Applicant has common carrier authority pending under MC 125227 Sub 10, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 133775 (Sub-No. 10), filed May 11, 1971. Applicant: REEFER TRANSIT LINE, INC., 55 East Washington Boulevard, Chicago, IL 60602. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plant facilities of Banner Beef Co., at Hospers, Iowa, to points in Ohio, Pennsylvania, New York, New Jersey, West Virginia, Virginia, Maryland, Delaware, Massachusetts, Connecticut, Rhode Island, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, IL.

No. MC 134672 (Sub-No. 1), filed March 22, 1971. Applicant: E. N. SCULLY, S. H. SCULLY, L. A. SCULLY, and R. J. SCULLY, a partnership doing business as, VALENCIA TRUCKING, 25555 Avenue Stanford, Valencia, CA. Applicant's representative: William Davidson, 2455 East 27th Street, Vernon, CA 90058. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, between points in California within an area bounded as follows: Beginning at the intersection of the Golden State Freeway and Antelope Valley Freeway, and proceeding northwesterly along the Golden State Freeway to its intersection with the Castaic Canyon Road, thence northwesterly along Castaic Canyon Road to its intersection with the San Francisco Rancho Township line, thence northeasterly along the San Francisco Rancho Township line and thence easterly along the San Francisco Rancho Township line to its intersection with township line T. 4 N., thence easterly along township line T. 4 N. to its intersection with Sierra Highway, thence southwesterly along Sierra Highway to its intersection with Sand Canyon Road, thence southerly along Sand Canyon Road to its intersection with the Antelope Valley Freeway, thence southwesterly along Antelope Valley Freeway to its intersection with the Golden State Freeway, on the one hand, and, on the other, Los Angeles, Montebello, Pico Rivera, and Santa Fe Springs, Calif. Carrier intends to interline with other carriers at Los Angeles, Montebello, Pico Rivera, and Santa Fe Springs, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 134776 (Sub-No. 12), filed May 21, 1971. Applicant: MILTON TRUCKING, INC., Post Office Box 207, Milton, PA 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Foodstuffs, confectioneries* (except in bulk); (1) from Canajoharie, N.Y., to points in Pennsylvania, Maryland, Ohio, Indiana, and Michigan; and (2) from Holland, Mich., to Canajoharie, N.Y., under contract with Beech Nut, Inc. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 134847 (Sub-No. 3), filed February 7, 1971. Applicant: BESSETTE TRANSPORT INC., 505 Provost Street, Iberville, PQ, Canada. Applicant's representative: Norman F. Menard, 441 Maisonneuve Boulevard, St. Johns, PQ, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bedford Slate, slate detergent, ammoniated stripper and slate detergent,* from ports of entry on the international boundary line between the United States and Canada at or near Champlain, Ogdensburg, and Rouses Point, N.Y., and Highgate Springs, Newport, Vt., to Atlanta, Ga., Baltimore, Md., Pensacola, Fla., Cincinnati, Ohio, New Orleans, La., Jersey City, N.J., and Boston, Mass. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y.

No. MC 134880 (Sub-No. 1), filed May 3, 1971. Applicant: RICHMOND TRANSFER LTD., 425 Alexander Street, Vancouver 4, BC, Canada. Applicant's representative: J. Stewart Black, 1322 Laburnum Street, Vancouver 9, BC, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper products,* from international boundary at or near Blaine and Lynden, Wash., to Bellingham, Wash. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle or Bellingham, Wash.

No. MC 135276 (Sub-No. 1), filed April 30, 1971. Applicant: GENE ROMSBURG ENTERPRISES, INC., South Water Street, Frederick, MD 21701. Applicant's representative: Francis J. Ortman, 1700 Pennsylvania Avenue NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bituminous asphalt hot mix and stone*, in dump trucks, from points in Frederick and Washington Counties, Md., to points in Fulton, Franklin, Adams, and York Counties, Pa.; Morgan, Berkeley, and Jefferson Counties, W. Va.; and Frederick, Loudoun, and Clarke Counties, Va. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 135340 (Sub-No. 1), filed May 21, 1971. Applicant: C. A. WALKER TRUCK LINES, INC., 1518 North Santa Fe Avenue, Chillicothe, IL 61532. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles,

from Henry, Ill., to points in Iowa, Indiana, Michigan, Minnesota, and Wisconsin. NOTE: If a hearing is deemed necessary, applicant requests it be held at Springfield or Chicago, Ill.

