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PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Motor Vehicle Hydraulic Brake Fluids

The purpose of this notice is to amend Motor Vehicle Safety Standard No. 116, *Motor Vehicle Hydraulic Brake Fluids*, to substitute standard styrene-butadiene rubber (SBR) brake cups for natural rubber cups in certain test procedures. The amendment also sets forth a formulation for the SBR compound.

The proposal that SBR cups be used in lieu of natural rubber cups in certain test procedures was published on September 30, 1970 (Docket No. 70–23, 35 F.R. 15229), as part of the overall proposal to amend Standard No. 116. The amended Standard No. 116 published today (36 F.R. 11987), effective March 1, 1972, adopts the proposal concerning SBR cups. The current Standard No. 116 specifies the use of "rubber" cups, however, and this notice amends that standard to specify SBR cups, effective 30 days after publication of this notice.

SAE Standard J70b, *Hydraulic Brake Fluid*, partially incorporated by reference in current Standard No. 116, limits "rubber cups" to those of "natural rubber." Natural rubber cups have not been manufactured for some time and are commercially unavailable. Motor vehicles today are manufactured with rubber cups and seals made from SBR, and both the industry and the NHTSA have been conducting Standard No. 116 compliance testing using SBR cups. In order to reflect an existing condition and permit use of SBR cups prior to March 1, 1972, Standard No. 116 is being amended to specify use of SBR cups and to establish a compound formulation. References in SAE Standard J70b to "rubber" cups are thus to be read as "SBR" cups.

In consideration of the foregoing, 49 CFR 571.21, Motor Vehicle Safety Standard No. 116, *Motor Vehicle Hydraulic Brake Fluids*, is hereby amended as follows:

1. The word "rubber" appearing in paragraphs S4.1(f)(3), S4.1(l), S4.1(m)(3), S4.1(m)(4), S4.1(m)(9), S4.2(f)(3), S4.2(l)(1), S4.2(l)(2), S4.2(m)(3), S4.2(m)(4), and S4.2(m)(9) is deleted and the expression "SBR" substituted in lieu thereof.

2. The following new paragraph S4.3 is added:

S4.3 *Standard styrene-butadiene rubber (SBR) brake cups.* SBR brake cups for testing motor vehicle brake fluids shall be manufactured using the following formulation:

FORMULATION OF RUBBER COMPOUND

Ingredient	Parts by weight
SBR type 1503[a]	100
Oil furnace black (NBS 378)	40
Zinc oxide (NBS 370)	5
Sulfur (NBS 371)	0.25
Stearic Acid (NBS 372)	1
n-tertiary butyl-2-benzothiazole sulfenamide (NBS 384)	1
Symmetrical dibetanaphthyl - p - phenylenediamine	1.5
Dicumyl peroxide (40 percent on precipitated $CaCO_3$)[b]	4.5
Total	153.25

NOTE: The ingredients labeled (NBS ——) must have properties identical with those supplied by the National Bureau of Standards.

[a] Philprene 1503 has been found suitable.

[b] Use only within 90 days of manufacture and store at temperature below 27° C. (80° F.).

Compounding, vulcanization, physical properties, size of the finished cups, and other details shall be as specified in appendix B of SAE J1703a. The cups shall be used in testing brake fluids either within 6 months from date of manufacture when stored at room temperature below 30° C. (86° F.) or within 36 months from date of manufacture when stored at temperatures below minus 15° C. (+5° F.). After removal of cups from refrigeration they shall be conditioned base down on a flat surface for at least 12 hours at room temperature in order to allow cups to reach their true configuration before measurement.

Because these amendments reflect an existing practice and their immediate implementation will ensure comparative results in compliance testing by industry and the NHTSA, it is found, for good cause shown, that an effective date sooner than 180 days after issuance of this order is in the public interest.

Effective date: 30 days after publication of this notice in the FEDERAL REGISTER.

(Secs. 103, 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1407; delegation of authority from Secretary of Transportation to National Highway Traffic Safety Administrator, 49 CFR 1.51)

Issued on June 16, 1971.

DOUGLAS W. TOMS,
Acting Administrator.

[FR Doc.71–8732 Filed 6–23–71;8:45 am]

[Docket No. 70–23; Notice 3]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Motor Vehicle Brake Fluids

This notice amends § 571.21 of Title 49, Code of Federal Regulations, Motor Vehicle Safety Standard No. 116, *Motor Vehicle Brake Fluids*, to establish new performance requirements for brake fluid, and to extend its application to all motor vehicles equipped with hydraulic brake systems, and to all brake fluid for use in hydraulic brake systems of motor vehicles. The amendment also establishes requirements for brake fluid containers and labeling of containers.

A notice of proposed amendment to Federal Motor Vehicle Safety Standard No. 116 was published on September 30, 1970 (35 F.R. 15229). Interested persons have been afforded an opportunity to participate in the rulemaking process and their comments have been carefully considered.

The amendment adopts requirements that were proposed for grades DOT 3 and DOT 4 brake fluid, eliminates SAE Type 70R1 brake fluid, specifies more stringent requirements for physical and chemical properties, specifies the use of SAE SBR wheel cylinder cups in testing, and sets forth requirements for brake fluid containers and brake fluid container labeling.

Comments and available data indicated that the proposed DOT 2 type brake fluid is not a commercially available fluid but is manufactured primarily for military use in Arctic regions and that there is no current need for this additional grade of brake fluid. DOT 2 brake fluid has therefore been excluded from the amendment.

Requirements for DOT 3 and DOT 4 grade fluids are adopted as proposed, with a minor modification in the wet boiling point of the DOT 4 grade fluid. The NHTSA has determined that there is a need for two grades of brake fluid until an all-weather fluid is developed with viscosity and boiling point characteristics suitable for use in all braking systems. In order to provide an added margin of protection against vapor locking in severe braking service, some car manufacturers may wish to recommend use of a DOT 4 fluid for certain severe conditions. Such recommendations should point out that use of the DOT 4 fluid for improved resistance to vapor locking may result in poorer system performance in very cold weather.

The wet equilibrium reflux boiling point test procedure has been adopted as it represents a measure of the capability of the fluid in service. Tests have been run and data accumulated which demonstrate that this test is sufficiently repeatable to justify its inclusion. However, when sufficient data become available on methods of measuring resistance to vapor lock, this agency may consider proposing a new test procedure.

The proposed low temperature viscosity requirements for the DOT 3 and DOT 4 grade fluids have been adopted unchanged. Adequate data exist to support the need for the specified kinematic viscosities at low temperatures to assure

adequate brake system performance in cold weather. Since high boiling points are sacrificed for low viscosities at low temperatures, the differences in kinematic viscosities between DOT 3 and DOT 4 grade fluids are justifiable.

The flash point test proposal has not been adopted because comments indicated that the test is not pertinent to in-use performance characteristics. The NHTSA, however, may reexamine the potential flammability hazard posed by motor vehicle brake fluids at a later date, particularly in the event that central hydraulic systems are introduced.

Brake fluid containers with a capacity of 6 ounces or more must be provided with a resealable closure to reduce the likelihood of contamination after the initial opening.

The labeling requirements as adopted do not require, in all instances, that the manufacturer's name be placed upon the container. Many comments indicated that the manufacturer cannot be held responsible for the quality of a fluid once it has been transferred to a packager who may contaminate or alter the fluid, and the NHTSA concurs. However, the manufacturer, when he is not the packager, will be required to certify compliance to the packager. The packager will be required to state the name of the manufacturer and the distributor on the container label, either directly or in code. He will be required also to affix a number of identifying the packaged lot and date of packaging. It is expected that packagers will keep records sufficient to provide the NHTSA with all identifying information when such is requested. The safety warnings have been reworded to avoid misinterpretations.

Several comments indicated that the proposed effective date of October 1, 1971, would place a hardship on packagers who deal solely in the aftermarket, alleging that lithographed cans must be purchased in quantity. Accordingly, an effective date of March 1, 1972, has been adopted to offer sufficient lead time to insure that all motor vehicle brake fluids manufactured on and after that date will be packaged in containers which meet requirements also effective March 1, 1972.

Petroleum-based fluids are no longer exempted from meeting the requirement of this standard. However, the NHTSA realizes that some manufacturers wish to use these fluids in central power systems and is issuing today an advance notice of proposed rulemaking requesting comments for a suitable performance standard for petroleum-based fluids (Docket No. 71–13; 36 F.R. 12032).

Test procedures adopted are, in general, similar to current ASTM Methods, with SAE Standards J1702b and J1703b as reference sources. ASTM Methods consulted in developing the test procedures include: E 298–68 "Assay of Organic Peroxides," D 1120–65 "Boiling Point of Engine Antifreezes," D 1121–67 "Reserve Alkalinity of Engine Antifreezes and Antirusts," D 2240–68 "Indentation Hardness of Rubber and Plastics by Means of a Durometer," D 344–39 "Relative Dry Hiding Power of Paints," D 97–66 "Pour Point," D 1415–68 "International Hardness of Vulcanized Natural and Synthetic Rubbers," E 1–68 "ASM Thermometers," E 77–66 "Verification and Calibration of Liquid-In-Glass Thermometers," D 2515–66 "Kinematic Glass Viscometers," E 70–68 "pH of Aqueous Solutions with the Glass Electrode," E 29–67 "Indicating Which Places of Figures are to be Considered Significant in Specified Limiting Values," D 1123–59 "Water in Concentrated Engine Antifreezes by the Iodine Reagent Method," D 445–65 "Viscosity of Transparent and Opaque Liquids (Kinematic and Dynamic Viscosities)," D 91–61 "Precipitation Number of Lubricating Oils," and E 96–66 "Water Vapor Transmission of Materials in Sheet Form." SAE Referee Materials (SAE RM) used in testing may be obtained from the Society of Automotive Engineers, Inc., Two Pennsylvania Plaza, New York, N.Y. 10001.

Effective date: March 1, 1972.

In consideration of the foregoing, 49 CFR 571.21, Federal Motor Vehicle Safety Standard No. 116, *Motor Vehicle Brake Fluids*, is amended to read as set forth below.

(Secs. 103, 112, 114, 119, National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority from Secretary of Transportation to National Highway Traffic Safety Administrator, 49 CFR 1.51)

Issued on June 16, 1971.

DOUGLAS W. TOMS,
Acting Administrator.

§ 571.21 Federal Motor Vehicle Safety Standards.

* * * * *

FEDERAL MOTOR VEHICLE SAFETY STANDARD No. 116

MOTOR VEHICLE BRAKE FLUIDS—PASSENGER CARS, MULTIPURPOSE PASSENGER VEHICLES, TRUCKS, BUSES, AND MOTORCYCLES, AND BRAKE FLUID AND BRAKE FLUID CONTAINERS

S1. *Scope.* This standard specifies requirements for brake fluids for use in hydraulic brake systems of motor vehicles, brake fluid containers, and brake fluid container labeling.

S2. *Purpose.* The purpose of this standard is to reduce failures in the hydraulic braking systems of motor vehicles which may occur because of the manufacture or use of improper or contaminated brake fluid.

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, buses, and motorcycles with hydraulic service brake systems, and to all brake fluid for use in hydraulic brake systems of motor vehicles.

S4. *Definitions.*

"Blister" means a cavity or sac on the surface of a brake cup.

"Chipping" means a condition in which small pieces are missing from the outer surface of a brake cup.

"Duplicate samples" means two samples of brake fluid taken from a single packaged lot and tested simultaneously.

"Packager" means any person who fills containers with brake fluid that are subsequently distributed for retail sale.

"Packaged lot" is that quantity of brake fluid shipped by the manufacturer to the packager in a single container, or that quantity of brake fluid manufactured by a single plant run of 24 hours or less, through the same processing equipment and with no change in ingredients.

"Scuffing" means a visible erosion of a portion of the outer surface of a brake cup.

"Sloughing" means degradation of a brake cup as evidenced by the presence of carbon black loosely held on the brake cup surface, such that a visible black streak is produced when the cup, with a 500±10 gram deadweight on it, is drawn base down over a sheet of white bond paper placed on a firm flat surface.

"Stickiness" means a condition on the surface of a brake cup such that fibers will be pulled from a wad of U.S.P. absorbent cotton when it is drawn across the surface.

S5. *Requirements.* This section specifies requirements for DOT brake fluids (grades DOT 3 and DOT 4), brake fluid containers, and brake fluid container labeling. Where a range of tolerances is specified, the brake fluid must be capable of meeting the requirements at all points within the range.

S5.1 *Motor vehicle brake fluids.* When tested in accordance with S6, motor vehicle brake fluids shall meet the following requirements.

S5.1.1 *Equilibrium reflux boiling point (ERBP).* When brake fluid is tested according to S6.1, the ERBP shall not be less than the following value for the grade indicated:

(a) DOT 3: 205° C. (401° F.).

(b) DOT 4: 230° C. (446° F.).

S5.1.2 *Wet ERBP.* When brake fluid is tested according to S6.2, the wet ERBP shall not be less than the following value for the grade indicated:

(a) DOT 3: 140° C. (284° F.).

(b) DOT 4: 155° C. (311° F.).

S5.1.3 *Kinematic viscosities.* When brake fluid is tested according to S6.3, the kinematic viscosities in centistokes (cSt.) at stated temperatures shall be neither less than 1.5 cSt. at 100° C. (212° F.) nor more than the following maximum value for the grade indicated:

(a) DOT 3: 1,500 cSt. at minus 40° C. (minus 40° F.).

(b) DOT 4: 1,800 cSt. at minus 40° C. (minus 40° F.).

S5.1.4 *pH value.* When brake fluid is tested according to S6.4, the pH value shall not be less than 7 nor more than 11.5.

S5.1.5 *Brake fluid stability.*

S5.1.5.1 *High-temperature stability.* When brake fluid is tested according to S6.5.3 the ERBP shall not change by more than 3° C. (5.4° F.) plus 0.05° for

each degree that the ERBP of the fluid exceeds 225° C. (437° F.).

S5.1.5.2 *Chemical stability.* When brake fluid is tested according to S6.5.4, the change in temperature of the refluxing fluid mixture shall not exceed 3° C. (5.4° F.) plus 0.05° for each degree that the ERBP of the fluid exceeds 225° C. (437° C.).

S5.1.6 *Corrosion.* When brake fluid is tested according to S6.6—

(a) The metal test strips shall not show weight changes exceeding the limits stated in Table I.

TABLE I

Test strip material:	Max. permissible weight change, mg./sq. cm. of surface
Steel, tinned iron, casts iron	0.2
Aluminum	.1
Brass, copper	.4

(b) Excluding the area of contact (13±1 mm. (½±1/32 inch) measured from the bolt hole end of the test strip), the metal test strips shall not show pitting or etching to an extent discernible without magnification;

(c) The brake fluid-water mixture at the end of the test shall show no jelling at 23°±5° C. (73.4°±9° F.);

(d) No crystalline deposit shall form and adhere to either the glass jar walls or the surface of the metal strips;

(e) At the end of the tests, sedimentation of the fluid-water mixture shall not exceed 0.10 percent by volume;

(f) The pH value of the fluid-water mixture at the end of the test shall not be less than 7 nor more than 11.5;

(g) The cups at the end of the test shall show no disintegration, as evidenced by blisters or sloughing;

(h) The hardness of the cup shall not decrease by more than 15 International Rubber Hardness Degrees (IRHD); and

(i) The base diameter of the cups shall not increase by more than 1.4 mm. (0.005 inch).

S5.1.7 *Fluidity and appearance at low temperature.* When brake fluid is tested according to S6.7, at the storage temperature and for the storage times given in Table II—

(a) The black contrast lines on the hiding power chart shall be clearly discernible when viewed through every part of the fluid in the sample bottle;

(b) The fluid shall show no stratification or sedimentation; and

(c) Upon inversion of the sample bottle, the time required for the air bubble to travel to the top of the fluid shall not exceed the bubble flow times shown in Table II.

TABLE II—FLUIDITY AND APPEARANCE AT LOW TEMPERATURES

Storage temperature	Storage time (hours)	Maximum bubble flow time (seconds)
Minus 40±2° C. (minus 40±3.6° F.)	144±4.0	10
minus 50±2° C. (minus 58±3.6° F.)	6±0.2	35

S5.1.8 *Evaporation.* When brake fluid is tested according to S6.8—

(a) The loss by evaporation shall not exceed 80 percent by weight;

(b) The residue from the brake fluid after evaporation shall contain no precipitate that remains gritty or abrasive when rubbed with the fingertip; and

(c) The residue shall have a pour point below minus 5° C. (+23° F.).

S5.1.9 *Water tolerance.*

(a) *At low temperature.* When brake fluid is tested according to S6.9(a)—

(1) The black contrast lines on a hiding power test chart shall be clearly discernible when viewed through every part of the fluid in the centrifuge tube;

(2) The fluid shall show no stratification or sedimentation; and

(3) Upon inversion of the centrifuge tube, the air bubble shall travel to the top of the fluid in not more than 10 seconds; and

(b) *At 60° C. (140° F.).* When brake fluid is tested according to S6.9(b)—

(1) The fluid shall show no stratification; and

(2) Sedimentation shall not exceed 0.15 percent by volume after centrifuging.

S5.1.10 *Compatibility.*

(a) *At low temperature.* When brake fluid is tested according to S6.10(a)—

(1) The black contrast lines on a hiding power test chart shall be clearly discernible when viewed through every part of the fluid in the centrifuge tube; and

(2) The fluid shall show no stratification or sedimentation.

(b) *At 60° C. (140° F.).* When brake fluid is tested according to S6.10(b)—

(1) The fluid shall show no stratification; and

(2) Sedimentation shall not exceed 0.05 percent by the volume after centrifuging.

S5.1.11 *Resistance to oxidation.* When brake fluid is tested according to S6.11—

(a) The metal test strips outside the areas in contact with the tinfoil shall not show pitting or etching to an extent discernible without magnification;

(b) No more than a trace of gum shall be deposited on the test strips outside the areas in contact with the tinfoil;

(c) The aluminum strips shall not change in weight by more than 0.05 mg./sq. cm.; and

(d) The cast iron strips shall not change in weight by more than 0.3 mg./sq. cm.

S5.1.12 *Effects on cups.* When brake cups are subjected to brake fluid in accordance with S6.12 (a) and (b)—

(a) The increase in the diameter of the base of the cups shall be not less than 0.15 mm. (0.006 inch) or more than 1.40 mm. (0.055 inch);

(b) The decrease in hardness of the cups shall be not more than 10 IRHD at 70° C. (158° F.) or more than 15 IRHD at 120° C. (248° F.), and there shall be no increase in hardness of the cups; and

(c) The cups shall show no disintegration as evidenced by stickiness, blisters, or sloughing.

S5.1.13 *Stroking properties.* When brake fluid is tested according to S6.13—

(a) Metal parts of the test system shall show no pitting or etching to an extent discernible without magnification;

(b) The change in diameter of any cylinder or piston shall not exceed 0.13 mm. (0.005 inch);

(c) The average decrease in hardness of nine of the 10 cups tested (eight-wheel cylinder and one master cylinder primary) shall not exceed 15 IRHD. Not more than one of the nine cups shall have a decrease in hardness greater than 17 IRHD;

(d) None of the 10 cups shall be in an unsatisfactory operating condition as evidenced by stickiness, scuffing, blisters, cracking, chipping, or other change in shape from its original appearance;

(e) None of the 10 cups shall show an increase in base diameter greater than 0.90 mm. (0.035 inch);

(f) The average lip diameter set of the 10 cups shall not be greater than 65 percent;

(g) During any period of 24,000 strokes, the volume loss of fluid shall not exceed 36 milliliters;

(h) The cylinder pistons shall not freeze or function improperly throughout the test;

(i) The total loss of fluid during the 100 strokes at the end of the test shall not exceed 36 milliliters;

(j) The fluid at the end of the test shall show no formation of gells;

(k) At the end of the test the amount of sediment shall not exceed 1.5 percent by volume; and

(l) Brake cylinders shall be free of deposits that are abrasive or that cannot be removed when rubbed moderately with a nonabrasive cloth wetted with ethanol.

S5.2 *Packaging and labeling requirements for motor vehicle brake fluids.*

S5.2.1 *Container sealing.* Each brake fluid container with a capacity of 6 fluid ounces or more shall be provided with a resealable closure that has an inner seal impervious to the packaged brake fluid. The container closure shall include a tamper-proof feature that will either be destroyed or substantially altered when the container closure is initially opened.

S5.2.2 *Certification, marking, and labeling.*

S5.2.2.1 Each manufacturer of motor vehicle brake fluid shall furnish to each packager, distributor, or dealer to whom he delivers brake fluid, the following information:

(a) A serial number identifying the production lot and the date of manufacture of the brake fluid.

(b) The grade (DOT 3 or DOT 4) of the brake fluid.

(c) The minimum wet boiling point in Fahrenheit of the brake fluid.

(d) Certification that the brake fluid conforms to Federal Motor Vehicle Safety Standard No. 116.

S5.2.2.2 Each packager of motor vehicle brake fluid shall furnish the following information clearly and indelibly marked on each brake fluid container.

(a) Certification that the brake fluid conforms to Federal Motor Vehicle Safety Standard No. 116.

(b) The name of the manufacture of the brake fluid, and the name of the packager. This information may be in code form and, if coded, shall be placed beneath the distributor's name and mailing address.

(c) The name and complete mailing address of the distributor.

(d) A serial number identifying the packaged lot and date of packaging that shall be legible and stamped on the bottom of the container.

(e) Designation of the contents as "DOT _____ Motor Vehicle Brake Fluid" (Fill in "3" or "4" as applicable).

(f) The minimum wet boiling point in Fahrenheit of the DOT 3 or DOT 4 brake fluid in the container.

(g) The following safety warnings in capital and lower case letters as indicated:

1. FOLLOW VEHICLE MANUFACTURER'S RECOMMENDATIONS WHEN ADDING BRAKE FLUID.

2. KEEP BRAKE FLUID CLEAN AND DRY. Contamination with dirt, water, petroleum products or other materials may result in brake failure or costly repairs.

3. STORE BRAKE FLUID ONLY IN ITS ORIGINIAL CONTAINER. KEEP CONTAINER CLEAN AND TIGHTLY CLOSED TO PREVENT ABSORPTION OF MOISTURE.

4. *CAUTION:* DO NOT REFILL CONTAINER, AND DO NOT USE FOR OTHER LIQUIDS.

S6. *Test procedures.*

S6.1 *Equilibrium reflux boiling point.* Determine the ERBP of a brake fluid by running duplicate samples according to the following procedure and averaging the results.

S6.1.1 *Summary of procedure.* Sixty milliliters (ml.) of brake fluid are boiled under specified equilibrium conditions (reflux) at atmospheric pressure in a 100-ml. flask. The average temperature of the boiling fluid at the end of the reflux period, corrected for variations in barometric pressure if necessary, is the ERBP.

S6.1.2 *Apparatus.* (See Figure 1) The test apparatus shall consist of—

(a) *Flask.* (See Figure 2) A 100-ml. round-bottom, short-neck heat-resistant glass flask having a neck with a 19/38 standard taper, female ground-glass joint and a side-entering tube, with an outside diameter of 10 millimeters (mm.), which centers the thermometer bulb in the flask 6.5 mm. from the bottom;

(b) *Condenser.* A water-cooled, reflux, glass-tube type, condenser having a jacket 200 mm. in length, the bottom end of which has a 19/38 standard-taper, drip-tip, male ground-glass joint;

(c) *Boiling stones.* Three clean, unused silicon carbide grains (approximately 2 mm. (0.08 inch) in diameter, grit No. 8);

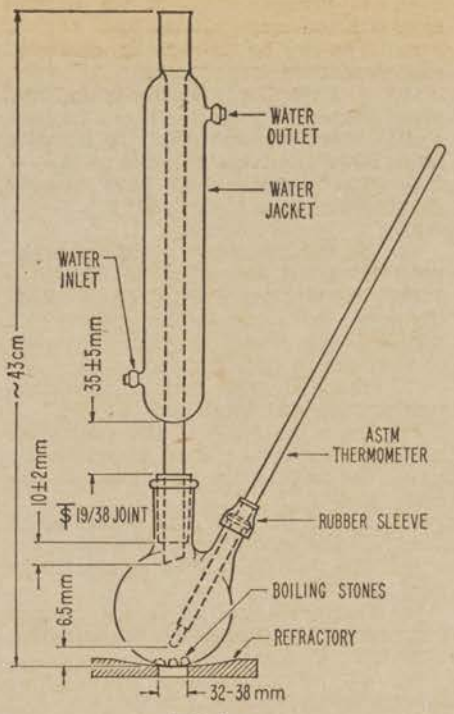

FIG. 1
BOILING POINT TEST APPARATUS

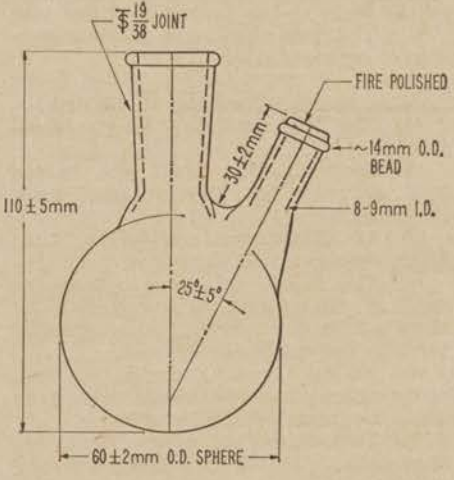

FIG. 2
DETAIL OF 100ml SHORT-NECK FLASK

(d) *Thermometer.* Standardized calibrated partial immersion (76 mm.), solid stem, thermometers conforming to the requirements for an ASTM 2C or 2F, and an ASTM 3C or 3F thermometer; and

(e) *Heat source.* Variable autotransformer-controlled heating mantle designed to fit the flask, or an electric heater with rheostat heat control.

S6.1.3 *Preparation of apparatus.*

(a) Thoroughly clean and dry all glassware.

(b) Insert thermometer through the side tube until the tip of the bulb is 6.5 mm. (¼ inch) from the bottom center of the flask. Seal with a short piece of natural rubber, EPDM, SBR, or butyl tubing.

(c) Place 60±1 ml. of brake fluid and the silicon carbide grains into the flask.

(d) Attach the flask to the condenser. When using a heating mantle, place the mantle under the flask and support it with a ring-clamp and laboratory-type stand, holding the entire assembly in place by a clamp. When using a rheostat-controlled heater, center a standard porcelain or hard asbestos refractory, having a diameter opening 32 to 38 mm., over the heating element and mount the flask so that direct heat is applied only through the opening in the refractory. Place the assembly in an area free from drafts or other types of sudden temperature changes. Connect the cooling water inlet and outlet tubes to the condenser. Turn on the cooling water. The water supply temperature shall not exceed 28° C. (82.4° F.) and the temperature rise through the condenser shall not exceed 2° C. (3.6° F.).

S6.1.4 *Procedure.* Apply heat to the flask so that within 10±2 minutes the fluid is refluxing in excess of 1 drop per second. The reflux rate shall not exceed 5 drops per second at any time. Immediately adjust the heating rate to obtain an equilibrium reflux rate of 1 to 2 drops per second over the next 5±2 minutes. Maintain this rate for an additional 2 minutes, taking four temperature readings at 30-second intervals. Record the average of these as the observed ERBP.

S6.1.5 *Calculation.*

(a) *Thermometer inaccuracy.* Correct the observed ERBP by applying any correction factor obtained in standardizing the thermometer.

(b) *Variation from standard barometric pressure.* Apply the factor shown in Table III to calculate the barometric pressure correction to the ERBP.

TABLE III—CORRECTION FOR BAROMETRIC PRESSURE

Observed ERBP corrected for thermometer inaccuracy	Correction per 1 mm difference in pressure[a]	
	° C.	(° F.)
100° C. (212° F.) to 190° C. (374° F.)	0.039	(0.07)
Over 190° C. (374° F.)	0.04	(0.08)

[a] To be added in case barometric pressure is below 760 mm.; to be subtracted in case barometric pressure is above 760 mm.

(c) If the two corrected observed ERBP's agree within 2° C. (4° C. for brake fluids having an ERBP over 230° C./446° F.) average the duplicate runs as the ERBP; otherwise, repeat the entire test, averaging the four corrected observed values to determine the original ERBP.

S6.2 *Wet ERBP.* Determine the wet ERBP of a brake fluid by running duplicate samples according to the following procedure.

S6.2.1 *Summary of the procedure.* A 100-ml. sample of the brake fluid is humidified under controlled conditions; 100 ml. of SAE RM–1 Compatibility Fluid is used to establish the end point for humidification. After humidification the water content and ERBP of the brake fluid are determined.

S6.2.2 *Apparatus for humidification.* (See Figure 3) Test apparatus shall consist of—

(a) *Glass jars.* Four SAE RM–49 corrosion test jars or equivalent screw-top, straight-sided, round glass jars each having a capacity of about 475 ml. and approximate inner dimensions of 100 mm. in height by 75 mm. in diameter, with matching lids having new, clean inserts providing water-vapor-proof seals;

(b) *Desiccator and cover.* Four bowl-form glass desiccators, 250-mm. inside diameter, having matching tubulated covers fitted with No. 8 rubber stoppers; and

(c) *Desiccator plate.* Four 230-mm. diameter, perforated porcelain desiccator plates, without feet, glazed on one side.