No. MC 135403 (Sub-No. 1), filed May 17, 1971. Applicant: CARROL G. MILLER, doing business as MILLER TRANSFER & STORAGE, 31259 East Highway 66, Barstown, CA 92311. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square Street, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Los Angeles, Orange, San Diego, Ventura, Santa Barbara, Kern, Riverside, Imperial, and San Bernardino Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement, in containers beyond the points authorized 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 traffic. NOTE: Applicant states that the requested authority cannot be tacked with its existing auhority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 135416 (Sub-No. 1), filed May 19, 1971. Applicant: ROBERT C. HUDAK, doing business as CHAMPION VAN AND STORAGE, 879 North Highway 101, Post Office Box 194, Buellton, CA 93427. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Santa Barbara, San Luis Obispo, and Ventura Counties, Calif., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized 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 traffic. NOTE: If a hearing is deemed necessary, applicant does not specify the location.

No. MC 135439 (Sub-No. 2), filed May 17 1971. Applicant: MICHAEL J. MANNING, doing business as MANNING TRANSPORT, 829 24th Avenue SE., Minneapolis, MN 55414. Applicant's representative: Michael Manning (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products, dairy byproducts, fruit juices, and fruit drinks*, from St. Paul, Minn., to Amery, Baldwin, Chippewa Falls, Hudson, La Crosse, Luck, New Richmond, and Whitehall, Wis., under contract with Sanitary Farm Dairies, St. Paul Division of Land O'Lakes, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 135497 (Sub-No. 1), filed May 14, 1971. Applicant: I–5 FREIGHTLINE, INC., 5949 North Basin Avenue, Portland, OR 97217. Applicant's representative: John G. McLaughlin, 726 Blue Cross Building, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except household goods as defined in 17 M.C.C. 467, commodities in bulk, in tank vehicles, and commodities which because of size or weight require the use of special equipment in transit), over regular routes as follows: (1) Over regular routes: (a) Between Portland, Oreg., and Medford, Oreg., from Portland over U.S. Highway 99, 99E, and 99W, and Interstate Highway 5 to Eugene, Oreg., thence continue over U.S. Highway 99 (also over Interstate Highway 5), to Medford, and return over the same route, serving all intermediate points and all off-route points within 10 miles of the above-described routes (except between Portland and Salem, Oreg.); (b) between Corvallis, Oreg., and Foster, Oreg., from Corvallis to Lebanon over U.S. Highway 20 (also over Oregon State Highway 34), and return over the same route; from Lebanon to Foster over U.S. Highway 20; and return over the same route, serving all intermediate points and off-route points within 10 miles of the described routes; and (2) over irregular routes: Between points in Douglas, Jackson, and Josephine Counties, Oreg. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Eugene, or Medford, Oreg.

No. 135527 (Sub-No. 2), filed May 17, 1971. Applicant: PHD TRUCKING SERVICE, INC., Post Office Box 106, Spanish Fork, UT 84660. Applicant's representative: Miss Irene Warr, 419 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Ore and ore concentrates*, in bulk, from Darwin, Calif., to International Smelter at Tooele, Utah, and (2) *shale cinders* (Utelite) in bulk, from Utelite Corp. plantsite in Summit County, Utah, to points in Nevada. NOTE: If a hearing is deemed necessary, applicant requests it be held at Salt Lake City or Provo, Utah.

No. MC 135535 (Sub-No. 2), filed May 10, 1971. Applicant: EL DORADO TRANSPORTATION, INC., 206 North Concord, Minneapolis, KS 67467. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Slide-in pickup campers; chassis model campels; mini motor homes, and repair parts and accessories* when shipped in combination loads with slide-in campers, chassis model campers or mini motor homes, and *chassis model campers and mini motor homes* in drive-away service and *repair parts and accessories*, when moving therewith, between the plantsite and/or storage facilities of El Dorado Industries, Inc., at or near Minneapolis, Kans., on the one hand, and, on the other, points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming, and the District of Columbia, and *shipping pallets and/or shipping blocks, chains, boomers, and turnbuckles* on return, under contract with Nimrod/El Dorado Industries, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 135606 (Sub-No. 1), filed May 17, 1971. Applicant: MARC A. ROBIN, No. 5 York Building, Viewmont Village Apartments, Scranton, PA 18508. Applicant's representative: Thomas J. Jones, 502–505 Brooks Building, Scranton, Pa. 18503. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used batteries and lead*, except in bulk in tank vehicles, between the Borough of Throop, Lackawanna County, Pa., on the one hand, and, on the other, points in West Virginia, Virginia, Michigan, Ohio, Delaware, Maryland, Massachusetts, Maine, Vermont, New Hampshire, Rhode Island, Connecticut, New Jersey, New York, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or New York.

No. MC 135608, filed May 10, 1971. Applicant: INMAN TRANSPORT, INC., Post Office Box 666, Inman, SC 29349. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned goods, foodstuffs, and beverage drinks*, in cans and glass bottles, from Augusta, Ga., and Inman, S.C., to points in Alabama, Florida, Georgia, Indiana, Kentucky, Maryland, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Virginia, and West Virginia; (2) *canned goods and foodstuffs*, from the plantsites and warehouses of R J R Foods, Inc., located at Baltimore, Md., Cambridge, Md., and Harvey, La., and from copackers plant located at Humboldt Tenn., to Inman, S.C.; (3) *empty cans and can lids* (including return of empty pallets), from Auburndale, Tampa, Miami, and Winter Garden, Fla.; Atlanta, Ga.; Indianapolis, Ind.; Baltimore, Md.; Greensboro, N.C.; and Cincinnati, Ohio; to Augusta, Ga., and Inman, S.C.; (4) *labels and fruit juice concentrate*, from the plantsite of R J R Foods, Inc., located at Baltimore, Md., to Inman, S.C.; (5) *empty beverage glass bottles* in fiberboard containers (including return of empty pallets), from Montgomery, Ala.; Jacksonville, Lakeland, and Tampa,

Fla.; Atlanta, Ga.; Asheville, Charlotte, Greensboro, and Henderson, N.C.; Columbia, Greenville, Laurens, and Spartanburg, S.C.; Chattanooga, Tenn.; and Fairmont and Huntington, W. Va.; to Augusta, Ga., and Inman, S.C.; (6) *caps, covers or tops for glass bottles,* in fiberboard containers, from Glassboro, N.J., Columbia and Spartanburg, S.C., to Augusta, Ga., and Inman, S.C., and (7) *fiberboard boxes,* from Atlanta and Augusta, Ga., Charlotte, N.C., Laurens and Newberry, S.C., to Augusta, Ga., and Inman, S.C., under contract with R J R Foods, Inc., and London Dry Ltd. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbia, S.C., Charlotte, N.C., or Atlanta, Ga.

No. 135611 (Sub-No. 2), filed May 20, 1971. Applicant: ROBERT A. WALKER AND DONALD M. WHITTED, a partnership, doing business as WALKER & WHITTED TRANSPORTATION, 320 North Eighth Street, Brawley, CA 92227 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: *Animal and poultry feed supplements,* liquid, in bulk, from Imperial, Calif., to points in Arizona. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 135616, filed May 17, 1971. Applicant: PERRYSBURG TRUCKING CO., INC., 24982 Thompson Road, Perrysburg, OH 43551. Applicant's representative: Harry C. Ames, Jr., 705 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Glass,* from the plantsite of Guardian Industries Corp., at or near Ash Township, Monroe County, Mich., to points in the United States (except Alaska and Hawaii), under a continuing contract with Guardian Industries Corp., NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 135619, filed May 14, 1971. Applicant: RALPH M. ROWEY, doing business as ROWEY TRUCKING COMPANY, 148 Knight Street, Woonsocket, RI 02895. Applicant's representative: Russell B. Curnett, 36 Circuit Drive, Edgewood Station, Providence, RI 02905. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products,* liquid, in bulk, between Tiverton, R.I., on the one hand, and, on the other, points in Barnstable, Bristol, and Plymouth Counties, Mass., and Rhode Island under contract with Northeast Petroleum Corp., Northeast Petroleum Corporation of Rhode Island and Old Colony Petroleum Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Providence, R.I., or Boston, Mass.