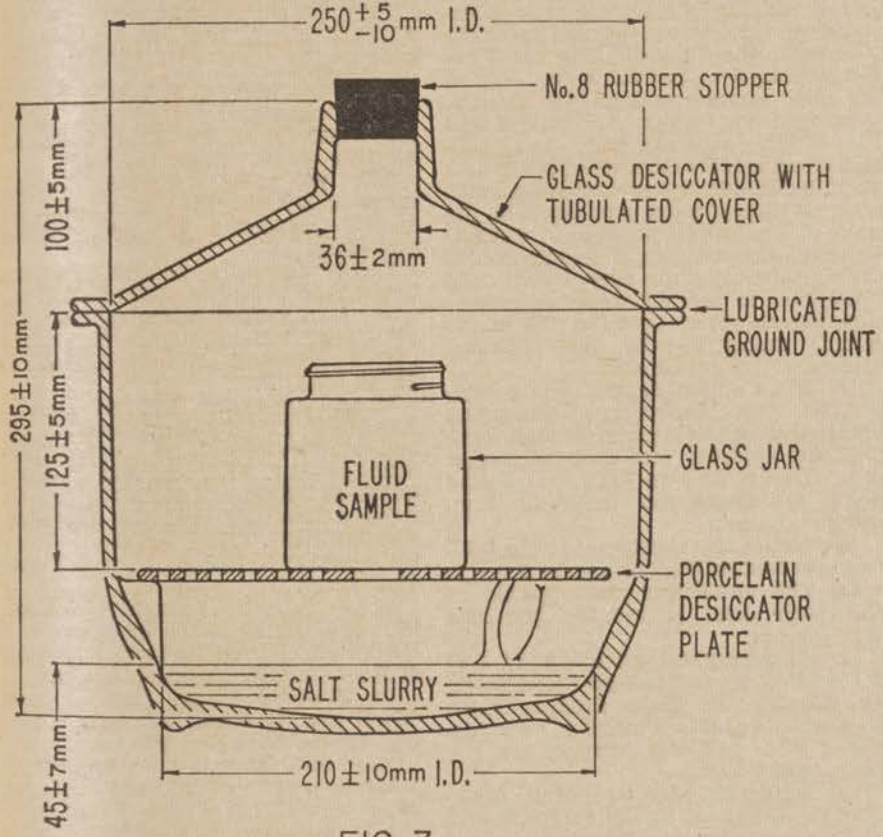

FIG. 3

HUMIDIFICATION APPARATUS

S6.2.3 *Reagents and materials.*

(a) Ammonium sulfate $(NH_4)_2SO_4$. Reagent or A.C.S. grade.

(b) Distilled water, see S7.1.

(c) SAE RM–1 compatibility fluid.

S6.2.4 *Preparation of apparatus.* Lubricate the ground-glass joint of the desiccator. Load each desiccator with 450±25 grams of the ammonium sulfate and add 125±10 ml. of distilled water. The surface of the salt slurry shall lie within 45±7 mm. of the top surface of the desiccator plate. Place the desiccators in an area with temperature controlled at 23°±2° C. (73.4°±3.6° F.) throughout the humidification procedure. Load the desiccators with the slurry and allow to condition with the covers on and stoppers in place at least 12 hours before use. Use a fresh charge of salt slurry for each test.

S6.2.5 *Procedure.* Pour 100±1 ml. of the brake fluid into a corrosion test jar. Promptly place the jar into a desiccator. Prepare duplicate test sample, and two duplicate specimens of the SAE RM–1 compatibility fluid. Adjust water content of the SAE RM–1 fluid to 0.50±0.05 percent by weight at the start of the test in accordance with S7.2. At intervals remove the rubber stopper in the top of each desiccator containing SAE RM–1 fluid. Using a long needled hypodermic syringe, take a sample of not more than 2 ml. from each jar and determine its water content. Remove no more than 10 ml. of fluid from each SAE RM–1 sample during the humidification procedure. When the water content of the SAE fluid reaches 3.50±0.05 percent by weight (average of the duplicates), remove the two test fluid specimens from their desiccators and promptly cap each jar tightly. Measure the water contents of the test fluid specimens in accordance with S7.2 and determine their ERBP's in accordance with S6.1 through S6.1.5. If the two ERBP's agree within 4° C. (8° F.), average them to determine the wet ERBP; otherwise repeat and average the four individual ERBP's as the wet ERBP of the brake fluid.

S6.3 *Kinematic viscosity.* Determine the kinematic viscosity of a brake fluid in centistokes (cSt.) by the following procedure. Run duplicate samples at each of the specified temperatures, making two timed runs on each sample.

S6.3.1 *Summary of the procedure.* The time is measured for a fixed volume of the brake fluid to flow through a calibrated glass capillary viscometer under an accurately reproducible head and at a closely controlled temperature. The kinematic viscosity is then calculated from the measured flow time and the calibration constant of the viscometer.

S6.3.2 *Apparatus.*

(a) *Viscometers.* Calibrated glass capillary-type viscometers, ASTM D2515–66, "Standard Specification for Kinematic Glass Viscometers," measuring viscosity within the precision limits of S6.4.7. Use suspended level viscometers for viscosity measurements at low temperatures. Use Cannon-Fenske Routine or other modified Ostwald viscometers at ambient temperatures and above.

(b) *Viscometer holders and frames.* Mount a viscometer in the constant-temperature bath so that the mounting tube is held within 1° of the vertical.

(c) *Viscometer bath.* A transparent liquid bath of sufficient depth such that at no time during the measurement will any portion of the sample in the viscometer be less than 2 cm. below the surface or less than 2 cm. above the bottom. The bath shall be cylindrical in shape, with turbulent agitation sufficient to meet the temperature control requirements. For measurements within 15° to 100° C. (60° to 212° F.) the temperature of the bath medium shall not vary by more than 0.01° C. (0.02° F.) over the length of the viscometers, or between the positions of the viscometers, or at the locations of the thermometers. Outside this range, the variation shall not exceed 0.03° C. (0.05° F.).

(d) *Thermometers.* Liquid-in-Glass Kinematic Viscosity Test Thermometers, covering the range of test temperatures indicated in Table IV and conforming to ASTM E1–68, "Specifications for ASTM Theromometers," and in the IP requirements for IP Standard Thermometers. Standardize before use (see S6.3.3(b)). Use two standardized thermometers in the bath.

TABLE IV—KINEMATIC VISCOSITY THERMOMETERS

Temperature range		For tests at		Subdivisions		Thermometer number	
°C.	°F.	°C.	°F.	°C.	°F.	ASTM	IP
Minus 55.3 to minus 52.5	Minus 67.5 to minus 62.5.	Minus 55	Minus 67	0.05	0.1	74° F.	69° F. or C.
Minus 41.4 to minus 38.6	Minus 42.5 to minus 37.5.	Minus 40	Minus 40	0.05	0.1	73° F.	68° F. or C.
98.6 to 101.4	207.5 to 212.5	100	212	0.05	0.1	30° F.	32° F. or C.

(e) *Timing device.* Stop watch or other timing device graduated in divisions representing not more than 0.2 second, with an accuracy of at least ±0.05 percent when tested over intervals of 15 minutes. Electrical timing devices may be used when the current frequency is controlled to an accuracy of 0.01 percent or better.

S6.3.3 *Standardization.*

(a) *Viscometers.* Use viscometers calibrated in accordance with Appendix 1 of ASTM D445–65, "Viscosity of Transparent and Opaque Liquids (Kinematic and Dynamic Viscosities." The calibration constant, *C*, is dependent upon the gravitational acceleration at the place of calibration. This must, therefore, be supplied by the standardization laboratory together with the instrument constant. Where the acceleration of gravity, *g*, in the two locations differs by more than 0.1 percent, correct the calibration constant as follows:

$$C_2 = \frac{g_1}{g_2 \times C_1}$$

where the subscripts 1 and 2 indicate respectively the standardization laboratory and the testing laboratory.

(b) *Thermometers.* Check liquid-in-glass thermometers to the nearest 0.01° C. (0.02° F.) by direct comparison with a standardized thermometer. Kinematic Viscosity Test Thermometers shall be standardized at "total immersion." The ice point of standardized thermometers shall be determined before use and the official corrections shall be adjusted to conform to the changes in ice points. (See ASTM E77–66, "Verification and Calibration of Liquid-in-Glass Thermometers.")

(c) *Timers.* Time signals are broadcast by the National Bureau of Standards, Station WWV, Washington, D.C. at 2.5, 5, 10, 15, 20, 25, 30, and 35 Mc/sec (MHz). Time signals are also broadcast by Station CHU from Ottawa, Canada, at 3.330, 7.335, and 14.670 Mc/sec, and Station MSF at Rugby, United Kingdom, at 2.5, 5, and 10 Mc/sec.

S6.3.4 *Procedure.*

(a) Set and maintain the bath at the appropriate test temperature (see S5.1.3) within the limits specified in S6.3.2(c). Apply the necessary corrections, if any, to all thermometer readings.

(b) Select a clean, dry, calibrated viscometer giving a flow time not less than its specified minimum, or 200 seconds, whichever is the greater.

(c) Charge the viscometer in the manner used when the instrument was calibrated. Do not filter or dry the brake fluid, but protect it from contamination by dirt and moisture during filling and measurements.

(1) Charge the suspended level viscometers by tilting about 30° from the vertical and pouring sufficient brake fluid through the fill tube into the lower reservoir so that when the viscometer is returned to vertical position the meniscus is between the fill marks. For measurements below 0° C. (32° F.), before placing the filled viscometer into the constant temperature bath, draw the sample into the working capillary and timing bulb and insert small rubber stoppers to suspend the fluid in this position, to prevent accumulation of water condensate on the walls of the critical portions of the viscometer. Alternatively, fit loosely packed drying tubes into the open ends of the viscometer to prevent water condensation, but do not restrict the flow of the sample under test by the pressures created in the instrument.

(2) If a Cannon-Fenske Routine viscometer is used, charge by inverting and immersing the smaller arm into the brake fluid and applying vacuum to the larger arm. Fill the tube to the upper timing mark, and return the viscometer to an upright position.

(d) Mount the viscometer in the bath in a true vertical position (see S6.3.2(b)).

(e) The viscometer shall remain in the bath until it reaches the test temperature.

(f) At temperatures below 0° C. (32° F.) conduct an untimed preliminary run by allowing the brake fluid to drain through the capillary into the lower reservoir after the test temperature has been established.

(g) Adjust the head level of the brake fluid to a position in the capillary arm about 5 mm. above the first timing mark.

(h) With brake fluid flowing freely measure to within 0.2 second the time required for the meniscus to pass from the first timing mark to the second. If this flow time is less than the minimum specified for the viscometer, or 200 seconds, whichever is greater, repeat using a viscometer with a capillary of smaller diameter.

(i) Repeat S6.3.4 (g) and (h). If the two timed runs do not agree within 0.2 percent, reject and repeat using a fresh sample of brake fluid.

S6.3.5 *Cleaning the viscometers.*

(a) Periodically clean the instrument with chromic acid to remove organic deposits. Rinse thoroughly with distilled water and acetone, and dry with clean dry air.

(b) Between successive samples rinse the viscometer with ethanol followed by an acetone or ether rinse. Pass a slow stream of filtered dry air through the viscometer until the last trace of solvent is removed.

S6.3.6 *Calculation.*

(a) The following viscometers have a fixed volume charged at ambient temperature, and as a consequence *C* varies with test temperature: Cannon-Fenske Routine, Pinkevitch, Cannon-Manning Semi-Micro, and Cannon Fenske Opaque. To calculate *C* at test temperatures other than the calibration temperature for these viscometers, see ASTM D2515–66, "Kinematic Glass Viscometers" or follow instructions given on the manufacturer's certificate of calibration.

(b) Average the four timed runs on the duplicate samples to determine the kinematic viscosities.

S6.3.7 *Precision (at 95 percent confidence level).*

(a) *Repeatibility.* If results on duplicate samples by the same operator differ by more than 1 percent of their mean, repeat the tests.

S6.4 *pH value.* Determine the pH value of a brake fluid by running one sample according to the following procedure.

S6.4.1 *Summary of the procedure.* Brake fluid is diluted with an equal volume of an ethanol-water solution. The pH of the resultant mixture is measured with a prescribed pH meter assembly at 23° C. (73.4° F.).

S6.4.2 *Apparatus.* The pH assembly consists of the pH meter, glass electrode, and calomel electrode, as specified in Appendices A1.1, A1.2, and A1.3 of ASTM D1121–67, "Standard Method of Test for Reserve Alkalinity of Engine Antifreezes and Antirusts." The glass electrode is a full range type (pH 0–14), with low sodium error.

S6.4.3 *Reagents.* Reagent grade chemicals conforming to the specifications of the Committee on Analytical Reagents of the American Chemical Society.

(a) *Distilled water.* Distilled water (S7.1) shall be boiled for about 15 minutes to remove carbon dioxide, and protected with a soda-lime tube or its equivalent while cooling and in storage. (Take precautions to prevent contamination by the materials used for protection against carbon dioxide.) The pH of the boiled distilled water shall be between 6.2 and 7.2 at 25° C. (77° F.).

(b) *Standard buffer solutions.* Prepare buffer solutions for calibrating the pH meter and electrode pair from salts sold specifically for use, either singly or in combination, as pH standards. Dry salts for 1 hour at 110° C. (230° F.) before use except for borax which shall be used as the decahydrate. Store solutions with pH less than 9.5 in bottles of chemically resistant glass or polyethylene. Store the alkaline phosphate solution in a glass bottle coated inside with paraffin. Do not use a standard with an age exceeding three months.

(1) Potassium hydrogen phthalate buffer solution (0.05 M, pH=4.01 at 25° C. (77° F.)). Dissolve 10.21 g. of potassium hydrogen phthalate ($KHC_8H_4O_4$) in distilled water. Dilute to 1 liter.

(2) Neutral phosphate buffer solution (0.025 M with respect to each phosphate

salt, pH=6.86 at 25° C. (77° F.)). Dissolve 3.40 g. of potassium dihydrogen phosphate (KH_2PO_4) and 3.55 g. of anhydrous disodium hydrogen phosphate (Na_2HPO_4) in distilled water.

(3) Borax buffer solution (0.01 M, pH=9.18 at 25° C. (77° F.)). Dissolve 3.81 g. of disodium tetraborate decahydrate ($Na_2B_4O_7 \cdot 10\ H_2O$) in distilled water, and dilute to 1 liter. Stopper the bottle except when actually in use.

(4) Alkaline phosphate buffer solution (0.01 M trisodium phosphate, pH=11.72 at 25° C. (77° F.)). Dissolve 1.42 g. of anhydrous disodium hydrogen phosphate (Na_2HPO_4) in 100 ml. of a 0.1 M carbonate-free solution of sodium hydroxide. Dilute to 1 liter with distilled water.

(5) Potassium chloride electrolyte. Prepare a saturated solution of potassium chloride (KCl) in distilled water.

(c) *Ethanol-water mixture.* To 80 parts by volume of ethanol (S7.3) add 20 parts by volume of distilled water. Adjust the pH of the mixture to 7±0.1 using 0.1 N sodium hydroxide (NaOH) solution. If more than 4 ml. of NaOH solution per liter of mixture is required for neutralization, discard the mixture.

S6.4.4 *Preparation of electrode system.*

(a) *Maintenance of electrodes.* Clean the glass electrode before using by immersing in cold chromic-acid cleaning solution. Drain the calomel electrode and fill with KCl electrolyte, keeping level above that of the mixture at all times. When not in use, immerse the lower halves of the electrodes in distilled water, and do not immerse in the mixture for any appreciable period of time between determinations.