No. MC 135627, filed May 19, 1971. Applicant: NORMAN CUMBERLAND AND ROBERT SMITH, a partnership, doing business as FOREST FARM PRODUCTS, 168 North Fulton Avenue, Rochester, IN 46975. Applicant's representative: Norman Cumberland (same address as applicant). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Soybean solubles,* condensed in bulk, form Remington, Ind., to points in Indiana, Ohio, Illinois, Michigan, Missouri, Kentucky, and Iowa, under contract with Griffith Food Products, Inc., Remington, Ind. NOTE: If a hearing is deemed necessary, applicant requests it be held at Fort Wayne, Ind.

No. MC 135629, filed May 20, 1971. Applicant: RAY KENDALL, doing business as KENDALL TRUCKING, 5191 Journal Street, Orlando, FL 30810. Applicant's representative: Richard J. Brooks, Post Office Box 1531, Tallahassee, FL 32302. Authority sought to operate as a *contract carrier,* by motor vehicle over irregular routes, transporting: *Tires,* used by motor driven or propelled vehicles, from Dayton, Toledo, and Akron, Ohio, and Cumberland, Md., to the warehouse or warehouses of El Dorado Tires, Inc., doing business as El Dorado Buyers Group. NOTE: If a hearing is deemed necessary, applicant requests it be held at Orlando, Fla.

MOTOR CARRIERS OF PASSENGERS

No. MC 3647 (Sub-No. 433) filed May 11, 1971. Applicant: PUBLIC SERVICE COORDINATED TRANSPORT, 180 Boyden Avenue, Maplewood, NJ 07040. Applicant's representative: Richard Fryling (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers; (1) between Woodbridge and Rahway, N.J.; from junction New Jersey Highway 35 and U.S. Highway 1, Woodbridge, N.J., over New Jersey Highway 35 to junction New Jersey Highway 35 and New Jersey Highway 27, Rahway, N.J., and return over the same route, serving all intermediate points; and (2) between Perth Amboy and Edison, N.J., from junction New Jersey Highway 35 and New Jersey Highway 440, Perth Amboy, N.J., over New Jersey Highway 440 to junction New Jersey Turnpike at Interchange 10, Edison, N.J., and return over the same route, serving all intermediate points. NOTE: Applicant states it intends to tack the above-routes to its existing routes. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 82965 (Sub-No. 2), filed May 19, 1971. Applicant: AMADOR STAGE LINES, INC., 213 13th Street, Post Office Box 2190, Sacramento, CA 95810. Applicant's representative: Marvin Handler, 405 Montgomery Street, Suite 1401, San Francisco, CA 94105. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage,* in the same vehicle with passengers, in special operations, in round-trip sightseeing and pleasure tours, beginning and ending in points in Sacramento, San Joaquin, Yolo, and Placer Counties, Calif., and extending to points in the United States, including Alaska (but excluding Hawaii). NOTE: If a hearing is deemed necessary, applicant requests it be held at Sacramento or San Francisco, Calif.

No. MC 125221 (Sub-No. 5), filed May 17, 1971. Applicant: BI-STATE DEVELOPMENT AGENCY OF THE MISSOURI-ILLINOIS METROPOLITAN DISTRICT, 818 Olive Street, St. Louis, MO 63101. Applicant's representative: Roy E. Krupp, 3869 Park Avenue, St. Louis, MO 63101. Authority sought to operate as a *common carrier,* by motor vehicle, over regular routes, transporting: *Passengers and their baggage,* in the same vehicle with passengers, between Waterloo, Ill., and St. Louis, Mo., from St. Louis, Mo., over the Veterans Bridge, to East St. Louis, Ill.; thence over Illinois Highway 3 to Water Street; thence over Water Street to Illinois Highway 3, thence over Illinois Highway 3 to Columbia Road; thence over Columbia Road to Columbia, Ill., thence over Illinois Highway 3 to Waterloo, Ill., and return over the same route, serving all intermediate points. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or East St. Louis, Ill.

No. MC 125330 (Sub-No. 3), filed May 10, 1971. Applicant: DOMENICO BUS SERVICE, INC., 75 New Hook Access Road, Bayonne, NJ 07002. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, NJ 07102. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Passengers,* between the Boroughs of Brooklyn and Richmond (Staten Island), N.Y., on the one hand, and, on the other, the facilities of the American Telephone & Telegraph Co. at Piscataway, N.J., under a contract or continuing contract with the Brooklyn-Staten Island Commuters. NOTE: Applicant also holds common carrier authority under MC 118848 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 135603, filed May 12, 1971. Applicant: 4-D CORPORATION, 117 North Jefferson Street, Milwaukee, WI 53202. Applicant's representative: John J. Ottusch, 660 East Mason Street, Milwaukee, WI 53202. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Passengers and their baggage,* in round trip charter operations, between points in Wisconsin, Illinois, Missouri, Kansas, Colorado, Iowa, Nebraska, and Indiana. NOTE: If a hearing is deemed necessary, applicant requests it be held

at Milwaukee or Madison, Wis., or Chicago, Ill.

APPLICATIONS OF FREIGHT FORWARDERS

No. FF-404 (W. T. C. AIR FREIGHT, INC., Freight Forwarder Application), filed May 18, 1971. Applicant: W. T. C. AIR FREIGHT, INC., Post Office Box 92923, Los Angeles, CA 90009. Applicant's representative: Louis P. Haffer, 1730 Rhode Island Avenue NW., Washington, DC 20036. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit to institute operation as a freight forwarder, in interstate or foreign commerce, through use of the facilities of common carrier by railroad, express, water, air, or motor vehicle in the transportation of: *General commodities* (except household goods as defined by the Commission, commodities which, because of size or weight, require the use of special equipment, classes A and B explosives, and commodities in bulk), restricted to shipments having a prior or subsequent movement by aircraft, between points in the United States (including Alaska and Hawaii).

No. FF-405 (JET AIR FREIGHT, Freight Forwarder Application), filed May 27, 1971. Applicant: JET AIR FREIGHT, 900 West Florence Avenue, Inglewood, CA 90301. Applicant's representative: Gary L. Zimmerman, Wilshire Boulevard at Doheny, 9100 Wilshire Boulevard, Suite 201, Beverly Hills, CA 90212. Authority sought under section 410, Part IV of the Interstate Commerce Act, for a permit to institute operation as a freight forwarder, in interstate or foreign commerce, through the use of the facilities of common carriers by railroad, express, water, air, or motor vehicles in the transportation of: *General commodities,* between points in the United States, restricted to shipments having a prior or subsequent movement by aircraft.

APPLICATION FOR BROKERAGE LICENSE

No. MC 130146, filed May 10, 1971. Applicant: LEO LEONARD ANDY, JR., and LEO LEONARD ANDY, SR., a partnership, doing business as ANDY TRANSPORTATION COMPANY, 614 Stanley Avenue, Clarksburg, WV. For a license (BMC-4) to engage in operations as a *broker* at Clarksburg, W. Va., in arranging for the transportation in interstate or foreign commerce of *General commodities,* between points in Kentucky, Ohio, Tennessee, and West Virginia.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 114457 (Sub-No. 110), filed May 3, 1971. Applicant: DART TRANSIT COMPANY, a corporation, 780 North Prior Avenue, St. Paul, MN 55104. Applicant's representative: James C. Hardman, 127 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Containers* (except paper and glass containers), *container ends, accessories for containers, and material, equipment, and supplies* used in the manufacture, sale, and distribution of containers, container ends, and accessories for container ends, between points in Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and Wisconsin, and (2) *Paper containers, paper container ends, accessories for paper containers, and materials, equipment, and supplies* used in the manufacture, sale, and distribution of paper containers, paper container ends and accessories for paper containers, between Windsor Locks, Portland, Uncasville, Conn.; Boston, Holyoke, Haverhill, and Natick, Mass.; Carteret and Teterboro, N.J.; Tonwanda, Buffalo, Syracuse, Piermont, N.Y.; Culloden, W. Va.; Philadelphia, Pa.; Chicago, Ill.; Melvindale, Midland, and Three Rivers, Mich.; Cleveland, Middleton, Mount Vernon, Newark, and Van Wert, Ohio; Elkhart, Ind.; Milwaukee, Wis.; and St. Louis and St. Louis County, Mo.; on the one hand, and, on the other, Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

No. MC 128853 (Sub-No. 6), filed May 14, 1971. Applicant: COOKE CARTAGE & STORAGE, LTD., 110 Anne Street South, Barrie, ON Canada. Applicant's representatives: Ronald J. Mastei and Frank J. Kerwin, 900 Guardian Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Motor vehicle seats,* not in containers, from those ports of entry on the international boundary line between the United States and Canada, located at or near Detroit and Port Huron, Mich., and Buffalo, Niagara Falls, Alexandria Bay, and Lewiston, N.Y., to points in Maryland, under contract with Heywood-Wakefield Company of Canada, Ltd.