(b) *Preparation of electrodes.* Condition new glass electrodes and those that have been stored dry as recommended by the manufacturer. Before and after using, wipe the glass electrode thoroughly with a clean cloth, or a soft absorbent tissue, and rinse with distilled water. Before each pH determination, soak the prepared electrode in distilled water for at least 2 minutes. Immediately before use, remove any excess water from the tips of the electrode.

S6.4.5. *Standardization of the pH assembly and testing of the electrodes.*

(a) Immediately before use, standardize the pH assembly with a standard buffer solution. Then use a second standard buffer solution to check the linearity of the response of the electrodes at different pH values, and to detect a faulty glass electrode or incorrect temperature compensation. The two buffer solutions bracket the anticipated pH value of the test brake fluid.

(b) Allow instrument to warm up, and adjust according to the manufacturer's instructions. Immerse the tips of the electrodes in a standard buffer solution and allow the temperature of the buffer solution and the electrodes to equalize. Set the temperature knob at the temperature of the buffer solution. Adjust the standardization or asymmetry potential control until the meter registers a scale reading, in pH units, equal to the known pH of the standardizing buffer solution.

(c) Rinse the electrodes with distilled water and remove excess water from the tips. Immerse the electrodes in a second standard buffer solution. The reading of the meter shall agree with the known pH of the second standard buffer solution within ±0.05 unit without changing the setting of the standardization of asymmetry potential control.

(d) A faulty electrode is indicated by failure to obtain a correct value for the pH of the second standard buffer solution after the meter has been standardized with the first.

S6.4.6 *Procedure.* To 50±1 ml. of the test branke fluid add 50±1 ml. of the ethanol-water (S6.4.3(c)) and mix thoroughly. Immerse the electrodes in the mixture. Allow the system to come to equilibrium, readjust the temperature compensation if necessary, and take the pH reading.

S6.5 *Fluid stability.* Evaluate the heat and chemical stability of a brake fluid by the following procedure, running duplicate samples for each test and averaging the results.

S6.5.1 *Summary of the procedure.* The degradation of the brake fluid at elevated temperature, alone or in a mixture with a reference fluid, is evaluated by determining the change in boiling point after a period of heating under reflux conditions.

S6.5.2 *Apparatus.* Use the apparatus and preparation specified in S6.1.2 and S6.1.3.

S6.5.3 *High temperature stability.*

S6.5.3.1 *Procedure.*

(a) Heat a new 60±1 ml. sample of the brake fluid to 185°±2° C. (365°±3.6° F.). Hold at this temperature for 120±5 minutes. Bring to a reflux rate in excess of 1 drop per second within 5 minutes. The reflux rate should not exceed 5 drops per second at any time. Over the next 5±2 minutes adjust the heating rate to obtain an equilibrium reflux rate of 1 to 2 drops per second. Maintain this rate for an additional 2 minutes, taking four temperature readings at 30-second intervals. Average these as the observed ERBP.

S6.5.3.2 *Calculation.* Correct the observed ERBP for thermometer and barometric pressure factors according to S6.1.5 (a) and (b). Average the corrected ERBP's of the duplicate samples. The difference between this average and the original. ERBP obtained in S6.1 is the change in ERBP of the fluid.

S6.5.4 *Chemical stability.*

S6.5.4.1 *Materials.* SAE RM–1 Compatibility Fluid, as described in Appendix A of SAE Standard J1703b, "Motor Vehicle Brake Fluid," April 1968.

S6.5.4.2 *Procedure.*

(a) Mix 30±1 ml. of the brake fluid with 30±1 ml. of SAE RM–1 Compatibility Fluid in a boiling point flask (S6.1.2(a)). Determine the initial ERBP of the mixture by applying heat to the flask so that the fluid is refluxing in 10±2 minutes at a rate in excess of 1 drop per second, but not more than 5 drops per second. Note the maximum fluid temperature observed during the first minute after the fluid begins refluxing at a rate in excess of 1 drop per second. Over the next 15±1 minutes, adjust and maintain the reflux rate at 1 to 2 drops per second. Maintain this rate for an additional 2 minutes, recording the average value of four temperature readings taken at 30-second intervals as the final ERBP.

(b) Thermometer and barometic corrections are not required.

S6.5.4.3 *Calculation.* The difference between the initial ERBP and the final average temperature is the change in temperature of the refluxing mixture. Average the results of the duplicates to the nearest 0.5° C. (1° F.).

S6.6 *Corrosion.* Evaluate the corrosiveness of a brake fluid by running duplicate samples according to the following procedure.

S6.6.1 *Summary of the procedure.* Six specified metal corrosion test strips are polished, cleaned, and weighed, then assembled as described. Assembly is placed on a standard wheel cylinder cup in a corrosion test jar, immersed in the water-wet brake fluid, capped and placed in an oven at 100° C. 212° F.) for 120 hours. Upon removal and cooling, the strips, fluid, and cups are examined and tested.

S6.6.2 *Equipment.*

(a) *Balance.* An analytical balance having a minimum capacity of 50 grams and capable of weighing to the nearest 0.1 mg.

(b) *Desiccators.* Desiccators containing silica gel or other suitable desiccant.

(c) *Oven.* Gravity convection oven capable of maintaining the desired set point within 2° C. (3.6° F.).

(d) *Micrometer.* A machinist's micrometer 25 to 50 mm. (1 to 2 inches) capacity, or an optical comparator, capable of measuring the diameter of the SBR wheel cylinder (WC) cups to the nearest 0.02 mm. (0.001 inch).

S6.6.3 *Materials.*

(a) *Corrosion test strips.* Two sets of strips from each of the metals listed in Appendix C of SAE Standard J1703b. Each strip shall be approximately 8 cm. long, 1.3 cm. wide, not more than 0.6 cm. thick, and have a surface area of 25±5 sq. cm. and a hole 4 to 5 mm. (0.16 to 0.20 inch) in diameter on the centerline about 6 mm. from one end. The hole shall be clean and free from burrs. Tinned iron strips shall be unused. Other strips, if used, shall not be employed if they cannot be polished to a high finish.

(b) *SBR cups.* Two unused standard SAE SBR wheel cylinder (WC) cups, as specified in S7.6.

(c) *Corrosion test jars and lids.* Two screw-top straight-sided round glass jars, each having a capacity of approximately 475 ml. and inner dimensions of approximately 100 mm. in height and 75 mm. in diameter, and a tinned steel lid (no insert or organic coating) vented with a hole 0.8±0.1 mm. (0.031±0.004 inch) in diameter (No. 68 drill).

(d) *Machine screws and nuts.* Clean, rust and oil-free, uncoated mild steel round or fillister head machine screws, size 6 or 8–32 UNC-Class 2A, five-eighths or three-fourths inch long (or equivalent metric sizes), and matching uncoated nuts.

(e) *Supplies for polishing strips.* Waterproof silicon carbide paper, grit No. 320 A; grade 00 steel wool, lint-free polishing cloth.

(f) *Distilled water* as specified in S7.1.

(g) *Ethanol* as specified in S7.3.

S6.6.4 *Preparation.*

(a) *Corrosion test strips.* Except for the tinned iron strips, abrade corrosion test strips on all surface areas with silicone carbide paper wet with ethanol until all surface scratches, cuts and pits are removed. Use a new piece of paper for each different type of metal. Polish the strips with the 00 grade steel wool. Wash all strips, including the tinned iron and the assembly hardware, with ethanol; dry the strips and assembly hardware with a clean lint free cloth or use filtered compressed air and place the strips and hardware in a desiccator containing silica gel or other suitable desiccant and maintained at 23°±5° C. (73.4°±9° F.), for at least 1 hour. Handle the strips with forceps after polishing. Weigh and record the weight of each strip to the nearest 0.1 mg. Assemble the strips on a clean dry machine screw, with matching plain nut, in the order of tinned iron, steel, aluminum, cast iron, brass, and copper. Bend the strips, other than the cast iron, so that there is a separation of 3±½ mm. (⅛±1/64 inch) between adjacent strips for a distance of about 5 cm. (2 inches) from the free end of the strips. (See Figure 4.) Tighten the screw on each test strip assembly so that the strips are in electrolytic contact, and can be lifted by either of the outer strips (tinned iron or copper) without any of the strips moving relative to the others when held horizontally. Immerse the strip assemblies in 90 percent thyl alcohol. Dry with dried filtered compressed air, then dessicate at least 1 hour before use.

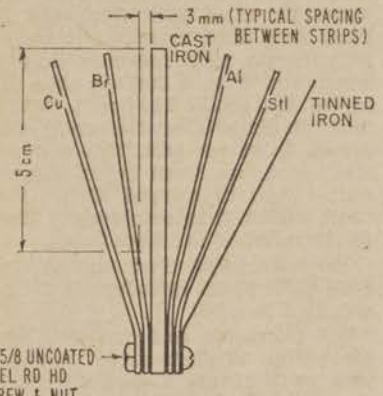

FIG. 4
CORROSION STRIP ASSEMBLY

(b) *SBR WC cups.* Measure the base diameters of the two standard SBR cups, using an optical comparator or micrometer, to the nearests 0.02 mm. (0.001 inch) along the centerline of the SAE and rubber-type identifications and at right angles to this centerline. Take the measurements at least 0.4 mm. (0.015 inch) above the bottom edge and parallel to the base of the cup. Discard any cup if the two measured diameters differ by more than 0.08 mm. (0.003 inch). Average the two readings on each cup. Determine the hardness of the cups according to S7.4.

S6.6.5 *Procedure.* Rinse the cups in ethanol for not more than 30 seconds and wipe dry with a clean lint-free cloth. Place one cup with lip edge facing up, in each jar. Insert a metal strip assembly inside each cup with the fastened end down and the free end extending upward. (See Figure 5.) Mix 760 ml. of brake fluid with 40 ml. of distilled water; using this mixture, cover each strip assembly to a depth of approximately 10 mm. above the tops of the strips. Tighten the lids and place the jars for 120±2 hours in an oven maintained at 100°±2° C. (212°±3.6° F.). Allow the jars to cool at 23°±5° C. 73.4°±9° F.) for 60 to 90 minutes. Immediately remove the strips from the jars using forceps, agitating the strip assembly in the fluid to remove loose adhering sediment. Examine the test strips and jars for adhering crystalline deposits. Disassemble the metal strips, and remove adhering fluid by flushing with water; clean each strip by wiping with a clean cloth wetted with ethanol. Examine the strips for evidence of corrosion and pitting. Disregard staining or discoloration. Place the strips in a desiccator containing silica gel or other suitable desiccant, maintained at 23°±5° C. (73.4°±9° F.), for at least 1 hour. Weigh each strip to the nearest 0.1 mg. Determine the change in weight of each metal strip. Average the results for the two strips of each type of metal. Immediately following the cooling period, remove the cups from the jars with forceps. Remove loose adhering sediment by agitation of the cups in the mixture. Rinse the cups in ethanol and air-dry. Examine the cups for evidence of sloughing, blisters, and other forms of disintegration. Measure the base diameter and hardness of each cup within 15 minutes after removal from the mixture. Examine the mixture for gelling. Agitate the mixture to suspend and uniformly disperse sediment. From each jar, transfer a 100 ml. portion of the mixture to an ASTM cone-shaped centrifuge tube. Determine the percent sediment after centrifuging as described in S7.5. Measure the pH value of the mixture according to S6.4.6.

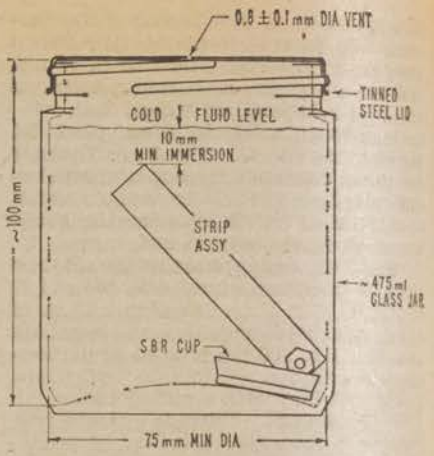

FIG. 5
CORROSION TEST APPARATUS

S6.6.6 *Calculation.*

(a) Measure the area of each type of test strip to the nearest square centimeter. Divide the average change in weight for each type by the area of that type.

(b) Note other data and evaluations indicating compliance with S5.1.6. In the event of a marginal pass on inspection by attributes, or of a failure in one of the duplicates, run another set of duplicate samples. Both repeat samples shall meet all requirements of S5.1.6.

S6.7 *Fluidity and appearance at low temperatures.* Determine the fluidity and appearance of a sample of brake fluid at each of two selected temperatures by the following procedure.

S6.7.1 *Summary of procedure.* Brake fluid is chilled to expected minimum exposure temperatures and observed for clarity, gellation, sediment, separation of components, excessive viscosity or thixotropy.

S6.7.2 *Apparatus.*

(a) *Oil sample bottle.* Two clear flint glass 4-ounce bottles made especially for sampling oil and other liquids, with a capacity of approximately 125 ml., an outside diameter of 37±0.05 mm. and an overall height of 165±2.5 mm.

(b) *Cold chamber.* An air bath cold chamber capable of maintaining storage temperatures down to minus 55° C. (minus 67° F.) with an accuracy of ±2° C. (3.6° F.).

(c) *Timing device.* A timing device in accordance with S6.3.2(e).

(d) *Hiding power test chart.* (SAE RM).

S6.7.3 *Procedure.*

(a) Place 100±2 ml. of brake fluid at room temperature in an oil sample bottle. Stopper the bottle with an unused cork and place in the cold chamber at the higher storage temperature specified in Table II (S5.1.7(c)). After 144±4 hours remove the bottle from the chamber, quickly wipe it with a clean, lint-free cloth saturated with ethanol or ace-

tone. Place against a hiding power test chart and observe if the black contrast lines are clearly discernible when viewed through every part of the fluid. Examine the fluid for evidence of stratification or sedimentation. Invert the bottle and determine the number of seconds required for the air bubble to travel to the top of the fluid.

(b) Repeat S6.7.3(a), substituting the lower cold chamber temperature specified in Table II, and a storage period of 6 hours ±12 minutes.

NOTE: Test specimens from either storage temperature may be used for the other only after warming up to room temperature.

S6.8 *Evaporation.* The evaporation residue, and pour point of the evaporation residue of brake fluid, are determined by the following procedure. Four replicate samples are run.

S6.8.1 *Summary of the procedure.* The volatile diluent portion of a brake fluid is evaporated in an oven at 100° C. (212° F.). The nonvolatile lubricant portion (evaporation residue) is measured and examined for grittiness; the residues are then combined and checked to assure fluidity at minus 5° C. (23° F.).

S6.8.2 *Apparatus.*

(a) *Petri dishes.* Four covered glass petri dishes approximately 100 mm. in diameter and 15 mm. in height.

(b) *Oven.* A top-vented gravity-convection oven capable of maintaining a temperature of 100°±2° C. (212°±3.6° F.).

(c) *Balance.* A balance having a capacity of at least 100 grams, capable of weighing to the nearest 0.01 gram, and suitable for weighing the petri dishes.

(d) *Oil sample bottle.* A glass sample bottle as described in S6.7.2(a).

(e) *Cold chamber.* Air bath cold chamber capable of maintaining an oil sample bottle at minus 5°±1° C. (23°±2° F.).

(f) *Timing device.* A timing device as described in S6.3.2(e).

S6.8.3 *Procedure.* Obtain the tare weight of each of the four covered petri dishes to the nearest 0.01 gram. Place 25±1 ml. of brake fluid in each dish, replace proper covers and reweigh. Determine the weight of each brake fluid test specimen by the difference. Place the four dishes, each inside its inverted cover, in the oven at 100°±2° C. (212°±3.6° F.) for 46±2 hours. (NOTE: Do not simultaneously heat more than one fluid in the same oven.) Remove the dishes from the oven, allow to cool to 23°±5° C. (73.4°±9° F.), and weigh. Return to the oven for an additional 24±2 hours. If at the end of 72±4 hours the average loss by evaporation is less than 60 percent, discontinue the evaporation procedure and proceed with examination of the residue. Otherwise, continue this procedure either until equilibrium is reached as evidenced by an incremental weight loss of less than 0.25 gram in 24 hours on all individual dishes or for a maximum of 7 days. During the heating and weighing operation, if it is necessary to remove the dishes from the oven for a period of longer than 1 hour, the dishes shall be stored in a desiccator as soon as cooled to room temperature. Calculate the percentage of fluid evaporated from each dish. Examine the residue in the dishes at the end of 1 hour at 23°±5° C. (73.4°±9° F.). Rub any sediment with the fingertip to determine grittiness or abrasiveness. Combine the residues from all four dishes in a 4-ounce oil sample bottle and store vertically in a cold chamber at minus 5°±1° C. (23°±2° F.) for 60±10 minutes. Quickly remove the bottle and place in the horizontal position. The residue must flow at least 5 mm. (0.2 inch) along the tube within 5 seconds.

S6.8.4 *Calculation.* The average of the percentage evaporated from all four dishes is the loss by evaporation.

S6.9 *Water tolerance.* Evaluate the water tolerance characteristics of a brake fluid by running one test specimen according to the following procedure.

S6.9.1 *Summary of the procedure.* Brake fluid is diluted with 3.5 percent water, then stored at minus 40° C. (minus 40° F.) for 24 hours. The cold, water-wet fluid is first examined for clarity, stratification, and sedimentation, then placed in an oven at 60° C. (140° F.) for 24 hours. On removal, it is again examined for stratification, and the volume percent of sediment determined by centrifuging.

S6.9.2 *Apparatus.*

(a) *Centrifuge tube.* See S7.5.1(a).

(b) *Centrifuge.* See S7.5.1(b).

(c) *Cold chamber.* See S6.7.2(b).

(d) *Oven.* Gravity or forced convection oven.

(e) *Timing device.* See S6.3.2(e).

(f) *Hiding power test chart.* (SAE RM).

S6.9.3 *Procedure.*

(a) *At low temperature.* Mix 3.5±0.1 ml. of distilled water with 100±1 ml. of brake fluid and pour into a centrifuge tube. Stopper the tube with a clean cork and place in the cold chamber maintained at minus 40°±2° C. (minus 40°±3.6° F.). After 24±2 hours remove tube, quickly wipe with a clean lint-free cloth saturated with ethanol or acetone, and place against a hiding power test chart. Observe whether the black contrast lines are clearly discernible when viewed through every part of the fluid. Examine the fluid for evidence of stratification or sedimentation. Invert the tube and determine the number of seconds required for the air bubble to travel to the top of the fluid. (The air bubble is considered to have reached the top of the fluid when the top of the bubble reaches the 2 ml. graduation of the centrifuge tube.)

(b) *At 60° C. (140° F.).* Place tube and brake fluid from S6.93(a) in an oven maintained at 60°±2° C. (140°±3.6° F.) for 24±2 hours. Remove the tube and immediately examine the contents for evidence of stratification. Determine the percent sediment by centrifuging as described in S7.5.

S6.10 *Compatibility.* The compatibility of a brake fluid with other brake fluids shall be evaluated by running one test sample according to the following procedure.

S6.10.1 *Summary of the procedure.* Brake fluid is mixed with an equal volume of SAE RM–1 Compatibility Fluid, then tested in the same way as for water tolerance (S6.9.3) except that the bubble flow time is not measured. This test is an indication of the compatibility of the test fluid with other motor vehicle brake fluids at both high and low temperatures.

S6.10.2 *Apparatus and materials.*

(a) *Centrifuge tube.* See S7.5.1(a).

(b) *Centrifuge.* See S7.5.1(b).

(c) *Cold chamber.* See S6.7.2(b).

(d) *Oven.* See S6.9.2(d).

(e) *SAE RM–1 Compatibility Fluid.* As described in Appendix A of SAE Standard J1703b.

(f) *Hiding power test chart.* (SAE RM)

S6.10.3 *Procedure.*

(a) *At low temperature.* Mix 50±0.5 ml. of brake fluid with 50±0.5 ml. of SAE RM–1 Compatibility Fluid. Pour this mixture into a centrifuge tube and stopper with a clean dry cork. Place tube in the cold chamber maintained at minus 40°±2° C. (minus 40°±3.6° F.). After 24±2 hours, remove tube, quickly wipe with a clean lint-free cloth saturated with ethanol or acetone. Place tube against a hiding power test chart and observe whether the black contrast lines on the hiding power test chart are clearly discernible when viewed through every part of the fluid. Examine the fluid for evidence of stratification or sedimentation.

(b) *At 60° C. (140° F.).* Place tube and test fluid from S6.10.3(a) for 24±2 hours in an oven maintained at 60°±2° C. (140°±3.6° F.). Remove tube and immediately examine the contents for evidence of stratification. Determine percent sediment by centrifuging as described in S7.5.

S6.11 *Resistance to oxidation.* The stability of a brake fluid under oxidative conditions shall be evaluated by running duplicate samples according to the following procedure.

S6.11.1 *Summary of the procedure.* Brake fluid is activated with a mixture of approximately 0.2 percent benzoyl peroxide and 5 percent water. A corrosion test strip assembly consisting of cast iron and an aluminum strip separated by tinfoil squares at each end is then rested on a piece of SBR WC cup positioned so that the test strip is half immersed in the fluid, and oven-aged at 70° C. (158° F.) for 168 hours. At the end of this period the metal strips are examined for pitting, etching, and weight loss.

S6.11.2 *Equipment.*

(a) *Balance.* See S6.6.2(a).

(b) *Desiccators.* See S6.6.2(b).

(c) *Oven.* See S6.6.2(c).

(d) Three glass test tubes approximately 22 mm. outside diameter by 175 mm. in length.

S6.11.3 *Reagents and materials.*

(a) *Benzoyl peroxide, reagent grade, 96 percent.* (Benzoyl peroxide that is brownish, or dusty, or has less than 90 percent purity, must be discarded.) Reagent strength may be evaluated by ASTM E298–68, "Standard Methods for Assay of Organic Peroxides."

(b) *Corrosion test strips.* Two sets of cast iron and aluminum metal test strips as described in Appendix C of SAE Standard J1703b.

(c) *Tinfoil.* Four unusued pieces of tinfoil approximately 12 mm. (½ inch) square and between 0.02 and 0.06 mm. (0.0008 and 0.0024 inch) in thickness. The foil shall be at least 99.9 percent tin and contain not more than 0.025 percent lead.

(d) *SBR cups.* Two unused, approximately one-eighth sections of a standard SAE SBR WC cup (as described in S7.6).

(e) *Machine screw and nut.* Two clean oil-free, No. 6 or 8–32×⅜– or ½-inch long (or equivalent metric size), round or fillister head, uncoated mild steel machine screws, with matching plain nuts.

S6.11.4 *Preparation.*

(a) *Corrosion test strips.* Prepare two sets of aluminum and cast iron test strips according to S6.6.4(a) except for assembly. Weigh each strip to the nearest 0.1 mg. and assemble a strip of each metal on a machine screw, separating the strips at each end with a piece of tinfoil. Tighten the nut enough to hold both pieces of foil firmly in place.

(b) *Test mixture.* Place 30±1 ml. of the brake fluid under test in a 22 by 175 mm. test tube. Add 0.060±0.002 gram of benzoyl peroxide, and 1.50±0.05 ml. of distilled water. Stopper the tube loosely with a clean dry cork, shake, and place in an oven for 2 hours at 70°±2° C. (158°±3.6° F.). Shake every 15 minutes to effect solution of the peroxide, but do not wet cork. Remove the tube from the oven and allow to cool to 23°±5° C. (73.4°±9° F.).

S6.11.5 *Procedure.* Place a one-eighth SBR cup section in the bottom of each tube. Add 10 ml. of prepared test mixture to each test tube. Place a metal-strip assembly in each, the end of the strip without the screw resting on the rubber, and the solution covering about one-half the length of the strips. Stopper the tubes with clean dry corks and store upright for 70±2 hours at 23°±51° C. (73.4°±9° F.). Loosen the corks and place the tubes for 168±2 hours in an oven maintained at 70°±2° C. (158°±3.6° F.). Afterwards remove and disassemble strips. Examine the strips and note any gum deposits. Wipe the strips with a clean cloth wet with ethanol and note any pitting, etching or roughening of surface disregarding stain or discoloration. Place the strips in a desiccator over silica gel or other suitable desiccant, at 23°±5° C. (73.4°±9° F.) for at least 1 hour. Again weigh each strip to the nearest 0.1 mg.

S6.11.6 *Calculation.* Determine corrosion loss by dividing the change in weight of each metal strip by the total surface area of each strip measured in square centimeters, to the nearest square centimeter. If only one of the duplicates two strips of each type of metal, rounding to the nearest 0.05 mg. per square centimeter. If only one of the duplicates fails for any reason, run a second set of duplicate samples. Both repeat samples shall meet all requirements of S5.1.11.

S6.12 *Effect on SBR cups.* The effects of a brake fluid in swelling, softening, and otherwise affecting standard SBR WC cups shall be evaluated by the following procedure.

S6.12.1 *Summary of the procedure.* Four standard SAE SBR WC cups are measured and their hardnesses determined. The cups, two to a jar, are immersed in the test brake fluid. One jar is heated for 120 hours at 70° C (158° F.), and the other for 70 hours at 120° C. (248° F.). Afterwards, the cups are washed, examined for disintegration, remeasured and their hardnesses redetermined.

S6.12.2 *Equipment and supplies.*

(a) *Oven.* See S6.6.2(c).

(b) *Glass jars and lids.* Two screw-top, straight-sided round glass jars, each having a capacity of approximately 250 ml. and inner dimensions of approximately 125 mm. in height and 50 mm. in diameter, and a tinned steel lid (no insert or organic coating).

(c) *SBR cups.* See S7.6.

S6.12.3 *Preparation.* Measure the base diameters of the SBR cups as described in S6.6.4(b), and the hardness of each as described in S7.4.

S6.12.4 *Procedure.* Wash the cups in 90 percent ethanol (see S7.3), for not longer than 30 seconds and quickly dry with a clean, lint-free cloth. Using forceps, place two cups into each of the two jars; add 75 ml. of brake fluid to each jar and cap tightly. Place one jar in an oven held at 70°±2° C. (158±3.6° F.) for 120±2 hours. Place the other jar in an oven held at 120°±2° C. (248°±3.6° F.) for 70±2 hours. Allow each jar to cool for 60 to 90 minutes at 23°±5° (73.4°±9° F.). Remove cups, wash with ethanol for not longer than 30 seconds, and quickly dry. Examine the cups for disintegration as evidence by stickiness, blisters, or sloughing. Measure the base diameter and hardness of each cup within 15 minutes after removal from the fluid.

S6.12.5 *Calculation.*

(a) Calculate the change in base diameter of each cup. Note the average value for each pair, to the nearest 0.02 mm. (0.001 inch).

(b) Calculate the change in hardness for each cup. The average of the two values for each pair is the change in hardness.

(c) Note disintegration as evidenced by stickiness, blisters, or sloughing.

S6.13 *Stroking properties.* Evaluate the lubricating properties, component compatibility, resistance to leakage, and related qualities of a brake fluid by running one sample according to the following procedures.

S6.13.1 *Summary of the procedure.* Brake fluid is stroked under controlled conditions at an elevated temperature in a simulated motor vehicle hydraulic braking system consisting of four slave wheel cylinders and an actuating master cylinder connected by steel tubing. Referee standard parts are used. All parts are carefully cleaned, examined, and certain measurements made immediately prior to assembly for test. During the test, temperature, rate of pressure rise, maximum pressure, and rate of stroking, are specified and controlled. The system is examined periodically during stroking to assure that excessive leakage of fluid is not occurring. Afterwards, the system is torn down. Metal parts and SBR cups are examined and remeasured. The brake fluid and any resultant sludge and debris are collected, examined, and tested.

S6.13.2 *Apparatus and equipment.* Either the drum and shoe type of stroking apparatus (see Figure 1 of SAE Standard J1703b), or the stroking fixture type (see Figure 3 of SAE J1703b) arranged as shown in Figure 2 of J1703b. The following components are required.

(a) *Brake assemblies.* With the drum and shoe apparatus: four drum and shoe assembly units (SAE RM–29a) consisting of four forward brake shoes and four reverse brake shoes with linings and four front wheel brake drum assemblies with assembly components parts. With stroking fixture type apparatus: four fixture units including appropriate adapter mounting plates to hold brake wheel cylinder assemblies.

(b) *Braking pressure actuation mechanism.* An actuating mechanism for applying a force to the master cylinder pushrod without side thrust. The amount of force applied by the actuating mechanism shall be adjustable and capable of applying sufficient thrust to the master cylinder to create a pressure of at least 70 kg./sq. cm. (1,000 p.s.i.) in the simulated brake system. A hydraulic gage or pressure recorder, having a range of at least 0 to 70 kg./sq. cm. (0 to 1,000 p.s.i.), shall be installed between the master cylinder and the brake assemblies and shall be provided with a shutoff valve and with a bleeding valve for removing air from the connecting tubing. The actuating mechanism shall be designed to permit adjustable stroking rates of approximately 1,000 strokes per hour. Use a mechanical or electrical counter to record the total number of strokes.

(c) *Heated air bath cabinet.* An insulated cabinet or oven having sufficient capacity to house the four mounted brake assemblies or stroking fixture assemblies, master cylinder, and necessary connections. A thermostatically controlled heating system is required to maintain a temperature of 70°±5° C. (158°±9° F.) or 120°±5° C. (248°±9° F.). Heaters shall be shielded to prevent direct radiation to wheel or master cylinder.

(d) *Master cylinder (MC) assembly (SAE RM–15a).* One cast iron housing hydraulic brake system cylinder having a diameter of approximately 28 mm. (1⅛ inch) and fitted for a filler cap and standpipe (see S6.13.2(e)). The MC piston shall be made from SAE CA360 copperbase alloy (half hard). A new MC assembly is required for each test.

(e) *Filler cap and standpipe.* MC filler cap provided with a glass or uncoated steel standpipe. Standpipe must provide

adequate volume for thermal expansion, yet permit measurement and adjustment of the fluid level in the system to ±3 ml. Cap and standpipe may be cleaned and reused.