No. MC 128998 (Sub-No. 3), filed May 17, 1971. Applicant: VANWAYS, INC., 1230 West River Road, Oscoda, MI 48750. Applicant's representative: Alan F. Wohlstetter, 1 Farragut Square South, Washington, DC 20006. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Used household goods;* (a) between points in Michigan; (b) between points in Florence, Forest, Marinette, Oneida, Vilas, and Iron Counties, Wis.; and (c) between points in Michigan on the one hand, and, on the other, points in Florence, Forest, Marinette, Oneida, Vilas, and Iron Counties, Wis., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized 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 traffic. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that it holds duplicating authority under its lead No. MC 128998. All such duplicating authority shall be eliminated if and when the instant application is granted.

No. MC 135175 (Sub-No. 2), filed May 17, 1971. Applicant: B. C. CARTAGE COMPANY, a corporation, 3222 North Main Street, Gainesville, FL 32601. Applicant's representative: W. E. Cordell (same address as applicant). Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Telephone equipment, materials, and supplies,* for the account of Western Electric Co., Inc., between points in Alachua, Union, Columbia, Gilchrist, Levy, Lafayette, Dixie, Suwannee, Taylor, Madison, Putnam, Bradford, Marion, Hamilton, Clay, and Jefferson Counties, Fla., on traffic having a prior or subsequent out-of-State movement.

No. MC 135181 (Sub-No. 2), filed May 17, 1971. Applicant: MAIERHOFER BROS., INC., 8253 North Lincoln Avenue, Skokie, IL 60076. Applicant's representatives: John M. Duffy and Gregory J. Scheurich, 111 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Beer,* in containers; and *empty beer containers,* on return, from South Bend, Ind., to Skokie, Ill., and Lockport, Ill., under contract with Jas. P. Paulus Co. and Mondrella & Sons, Inc.

No. MC 135346 (Sub-No. 2), filed May 14, 1971. Applicant: CITIZEN AUTO STAGE COMPANY, a corporation, doing business as CITIZEN EXPRESS LINES, 454 Grand Avenue, Nogales, AZ 85621. Applicant's representative: Robert J. Corber, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Electrical appliances, equipment, and parts,* between points in Santa Clara County, Calif., and the International Border at Nogales, Ariz., under contract with Memorex Corp., Santa Clara, Calif. NOTE: Applicant now holds common carrier authority under its No. MC 54541 Sub-No. 1, therefore dual operations may be involved. Common control may also be involved.

By the Commission.

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

[FR Doc.71-8022 Filed 6-9-71;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JUNE 7, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules

of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42222—*Sulphuric acid from Agricola, Fla.* Filed by O. W. South, Jr., agent (No. A6261), for interested rail carriers. Rates on acid, sulphuric, in tank carloads, as described in the application, from Agricola, Fla., to specified points in Alabama, Florida, and Georgia.

Grounds for relief—Market competition and rate relationship.

Tariff—Supplement 44 to Southern Freight Association, agent, tariff ICC S–881. Rates are published to become effective on July 8, 1971.

By the Commission.

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

[FR Doc.71–8122 Filed 6–9–71;8:51 am]

[I.C.C. Order No. 57; Rev. S.O. 994]

PENN CENTRAL TRANSPORTATION CO.

Rerouting or Diversion of Traffic

In the opinion of R. D. Pfahler, Agent, the Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees, is unable to transport traffic over its line between Plymouth, Ind., and South Bend, Ind., because of track and bridge damage.