(f) *Wheel cylinder (WC) assemblies (SAE RM-14a).* Four unused cast iron housing straight bore hydraulic brake WC assemblies having diameters of approximately 28 mm. (1⅛ inch) for each test. Pistons shall be made from unanodized SAE AA2024 aluminum alloy.

(g) *Micrometer.* Same as S6.6.2(d).

S6.13.3 *Materials.*

(a) *Standard SBR brake cups.* Eight standard SAE SBR wheel cylinder test cups, one primary MC test cup, and one secondary MC test cup, all as described in S7.6, for each test.

(b) *Steel tubing.* Double wall steel tubing meeting SAE specification J527. A complete replacement of tubing is essential when visual inspection indicates any corrosion or deposits on inner surface of tubing. Tubing from master cylinder to one wheel cylinder shall be replaced for each test (minimum length 3 feet). Uniformity in tubing size is required between master cylinder and wheel cylinder. The standard master cylinder has two outlets for tubing, both of which must be used.

S6.13.4 *Preparation of test apparatus.*

(a) *Wheel cylinder assemblies.* Use unused wheel cylinder assemblies. Disassemble cylinders and discard cups. Clean all metal parts with ethanol. Inspect the working surfaces of all metal parts for scoring, galling, or pitting and cylinder bore roughness, and discard all defective parts. Remove any stains on cylinder walls with crocus cloth and ethanol. If stains cannot be removed, discard the cylinder. Measure the internal diameter of each cylinder at a location approximately 19 mm. (0.75 inch) from each end of the cylinder bore, taking measurements in line with the hydraulic inlet opening and at right angles to this centerline. Discard the cylinder if any of these four readings exceeds the maximum or minimum limits of 28.66 to 28.60 mm. (1.128 to 1.126 inch). Measure the outside diameter of each piston at two points approximately 90° apart. Discard any piston if either reading exceeds the maximum or minimum limits of 28.55 to 28.52 mm. (1.124 to 1.123 inch). Select parts to insure that the clearance between each piston and mating cylinder is within 0.08 to 0.13 mm. (0.003 to 0.005 inch). Use unused SBR cups. To remove dirt and debris, rinse the cups in 90 percent ethyl alcohol for not more than 30 seconds and wipe dry with a clean lint-free cloth. Discard any cups showing defects such as cuts, molding flaws, or blisters. Measure the lip and base diameters of all cups with an optical comparator or micrometer to the nearest 0.02 mm. (0.001 inch) along the centerline of the SAE and rubber-type identifications and at right angles to this centerline. Determine base diameter measurements at least 0.4 mm. (0.015 inch) above the bottom edge and parallel to the base of the cup. Discard any cup if the two measured lip or base diameters differ by more than 0.08 mm. (0.003 inch). Average the lip and base diameters of each cup. Determine the hardness of all cups according to S7.4. Dip the rubber and metal parts of wheel cylinders, except housing and rubber boots, in the fluid to be tested and install them in accordance with the manufacturer's instructions. Manually stroke the cylinders to insure that they operate easily. Install cylinders in the simulated brake system.

(b) *Master cylinder assembly.* Use an unused master cylinder and unused standard SBR primary and secondary MC cups which have been inspected, measured and cleaned in the manner specified in S6.13.4(a), omitting hardness of the secondary MC cup. However, prior to determining the lip and base diameters of the secondary cup, dip the cup in test brake fluid, assemble on the MC piston, and maintain the assembly in a vertical position at 23°±5° C. (73.4°±9° F.) for at least 12 hours. Inspect the relief and supply ports of the master cylinder; discard the cylinder if ports have burrs or wire edges. Measure the internal diameter of the cylinder at two locations (approximately midway between the relief and supply ports and approximately 19 mm. (0.75 inch) beyond the relief port toward the bottom or discharge end of the bore), taking measurements at each location on the vertical and horizontal centerline of the bore. Discard the cylinder if any reading exceeds the maximum or minimum limits of 28.65 to 28.57 mm. (1.128 to 1.125 inch). Measure the outside diameter of each end of the master cylinder piston at two points approximately 90° apart. Discard the piston if any of these four readings exceed the maximum or minimum limits of 28.55 to 28.52 mm. (1.124 to 1.123 inch). Dip the rubber and metal parts of the master cylinder, except the housing and push rod-boot assembly, in the brake fluid and install in accordance with manufacturer's instructions. Manually stroke the master cylinder to insure that it operates easily. Install the master cylinder in the simulated brake system.

(c) *Assembly and adjustment of test apparatus.* When using a shoe and drum type apparatus, adjust the brake shoe toe clearances to 1±0.1 mm. (0.040±0.004 inch). Fill the system with brake fluid, bleeding all wheel cylinders and the pressure gage to remove entrapped air. Operate the actuator manually to apply a pressure greater than the required operating pressure and inspect the system for leaks. Adjust the actuator and/or pressure relief valve to obtain a pressure of 70±3.5 kg./sq. cm. 1,000±50 p.s.i.). A smooth pressure-stroke pattern is required when using a shoe and drum type apparatus. (Figure 4 of SAE J1703b illustrates the approximate pressure buildup versus the master cylinder piston movement with the stroking fixture apparatus.) The pressure is relatively low during the first part of the stroke and then builds up smoothly to the maximum stroking pressure at the end of the stroke. The stroke length is about 23 mm. (0.9 inch). This permits the primary cup to pass the compensating hole at a relatively low pressure. Using stroking fixtures, the WC piston travel is about 2.5±0.25 mm. (0.100±0.010 inch) when a pressure of 70 kg./sq. cm. is reached. Adjust the stroking rate to 1,000±100 strokes per hour. Record the fluid level in the master cylinder standpipe.

S6.13.5 *Procedure.* Operate the system for 16,000±1,000 cycles at 23°±5° C. (73.4°±9° F.). Repair any leakage, readjust the brake shoe clearances, and add fluid to the master cylinder standpipe to bring to the level originally recorded, if necessary. Start the test again and raise the temperature of the cabinet within 6±2 hours to 120°±5° C. (248°±9° F.). During the test observe operation of wheel cylinders for improper functioning and record the amount of fluid required to replenish any loss, at intervals of 24,000 strokes. Stop the test at the end of 85,000 total recorded strokes. These totals shall include the number of strokes during operation at 23°±5° C. (73.4°±9° F.) and the number of strokes required to bring the system to the operating temperature. Allow equipment to cool to room temperature. Examine the wheel cylinders for leakage. Stroke the assembly an additional 100 strokes, examine wheel cylinders for leakage and record volume loss of fluid. Within 16 hours after stopping the test, remove the master and wheel cylinders from the system, retaining the fluid in the cylinders by immediately capping or plugging the ports. Disassemble the cylinders, collecting the fluid from the master cylinder and wheel cylinders in a glass jar. When collecting the stroked fluid, remove all residue which has deposited on rubber and metal internal parts by rinsing and agitating such parts in the stroked fluid and using a soft brush to assure that all loose adhering sediment is collected. Clean SBR cups in ethanol and dry. Inspect the cups for stickiness, scuffing, blistering, cracking, chipping, and change in shape from original appearance. Within 1 hour after disassembly, measure the lip and base diameters of each cylinder cup by the procedures specified in S6.13.4 (a) and (b) with the exception that lip or base diameters of cups may now differ by more than 0.08 mm. (0.003 inch). Determine the hardness of each cup according to S7.4. Note any sludge or gel present in the test fluid. Within 1 hour after draining the cylinders, agitate the fluid in glass jar to suspend and uniformly disperse sediment and transfer a 100 ml. portion of this fluid to a centrifuge tube and determine percent sediment as described in S7.5. Allow the tube and fluid to stand for 24 hours, recentrifuge and record any additional sediment recovered. Inspect cylinder parts, note any gumming or any pitting on pistons and cylinder walls. Disregard staining or discoloration. Rub any deposits adhering to cylinder walls with a clean soft cloth wetted with ethanol to determine abrasiveness and removability. Clean cylinder

parts in ethanol and dry. Measure and record diameters of pistons and cylinders according to S6.13.4 (a) and (b). Repeat the test if mechanical failure occurs that may affect the evaluation of the brake fluid.

S6.13.6 *Calculation.*

(a) Calculate the changes in diameters of cylinders and pistons (see S5.1.13(b)).

(b) Calculate the average decrease in hardness of the nine cups tested, as well as the individual values (see S5.1.13(c)).

(c) Calculate the increases in base diameters of the ten cups (see S5.1.13(e)).

(d) Calculate the lip diameter interference set for each of the ten cups by the following formula and average the ten values (see S5.1.13(f)).

$$\frac{D_1-D_2}{D_1-D_3}\times 100 = \text{percentage Lip Diameter Interference Set}$$

Where:

D_1 = Original lip diameter.
D_2 = Final lip diameter.
D_3 = Original cylinder bore diameter.

S7. *Auxiliary test methods and reagent standards.*

S7.1 *Distilled water.* Nonreferee reagent water as specified in ASTM D1193–70, "Standard Specifications for Reagent Water," or water of equal purity.

S7.2 *Water content of motor vehicle brake fluids.* Use analytical methods based on ASTM D1123–59, "Standard Method of Test for Water in Concentrated Engine Antifreezes by the Iodine Reagent Method," for determining the water content of brake fluids, or other methods of analysis yielding comparable results. To be acceptable for use, such other method must measure the weight of water added to samples of the SAE RM–1 Compatability Fluid within ±15 percent of the water added for additions up to 0.8 percent by weight, and within ±5 percent of the water added for additions greater than 0.8 percent by weight. The SAE RM–1 Compatability Fluid used to prepare the samples must have an original ERBP of not less than 182° C. (360° F.) when tested in accordance with S6.1.

S7.3 *Ethanol.* 95 percent (190 proof) ethyl alcohol, USP or ACS, or Formula 3–A Specially Denatured Alcohol of the same concentration (see Part 212 of Title 26, Code of Federal Regulations—U.S. Treasury Department, I.R.S. Publication No. 368). For pretest washings of equipment use approximately 90 percent ethyl alcohol, obtained by adding 5 parts of distilled water to 95 parts of ethanol.

S7.4 *Measuring the hardness of SBR brake cups.* Hardness measurements on SBR wheel cylinder cups and master cylinder primary cups shall be made by using the following apparatus and the following procedure.

S7.4.1 *Apparatus.*

(a) *Anvil.* A rubber anvil having a flat circular top 20±1 mm. ($^{13}/_{16}$±$^{1}/_{16}$ inch) in diameter, a thickness of at least 9 mm. ($^{3}/_{8}$ inch) and a hardness within 5 IRHDs of the SBR test cup.

(b) *Hardness tester.* A hardness tester meeting the requirements for the standard instrument as described in ASTM D1415–68, "Standard Method of Test for International Hardness of Vulcanized Natural and Synthetic Rubbers," and graduated directly in IRHD units.

S7.4.2 *Procedure.* Make hardness measurements at 23°±2° C. (73.4°±3.6° F.). Equilibrate the tester and anvils at this temperature prior to use. Center brake cups lip side down on an anvil of appropriate hardness. Following the manufacturer's operating instructions for the hardness tester, make one measurement at each of four points one-fourth inch from the center of the cup and spaced 90° apart. Average the four values, and round off to the nearest IRHD.

S7.5 *Sediment by centrifuging.* The amount of sediment in the test fluid shall be determined by the following procedure.

S7.5.1 *Apparatus.*

(a) *Centrifuge tube.* Cone-shaped centrifuge tubes conforming to the dimensions given in Figure 6, and made of thoroughly annealed glass. The graduations shall be numbered as shown in Figure 6, and shall be clear and distinct. Scale-error tolerances and smallest graduations between various calibration marks are given in Table V and apply to calibrations made with air-free water at 20° C. (68° F.).

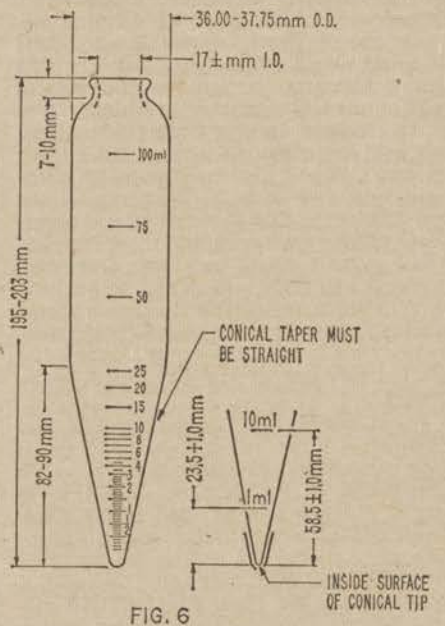

FIG. 6
ASTM 8-in CENTRIFUGE TUBE

TABLE V—CALIBRATION TOLERANCES FOR 8-INCH CENTRIFUGE TUBE

Range, ml	Subdivision, ml	Volume tolerance, ml
0 to 0.1	0.05	±0.02
Above 0.1 to 0.3	0.05	±0.03
Above 0.3 to 0.5	0.05	±0.05
Above 0.5 to 1	0.10	±0.05
Above 1 to 2	0.10	±0.10
Above 2 to 3	0.20	±0.10
Above 3 to 5	0.5	±0.20
Above 5 to 10	1.	±0.50
Above 10 to 25	5.	±1.00
Above 25 to 100	25.	±1.00

(b) *Centrifuge.* A centrifuge capable of whirling two or more filled centrifuge tubes at a speed which can be controlled to give a relative centrifugal force (r.c.f.) between 600 and 700 at the tip of the tubes. The revolving head, trunnion rings, and trunnion cups, including the rubber cushion, shall withstand the maximum centrifugal force capable of being delivered by the power source. The trunnion cups and cushions shall firmly support the tubes when the centrifuge is in motion. Calculate the speed of the rotating head using this equation:

$$\text{r.p.m.} = 265\sqrt{\frac{\text{r.c.f.}}{d}}$$

where:

r.c.f. = Relative centrifugal force, and
d = Diameter of swing, in inches, measured between tips of opposite tubes when in rotating position.

Table VI shows the relationship between diameter, swing, relative centrifugal force (r.c.f.), and revolutions per minute.

TABLE VI—ROTATION SPEEDS FOR CENTRIFUGES OF VARIOUS DIAMETERS

Diameter of swing, inches	R.p.m. at 600 r.c.f.	R.p.m. at 700 r.c.f.
19	1490	1610
20	1450	1570
21	1420	1530
22	1390	1500

[a] Measured in inches between tips of opposite tubes when in rotating position.

S7.5.2 *Procedure.* Balance the corked centrifuge tubes with their respective trunnion cups in pairs by weight on a scale, according to the centrifuge manufacturer's instructions, and place them on opposite sides of the centrifuge head. Use a dummy assembly when one sample is tested. Then whirl them for 10 minutes, at a rate sufficient to produce a r.c.f. between 600 and 700 at the tips of the whirling tubes. Repeat until the volume of sediment in each tube remains constant for three consecutive readings.

S7.5.3 *Calculation.* Read the volume of the solid sediment at the bottom of the centrifuge tube and report the percent sediment by volume. Where replicate determinations are specified, report the average value.