It is ordered, That:

(a) Rerouting traffic: The Penn Central Transportation Co., George P. Baker, Richard C. Bond., Jervis Langdon, Jr., and Willard Wirtz, Trustees, being unable to transport traffic over its line between Plymouth, Ind., and South Bend, Ind., because of track and bridge damage, the Penn Central Transportation Co., George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, Trustees, and the Baltimore & Ohio Railroad Co. are hereby authorized to reroute or divert such traffic normally interchanged at La Paz, Ind., so as to accomplish interchange at Walkerton, Ind. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) Concurrence of receiving roads to be obtained: The railroad desiring to divert or reroute traffic under this order shall receive the concurrence of the other railroad to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) Notification to shippers: Each carrier rerouting cars in accordance with this order shall notify each shipper at the time each car is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic by said agent is deemed to be due to carrier's disability, the rates applicable to traffic diverted or rerouted by said agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic; divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) Effective date: This order shall become effective at 11:59 p.m., June 2, 1971.

(g) Expiration date: This order shall expire at 11:59 p.m., June 30, 1971, unless otherwise modified, changed, or suspended.

It is further ordered, That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and per diem agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 2, 1971.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.71–8121 Filed 6–9–71;8:51 am]

SUPERIOR TRUCKING CO. ET AL.

Assignment of Hearings

JUNE 7, 1971.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

I & S No. M–24644, Clothing, New England Territory, assigned July 20, 1971, Washington, D.C., canceled.

MC–106644 Sub 95, Superior Trucking Co., application dismissed.

MC–52657 Sub 664, Arco Auto Carriers, Inc., application dismissed.

MC–85465 Sub 17, West Nebraska Express, Inc., application dismissed.

MC 113267 Sub 254, Central & Southern Truck Lines, Inc., assigned July 15, 1971, in Room 1210 Federal Office Building, 701 Loyola Avenue, New Orleans, LA.

MC 115286 Sub 211, W. J. Digby, Inc., assigned July 14, 1971, in Room 1210 Federal Building, 701 Loyola Avenue, New Orleans, LA.

MC–134668 Sub 1, Marine Terminals, Inc., assigned June 7, 1971, Miami, Fla., postponed indefinitely.

MC–F–10996 [1] Nelson Freightways, Inc.—Purchase (Portion)—C. Rickard & Sons, Inc., now assigned June 21, 1971, at Washington, D.C., canceled and reassigned to July 26, 1971, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC–4405 Sub 466, Dealers Transit, Inc., application dismissed.

MC 41098 Sub 36, Global Van Lines, Inc., assigned June 28, 1971, at Boston, Mass., canceled and transferred to Modified Procedure.

MC–19227 Sub 132, Leonard Bros. Trucking Co., Inc., application dismissed.

MC–108068 Sub 69, U.S.A.C. TRANSPORT, INC., application dismissed.

MC 61231 Sub 52, Ace Lines, Inc., assigned July 19, 1971, at St. Paul, Minn., in Courtroom No. 4, Federal Building and Courthouse, 316 Robert Street.

MC 108119 Sub 27, E. L. Murphy Trucking Co., assigned July 19, 1971, at St. Paul, Minn., in Courtroom No. 4, Federal Building and Courthouse, 316 Robert Street.

MC 111545 Sub 153, Home Transportation Co., Inc., assigned July 19, 1971, at St. Paul, Minn., in Courtroom No. 4, Federal Building and Courthouse, 316 Robert St.

MC 113855 Sub 231, International Transport, Inc., assigned July 19, 1971, at St. Paul, Minn., in Courtroom No. 4, Federal Building and Courthouse, 316 Robert St.

MC 123407 Sub 76, Sawyer Transport, Inc., assigned July 19, 1971, at St. Paul, Minn., in Courtroom No. 4, Federal Building and Courthouse, 316 Robert St.

MC 133189 Sub 2, Vant Transfer, Inc., assigned July 19, 1971, at St. Paul, Minn., in Courtroom No. 4, Federal Building and Courthouse, 316 Robert St.

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

[FR Doc.71–8123 Filed 6–9–71;8:51 am]

---

[1] Also embraces MC–F–11003, P & G Motor Freight, Inc.—Purchase (Portion)—C. Rickard & Sons, Inc., MC–F–11047, Bowman Transportation, Inc.—Purchase (Portion)—C. Rickard & Sons, Inc., FD 26542, Bowman Transportation, Inc., Notes.

CUMULATIVE LIST OF PARTS AFFECTED—JUNE

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during June.

3 CFR

Page

PROCLAMATIONS:
4057 ... 10769
4058 ... 10839
4059 ... 11077

EXECUTIVE ORDERS:
May 27, 1913 (revoked in part by PLO 5064) ... 11098
11596 ... 11079

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:
Reorganization Plan No. 1 of 1971 ... 11181

5 CFR

213 ... 10771, 10948, 11081

7 CFR

51 ... 10771
55 ... 10937
56 ... 10937
59 ... 10841
70 ... 10937
215 ... 10937
722 ... 10772
725 ... 10772
777 ... 11019
908 ... 10721, 10733, 11019, 11205
910 ... 10773, 10937, 11019
911 ... 10721
916 ... 11206
919 ... 11206
923 ... 11020
944 ... 10774
953 ... 10841
959 ... 10938
1090 ... 10775
1098 ... 10775
1103 ... 10775
1104 ... 10775
1106 ... 10775
1421 ... 10777, 11081
1488 ... 11081

PROPOSED RULES:
909 ... 11103
915 ... 11043
917 ... 10979, 11103
921 ... 11104
944 ... 10740
1063 ... 11211
1070 ... 11211
1078 ... 11211

PROPOSED RULES—Continued
1079 ... 10879, 11211
1094 ... 10980
1136 ... 11104

9 CFR

74 ... 10841
76 ... 10842, 10843, 11020
79 ... 10844

10 CFR

40 ... 10938
150 ... 10938

PROPOSED RULES:
50 ... 11113

12 CFR

Page

222 ... 10777, 10778
265 ... 10778, 10779
505 ... 11185
541 ... 10722
545 ... 10722, 10723
556 ... 10723
561 ... 10724
563 ... 10724, 10939
582 ... 10725
582b ... 10725
741 ... 10844
748 ... 10940

14 CFR

39 ... 10779, 10780, 10946, 11185, 11186
71 ... 10781, 10946, 10947, 11081, 11187, 11188
75 ... 10781, 11081
97 ... 11021
374 ... 11189

PROPOSED RULES:
1 ... 11218
39 ... 10801, 10984
43 ... 11218
47 ... 10801
71 ... 10741, 10802, 10984, 11218–11222
75 ... 10984
91 ... 11218
249 ... 10803
371 ... 10803
399 ... 10806

15 CFR

370 ... 10845
372 ... 10845
373 ... 10845
379 ... 10846

PROPOSED RULES:
1200 ... 10980

16 CFR

1 ... 11082
500 ... 10781
501 ... 10846, 11082

19 CFR

10 ... 10726, 10727
13 ... 10727
16 ... 10727
22 ... 10847
54 ... 10727

20 CFR

405 ... 10848

PROPOSED RULES:
422 ... 10880

21 CFR

1 ... 11022
2 ... 10728
3 ... 11022
28 ... 10781
121 ... 10728, 10947

21 CFR—Continued

Page

130 ... 11022
135a ... 10947
135b ... 10850, 10947
135e ... 11190
146 ... 11022
146c ... 11024
191 ... 11190
420 ... 10851

PROPOSED RULES:
1 ... 11217
121 ... 10983
130 ... 10983
191 ... 11044

24 CFR

17 ... 11024
60 ... 10781
200 ... 10781
1914 ... 11083
1915 ... 11083

PROPOSED RULES:
1909 ... 11109
1910 ... 11109

25 CFR

PROPOSED RULES:
131 ... 11043

26 CFR

1 ... 10729, 10730, 10851, 11025, 11032, 11084, 11190
3 ... 10948
301 ... 10782, 11025

PROPOSED RULES:
1 ... 10787, 10953, 11100
13 ... 10787
53 ... 10968, 11034
143 ... 10968

28 CFR

0 ... 10862, 10863

29 CFR

7 ... 10863
50 ... 10865
51 ... 10865
603 ... 10866
612 ... 10866

PROPOSED RULES:
202 ... 11044

31 CFR

316 ... 10949

PROPOSED RULES:
102 ... 11208
103 ... 11208

32 CFR

809d ... 11196
819a ... 11196

LIST OF FEDERAL REGISTER PAGES AND DATES—JUNE

Pages	*Date*
10715–10762	June 2
10763–10832	3
10833–10929	4
10931–11011	5
11013–11070	8
11071–11173	9
11175–11261	10