S7.6 *Standard styrene-butadiene rubber (SBR) brake cups.* SBR brake cups for testing motor vehicle brake fluids shall be manufactured using the following formulation:

FORMULATION OF RUBBER COMPOUND

Ingredient	Parts by weight
SBR type 1503 [a]	100
Oil furnace black (NBS 378)	40
Zinc oxide (NBS 370)	5
Sulfur (NBS 371)	0.25
Stearic Acid (NBS 372)	1
n-tertiary butyl-2-benzothiazole sulfenamide (NBS 384)	1
Symmetrical dibetanaphthyl-p-phenylenediamine	1.5
Dicumyl peroxide (40 percent on precipitated $CaCO_3$) [b]	4.5
Total	153.25

NOTE: The ingredients labeled (NBS------) must have properties identical with those

Footnote on next page.

supplied by the National Bureau of Standards.

[a] Philprene 1503 has been found suitable.

[b] Use only within 90 days of manufacture and store at temperature below 27° C. (80° F.).

Compounding, vulcanization, physical properties, size of the finished cups, and other details shall be as specified in Appendix B of SAE J1703a. The cups shall be used in testing brake fluids either within 6 months from date of manufacture when stored at room temperature below 30° C. (86° F.) or within 36 months from date of manufacture when stored at temperatures below minus 15° C. (+5° F.). After removal of cups from refrigeration they shall be conditioned base down on a flat surface for at least 12 hours at room temperature in order to allow cups to reach their true configuration before measurement.

[FR Doc.71-8730 Filed 6-23-71;8:45 am]

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1030; Amdt. 8]

PART 1033—CAR SERVICE

Chicago, Rock Island and Pacific Railroad Co. Authorized To Operate Over Tracks of Atchison, Topeka and Santa Fe Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 18th day of June 1971.

Upon further consideration of Service Order No. 1030 (34 F.R. 11211, 15250; 35 F.R. 5334, 10661, 15294; 36 F.R. 5798), and good cause appearing therefor:

It is ordered, That:

Section 1033.1030 *Service Order No. 1030* (Chicago, Rock Island and Pacific Railroad Co. authorized to operate over tracks of the Atchison, Topeka and Santa Fe Railway Co.) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1030 Service Order No. 1030.

* * * * *

(e) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1971, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., June 30, 1971.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies sec. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-8884 Filed 6-23-71;8:49 am]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Occupational Safety and Health Review Commission

Section 213.3344 is amended to show that the position of one Executive Secretary is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (6-24-71), paragraph (b) is added to § 213.3344 as set out below.

§ 213.3344 Occupational Safety and Health Review Commission.

* * * * *

(b) Executive Secretary

(5 U.S.C. §§ 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-8929 Filed 6-23-71;8:53 am]

PART 713—EQUAL OPPORTUNITY

PART 735—EMPLOYEE RESPONSIBILITIES

Miscellaneous Amendments

The Postal Reorganization Act provides that regulations issued under chapters 71 and 73 of title 5, United States Code, do not apply to the U.S. Postal Service or the Postal Rate Commission "unless expressly made applicable." Executive Order No. 11570 of November 24, 1970, and Executive Order No. 11590 of April 23, 1971, made Executive Order No. 11222, "Prescribing Standards of Ethical Conduct for Government Officers and Employees," and Executive Order No. 11478, "Equal Employment Opportunity in the Federal Government" applicable to the U.S. Postal Service and the Postal Rate Commission. These are conforming amendments to the regulations.

Effective July 1, 1971, §§ 713.201(b), and 713.301(a) of Part 713 and § 735.102 (a) of Part 735 are amended as set out below:

§ 713.201 Purpose and applicability.

* * * * *

(b) *Applicability.* (1) This subpart applies (i) to military departments as defined in section 102 of title 5, United States Code, Executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code, the U.S. Postal Service, and the Postal Rate Commission, and to the employees thereof, including employees paid from nonappropriated funds, and (ii) to those portions of the legislative and judicial branches of the Federal Government and the government of the District of Columbia having positions in the competitive service and to the employees in those positions.

§ 713.301 Applicability.

(a) This subpart applies (1) to military departments as defined in section 102 of title 5, United States Code, Executive agencies (other than the General Accounting Office) as defined in section 105 of title 5, United States Code, the U.S. Postal Service, and the Postal Rate Commission, and to the employees thereof, including employees paid from nonappropriated funds, and (2) to those portions of the legislative and judicial branches of the Federal Government and the government of the District of Columbia having positions in the competitive service and to the employee in those positions.

(5 U.S.C. 1301, 3301, 3302, 7151-7154, 7301, E.O. 10577; 3 CFR, 1954-1958 Comp., p. 218, E.O. 11222; 3 CFR, 1964-1965 Comp., p. 306, E.O. 11478; 3 CFR, 1969 Comp.)

§ 735.102 Definitions.

(a) "Agency" means an Executive agency (other than the General Accounting Office) as defined by section 105 of title 5, United States Code, the Postal Service, and the Postal Rate Commission.

(Secs. 602, 701, 702, E.O. 11222; 3 CFR, 1964-1965, Comp., p. 306)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.71-8928 Filed 6-23-71;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. 354]

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

Limitation of Handling

§ 908.654 Valencia Orange Regulation 354.

(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 22, 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 25, 1971, through July 1, 1971, are hereby fixed as follows:

(i) District 1: 138,000 cartons;

(ii) District 2: 462,000 cartons;

(iii) District 3: unlimited.

(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 23, 1971.

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

[FR Doc.71-9058 Filed 6-23-71;11:50 am]

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

PART 909—GRAPEFRUIT GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Increase in Rate of Assessment and Decrease in Expenses 1970–71 Fiscal Year

On June 9, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 11103) regarding a proposed increase in the rate of assessment and decrease in expenses for the fiscal year September 1, 1970, through August 31, 1971, pursuant to Order No. 909, as amended (7 CFR Part 909; 35 F.R. 16637), regulating the handling of grapefruit grown in Arizona and designated parts of 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 proposal set forth in such notice which was submitted by the Grapefruit Administrative Committee (established pursuant to said amended marketing order), it is hereby found and determined that due to freeze damage in the production area the crop will not reach the previously estimated total, thus rendering necessary an increase in assessment rate and a decrease in expenses.

It is, therefore, ordered that paragraphs (a) *Expenses* and (b) *Rate of assessment* of § 909.209 (35 F.R. 17653) are hereby amended to read as follows:

§ 909.209 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* The expenses that are reasonable and likely to be incurred by the Administrative Committee during the period September 1, 1970, through August 31, 1971, will amount to $88,200.

(b) *Rate of assessment.* The rate of assessment for such period, payable by each handler in accordance with § 909.41, is hereby fixed at $0.035 per carton, or equivalent quantity of grapefruit.

* * * * *

It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective time hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) the said committee in the performance of its duties and functions is likely to incur obligations which may be in excess of the income likely to be received from handlers at the current rate of assessment based on the new crop estimate, (2) the relevant provisions of said marketing agreement and this part require that the amended rate of assessment herein fixed shall be applicable to all assessable grapefruit handled during the period, and (3) such period began on September 1, 1970, and said rate of assessment will automatically apply to all such grapefruit beginning with such date.

(Secs. 1–9, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: June 21, 1971.

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

[FR Doc.71-8891 Filed 6-23-71;8:49 am]

Chapter XXI—Foreign Economic Development Service, Department of Agriculture

PART 2101—AVAILABILITY OF INFORMATION

The chapter heading of Chapter XXI, Title 7 CFR, is hereby amended by deleting "International Agricultural Development Service" and substituting in lieu thereof, "Foreign Economic Development Service". Part 2101, dealing with availability to the public of records of the Foreign Economic Development Service, is revised entirely as set forth below. The description of the organization of the Foreign Economic Development Service is published as a notice in the FEDERAL REGISTER (currently 36 F.R. ____). The fee schedule for copies of available documents is published as a Notice in the FEDERAL REGISTER (currently 36 F.R. 6442). Part 2101 as amended reads as follows:

Subpart A—General

Sec.
2101.1 General statement.
2101.2 Organizational description.

Subpart B—Availability of Program Information, Staff Manuals, Instructions, and Related Material

2101.3 Index.
2101.4 Records available from index.
2101.5 Facilities for inspection and availability of copies.

Subpart C—Availability of Identifiable Records

2101.6 Requests.
2101.7 Exempt records.
2101.8 Denials.
2101.9 Appeals.
2101.10 Address of office.

AUTHORITY: The provisions of this Part 2101 issued under 5 U.S.C. 301; 552(a) (2), (3) and 552(b); 5 U.S.C. 559.

Subpart A—General

§ 2101.1 General statement.

This part is issued in accordance with and subject to the regulations of the Sec-

retary of Agriculture, §§ 1.1 through 1.4 of this title, and governs the availability of records of the Foreign Economic Development Service ("FEDS") to the public upon request.

§ 2101.2 Organizational description.

The description of the organization of FEDS is published as a notice in the FEDERAL REGISTER and may be revised from time to time in like manner. Such description contains a listing of the FEDS organization units and their functions.

Subpart B—Availability of Program Information, Staff Manuals, and Related Material

§ 2101.3 Index.

The Director, Program Support Group, will maintain a current index providing identifying information with respect to records referred to in § 2101.4.

§ 2101.4 Records available from index.

Records listed in the index will include final orders, and opinions, statements of policy and interpretation, and administrative staff manuals and instructions.

§ 2101.5 Facilities for inspection and availability of copies.

(a) The Office of the Director, Program Support Group, will be the central facility for the inspection and copying of material listed in the index.

(b) The index and the materials listed therein may be inspected and copied during regular working hours or may be obtained by mail upon payment of any applicable fees.

Subpart C—Availability of Identifiable Records

§ 2101.6 Requests.

(a) Requests for FEDS records, other than those available under subpart B, shall be made in writing to the Director, Program Support Group, who will refer the request to the appropriate FEDS Program Director.

(b) Each record requested must be identified with reasonable specificity.

(c) Records so requested will be made available, except for exempt records in the categories specified in section 2101.7.

(d) Available records may be inspected and copied at the appropriate FEDS Program Director's office during regular working hours or may be obtained by mail. Copies will be provided upon payment of any applicable fees.

§ 2101.7 Exempt records.

The following records of FEDS are exempt from disclosure:

(a) Matters specifically required by Executive Order to be kept secret.

(b) Matters related solely to the internal personnel rules and practices of FEDS.

(c) Matters that are trade secrets and commercial or financial information obtained from a person and privileged or confidential. Among FEDS records in this class are information furnished voluntarily by individuals or firms, relating to their business operations, for use in assessing development adaptability abroad; records of research and analysis including tabulation sheets and other working materials derived from confidential information supplied by individuals or private and international organizations; and information received in expressed or implied confidence in connection with a contract or service, when release of information would impair the legitimate interests of the person supplying the information.

(d) Matters specifically exempted from disclosure by statute.

(e) Interagency or intraagency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. Such FEDS records would include analyses, data, and other materials in draft manuscripts being prepared for release, prior to actual release; and interagency or intraagency communications applicable to the formulation of instructions, regulations, or decisions.

(f) Personnel and medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. See 7 CFR, Part O, Subpart B, for the policy pertaining to the lists of names of farmers, businesses, persons, organizations, and firms.

(g) Investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency.

§ 2101.8 Denials.

If the appropriate Program Director determines that a requested record is exempt, he shall give prompt written notice of denial, together with the reasons therefore.

§ 2101.9 Appeals.

A denial by a Program Director of any request may be appealed, by the person who made the request, to the Administrator, FEDS. The appeal shall be made in writing within 15 days of the date of receipt of the Director's notice of denial. Upon timely appeal, the Administrator shall make the final determination and give written notice thereof, together with the reasons therefor, in the case of denials.

§ 2101.10 Address of office.

(a) Requests made to FEDS shall be addressed to the Director, Program Support Group, Foreign Economic Development Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Effective date. This part shall become effective upon the date of its publication in the FEDERAL REGISTER (6–24–71).

Dated: June 15, 1971.

QUENTIN M. WEST,
Administrator.

[FR Doc.71–8893 Filed 6–23–71;8:49 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter III—Consumer and Marketing Service, Department of Agriculture

SUBCHAPTER A—MEAT INSPECTION REGULATIONS

MISCELLANEOUS AMENDMENTS TO CHAPTER

Statement of considerations. On October 3, 1970, a revision of the Federal meat inspection regulations was published in the FEDERAL REGISTER (35 F.R. 15552–15617) under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and other laws. On December 29, 1970, the revised regulations were supplemented by the addition of a new Part 331 to the regulations (35 F.R. 19666). The purpose of the present document is to make changes in the regulations for clarity and internal consistency and coordination with actions of the Federal Food and Drug Administration, to adopt certain amendments previously proposed in notices of rule making, and to reflect certain current interpretations and policies. This document also relieves certain labeling requirements of the regulations. The amendments hereinafter made—

1. Amend § 302.1(a) (1) and (2) to clarify the provisions for exemption from inspection for custom operations and operations in unorganized territories; amend § 302.1(a) (3) to allow plants designated under paragraph 301(c) of the Act to operate, in a sanitary manner, under a custom exemption as contemplated by the Act; and amend § 303.1 (a) (2) (i) and (b) (1) to modify the application of certain provisions of Parts 308 and 318 to exempted custom operations and make Part 319 inapplicable to products prepared under custom exemptions.

2. Amend § 303.1(d) (2) (iii) to clarify the application of the requirements of § 303.1(b) to the handling or use of exempted custom slaughtered or custom prepared products by retail stores exempted from inspection;

3. Change the provisions in § 307.6 prescribing holidays for Federal employees to reflect legislation effective January 1, 1971;

4. Change § 312.2 to correct the form of the first three official inspection legends;

5. Change the wording in § 317.2(d) (2) (ii) to clarify the definition of the term "principal display panel," to define the term "20 percent panel," and to clarify labeling requirements for a cylindrical or nearly cylindrical container, and make related changes in § 317.2 (f), (g), and (i);

6. Change the provisions in § 317.8(b) (7) to eliminate a conflict with § 317.2 (f) (1) (i) regarding label declaration of spices;

7. Amend § 317.2(h) (1) to eliminate the requirement for a statement of the

quantity of contents on immediate containers of products other than those to be sold at retail intact;

8. Amend § 317.2(h)(13) to provide for an exemption from the general requirements on location of net weight statement and the declaration of net weight in both ounces and pounds for shingle packed sliced bacon products in rectangular cartons packaged at weights of other than 8 ounces, 1 pound, or 2 pounds;

9. Change § 318.4, in order to be consistent with §§ 303.1(d) and 307.4, to provide an exception (from the requirement of supervision by Program employees of all processes used in the preparation of product at official establishments) for the preparation, in any official establishment, in a designated State or territory of product for intrastate distribution under an exemption as provided in § 303.1(d) for a retail store, if such store is a part of such official establishment and the establishment is subject to Federal inspection only because of the designation of the State or territory, under paragraph 301(c) of the Act.

10. a. Amend the chart in § 318.7(c)(4) to delete the reference authorizing the use of nordihydroguaiaretic acid (NDGA) as an antioxidant and oxygen interceptor to retard rancidity in rendered animal fat, or a combination of such fat and vegetable fat, in view of the removal by the Food and Drug Administration of this substance from the list of substances generally recognized as safe (33 F.R. 5619) and the absence of a regulation or exemption permitting its use in meat food products under the food additive provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and in view of the determination of this Department that this substance is an added poisonous or added deleterious substance that may make meat food products in which it is used unfit for human food and render such products injurious to human health;

b. Amend the chart in § 318.7(c)(4) to list isolated soy protein as a binder approved for use in sausage, in order to coordinate the provisions of the chart with the provisions in the standards for sausage in Part 319 of this subchapter;

c. Amend the chart in § 318.7(c)(4), as proposed in a notice of rulemaking published on February 21, 1969 (34 F.R. 2506) to authorize the use of sodium bisulfate as a cooling and retort water treatment agent, and to authorize the use of nigrosine as a decharacterizing agent for dry sodium nitrite which is also authorized for use as a cooling and retort water treatment agent;

d. Amend the chart in § 318.7(c)(4) to correct the description of products for which the use of certain flavoring agents, protectors, and developers is approved; and further amend the chart to reinstate a prior authorization inadvertently omitted from the revised regulations for the use of citric acid as a flavoring in chili con carne, and to delete the erroneous reference to corn syrup solids and similar substances as approved for use to flavor chili con carne;

e. Amend the chart in § 318.7(c)(4) to delete the erroneous authorization for the use of propylparaben (propyl-p-hydroxybenzoate) in oleomargarine or margarine to preserve product and to protect flavor; and to reinstate the prior authorization for use of such substance or dry sausage casing to retard mold growth;

f. Amend the chart in § 318.7(c)(4) to correct the specification of pork products for which various phosphates, or sodium hydroxide in combination with such phosphates, may be used to decrease the amount of cooked out juices;

11. Change the heading for Subpart E in Part 319 to cover provisions applicable to sausage generally as well as fresh sausage; and, in accordance with prior policies and regulations (9 CFR 317.8(c)(40)), amend the standard in § 319.140 for sausage to permit and limit to 3 percent the use of water in fresh sausages and to permit and limit to 10 percent the amount of water in certain cooked sausages and amend the standards in §§ 319.200 and 319.881 to allow limited amounts of binders and extenders in liver sausage and braunschweiger, clarify the standard for these products, and clarify the requirement for the liver component in other liver products such as liver loaf and similar products.

12. Change § 325.15 to eliminate the requirement for evidence on waybills and similar documents of eligibility for movement of animal food not required to have a certificate under § 325.11(e).

13. Add to § 327.1, provisions clarifying the fact that compliance with Part 327 on imports does not excuse compliance with animal quarantine requirements and other applicable regulations.

14. Correct typographical errors and make other technical changes in the statement of considerations as set forth in the October 3, 1970, publication, and in various sections of the regulations, as hereinafter provided.

Accordingly, under the authority of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), and the provisions in 7 U.S.C. 394, the statement of considerations and the Federal meat inspection regulations as set forth in 35 F.R. 15552–15617, as amended, are further amended as follows:

1a. Section 302.1(a)(1) is amended by changing the phrase "§ 303.1 (a) or (b)" to read: "§ 303.1 (a) and (b), or (c)."

1b. Section 302.1(a)(2) is amended by changing the phrase "§ 303.1 (a) or (d)" to read: "§ 303.1 (a) and (b), or (d)."

1c. Section 302.1(a)(3) is amended by inserting after "establishment," a comma and the phrase "except as provided in § 303.1 (a) and (b) of this subchapter, that is".

1d. Section 303.1(a)(2)(i) is amended to read:

(i) The establishment in which the custom operations are conducted is maintained and operated in accordance with the provisions of §§ 308.4 through 308.11 308.13, 308.14, and 308.3 (except § 308.3 (d) (2) and (3), of this subchapter): *Provided*, That the provisions of said sections relating to inspection or supervision of specified activities or other action by a Program employee shall not apply to the preparation and handling of such exempted products: *Provided, further*, That the requirement of § 308.4 for separate facilities for men and women workers shall not apply to such establishments when the majority of the workers in the establishment are related by blood or marriage and this arrangement will not conflict with municipal or State requirements, and the requirement of § 308.4 for separation of toilet soil lines from house drainage lines to a point outside the buildings will not apply to such establishments when positive acting backflow devices are installed: *And provided, further*, That the requirements of § 308.13 for paved driveways, approaches, yards, pens, and alleys shall not apply to such establishments. However, if custom operations are conducted in an official establishment, all of the provisions of Part 308 shall apply to such establishment.

1e. Section 303.1(b)(1) is amended to read:

(1) The exempted custom prepared products shall be prepared and handled in accordance with the provisions of §§ 318.5, 318.6 318.7, 318.10, and 318.11 of this subchapter and shall not be adulterated as defined in paragraph 1(m) of the Act: *Provided*, That the provisions of §§ 318.5, 318.6, 318.10, and 318.11 relating to inspection or supervision of specified activities or other action by a Program inspector, and the provisions of § 318.6 (b) (9) and (10), shall not apply to the preparation and handling of such exempted products.

2. Section 303.1(d)(2)(iii) is amended by changing the phrase "paragraph (a)(2) of this subchapter" to read "paragraphs (a)(2) and (b) of this section".

3. In § 307.6, the following is substituted for paragraph (b): (b) Effective January 1, 1971, holidays for Federal employees shall be the 1st day of January, third Monday of February, last Monday of May, fourth day of July, first Monday of September, second Monday of October, fourth Monday of October, fourth Thursday of November, 25th day of December, and any other day designated as a holiday by Federal statute or Executive order. When any of the above-listed holidays falls on a weekday, that day becomes a holiday. When a holiday falls on a Saturday, the preceding workday (Friday) will become a holiday. When a holiday falls on Sunday, the next workday (Monday) will become a holiday.

4. In § 312.2 the form of the first three official inspection legends is changed by substituting round periods for the square periods therein; and in the first of such legends, the term "INSP'D & P'S'D" is substituted for the term "NSP'D & P'S'D."

5. a. § 317.2(d)(2)(ii) is amended to read:

(ii) a panel, the width of which is one-third of the circumference and the height of which is as high as the container: *Provided, however,* That if there is immediately to the right or left of such principal display panel, a panel which has a width not greater than 20 percent of the circumference and a height as high as the container, and which is reserved for information prescribed in subparagraphs (c) (2), (3), and (5), such panel shall be known as the "20 percent panel" and such information may be shown on that panel in lieu of showing it on the principal display panel, as provided in subparagraphs (f) (3), (g) (2), and (i) (8) and (9).

b. § 317.2(f) is amended by adding thereto a new subparagraph (3) to read: "(3) The ingredient statement may be placed on the 20 percent panel adjacent to the principal display panel and reserved for required information, in the case of a cylindrical or nearly cylindrical container."

c. Section 317.2(g) (2) (ii) is amended to read:

(ii) On the 20 percent panel adjacent to the principal display panel and reserved for required information, in the case of a cylindrical or nearly cylindrical container, or

d. Section 317.2(i) is amended by changing subparagraph (8) and adding a new subparagraph (9) to read, respectively:

(8) The official establishment number may be omitted from the official inspection legend printed on paper labels of canned products when the official establishment number is printed on the principal display panel, or on the 20 percent panel as permitted under subparagraph (9), at the time of labeling the container; or the official establishment number may be printed on the back of the paper label when the statement "Est. No. on Back of Label" is printed contiguous to the official inspection legend, in a prominent and legible manner in a size sufficient to insure easy recognition.

(9) The official inspection legend, and the official establishment number when required under this paragraph (i), may be placed on the 20 percent panel adjacent to the principal display panel and reserved for required information, in the case of a cylindrical or nearly cylindrical container.

(6) Section 317.8(b) (7) is amended to read:

(i) No ingredient shall be designated on the label as a spice, flavoring, or coloring unless it is a spice, flavoring, or coloring, as the case may be, except that spice may be considered to be flavoring as provided in § 317.2(f) (1) (i). An ingredient that is both a spice and a coloring, or both a flavoring and a coloring, shall be designated as "spice and coloring," or "flavoring and coloring," as the case may be, unless such ingredient is designated by its specific name.

7. Section 317.2(h) (1) is amended to read:

(1) The statement of net quantity of contents shall appear on the principal display panel of all containers to be sold at retail intact, in conspicuous and easily legible boldface print or type in distinct contrast to other matter on the package and shall be declared in accordance with the provisions of subparagraphs (2) through (10) of this paragraph.

8. Section 317.2(h) (13) is amended to read:

(13) Shingle packed sliced bacon cartons containing product weighing other than 8 ounces, 1 pound, or 2 pounds shall have the statement of the net quantity of contents shown with the same prominence as the most conspicuous feature on the label and printed in a color of ink contrasting sharply with the background and such containers of sliced bacon that are rectangular are exempt from the requirements of subparagraphs (3) and (5) of this paragraph regarding the placement of the statement of the net quantity of contents within the bottom 30 percent of the principal display panel and that the statement be expressed both in ounces and in pounds.

9. In § 318.4, paragraph (a) is amended by changing the first sentence to read: "All processes used in curing, pickling, rendering, canning, or otherwise preparing any product in official establishments shall be supervised by Program employees unless such preparation is conducted as a custom operation exempted from inspection under § 303.1 (a) (2) of this subchapter in any official establishment or consists of operations that are exempted from inspection under § 303.1(d) of this subchapter and are conducted in a retail store in an establishment subject to inspection only because the State or Territory in which the establishment is located is designated under paragraph 301(c) of the Act.

10. In § 318.7(c) (4) the chart is amended as follows:

a. The portion of the chart dealing with the Class of Substance, "Antioxidants and oxygen interceptors," is amended by deleting, from the "Substance" column, the phrase "Nordihydroguaiaretic acid (NDGA)" and all information relating thereto in the other columns.

b. In the portion of the chart dealing with the Class of Substance, "Binders," the following information is inserted in the appropriate columns in alphabetical order:

Class of substance	Substance	Purpose	Products	Amount
Binders	Isolated soy protein	To bind and extend product.	Sausage, as provided for in Part 319 of this subchapter.	2 percent.

c. The portion of the chart dealing with the Class of Substance, "Cooling and retort water treatment agents," is amended by deleting, from the "Substance" column, the words "sodium nitrite," and all information relating thereto in the other columns, and inserting the following information in the appropriate columns in alphabetical order:

Class of substance	Substance	Purpose	Products	Amount
Cooling and retort water treatment agents.	Sodium bisulfate	To inhibit corrosion on exterior of canned goods.	do	0.001 percent.
	Sodium nitrite. (The dry nitrite must be decharacterized with 0.05 percent powdered charcoal or 0.03 percent nigrosine. Bulk decharacterized sodium nitrite when in cook room shall be held in a locked container conspicuously labeled "Decharacterized Sodium Nitrite—to be used by authorized personnel only.")	do	do	600 parts per million.

d. The portion of the chart dealing with the Class of Substance, "Flavoring agents; protectors and developers," is amended by deleting the word "Any" in the "Products" column with respect to the substances "Program approved artificial smoke flavoring [2]", "Hydrolyzed plant protein", "Milk protein hydrolysate", and "Sugars (sucrose and dextrose)" and by deleting the word "do" in the "Products" column with respect to "Disodium guanylate" and "Disodium inosinate" and substituting in each instance the term "Various [2]"; and by adding the following as footnote 2 at the end of the chart:

[2] Information as to the specific products for which use of this substance is approved may be obtained upon inquiry addressed to the Director, Laboratory Services Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250; and said portion of the chart is further amended by deleting, from the "Products" column, the words "Chili con carne," with respect to corn syrup solids, corn syrup, and glucose syrup and inserting the following information in the appropriate columns in alphabetical order:

Class of substance	Substance	Purpose	Products	Amount
Flavoring agents; protectors and developers.	Citric acid	Flavoring	Chili con carne	Sufficient for purpose.

e. The portion of the chart dealing with the Class of Substance, "Miscellaneous," is amended by deleting, from the "Substance" column, the words "Propylparaben (propyl-p-hydroxybenzoate)" and all information relating thereto in the other columns, and inserting in lieu thereof the following information in the appropriate columns:

Class of substance	Substance	Purpose	Products	Amount
Miscellaneous	Propyl paraben (propyl p-hydroxybenzoate).	To retard mold growth.	Dry sausage	3.5 percent in water solution may be applied to casings after stuffing, or casings may be dipped in solution prior to stuffing.

f. The portion of the chart dealing with the Class of Substance, "Miscellaneous," is amended by deleting, from the "Substance" column, the words "Sodium hyroxide," and all information relating thereto in the other columns, and the portion of the chart dealing with the Class of Substance, "Phosphates," is amended by deleting, from the "Substance" column, the words "Disodium phosphate," and all information relating thereto in the other columns, and inserting in lieu thereof the following information in the appropriate columns:

Class of substance	Substance	Purpose	Products	Amount
Miscellaneous	Sodium hydroxide	To decrease amount of cooked out juices.	Cured hams, pork shoulder picnics and loins, canned hams and pork shoulder picnics, and products covered by § 319.104(d); chopped ham and bacon.	May be used only in combination with phosphates in ratio of four parts phosphate to one part sodium hydroxide; the combination shall not exceed 5 percent in pickle at 10 percent pump level; 0.5 percent in product.
Phosphates	Disodium phosphate	do	do	5 percent of phosphate in pickle at 10 percent pump level; 0.5 percent of phosphate in product (only clear solution may be injected into product).

11.a. The heading for Subpart E in Part 319 is amended to read: "Subpart E—Sausage generally: Fresh Sausage," and § 319.140 is amended by adding at the end thereof the following: "To facilitate chopping or mixing or to dissolve the usual curing ingredients, water or ice may be used in the preparation of sausage which is not cooked in an amount not to exceed 3 percent of the total ingredients in the formula. Cooked sausages such as Polish sausage, cotto salami, braunschweiger, liver sausage, and similar cooked sausage products may contain no more than 10 percent of added water in the finished product."

b. Section 319.200 is amended to read as follows:

§ 319.200 Liver sausage and braunschweiger.

"Liver Sausage" and "Braunschweiger" are cooked sausages made from fresh and/or frozen pork and pork livers and/or beef livers and may contain cured pork, beef and veal, and pork fat. Liver sausage may also contain beef and pork byproducts, pork skins, sheep livers and goat livers. These products shall contain not less than 30 percent of liver computed on the weight of the fresh liver and may contain binders and extenders as permitted in § 319.140.

c. Section 319.881 is amended to read as follows:

§ 319.881 Liver meat food products.

Meat food products characterized and labeled as liver products such as liver loaf, liver cheese, liver spread, liver mush, liver paste, and liver pudding shall contain not less than 30 percent of pork, beef, sheep, or goat livers computed on the fresh weight of the livers.

12. Section 325.15 is amended by adding thereto a new paragraph (c) to read:

(c) No statement as prescribed in this section is required for the transportation of any animal food if it is eligible for transportation in commerce without a shipper's certificate under § 325.11(e).

13. Section 327.1 is amended by adding at the end thereof the following: "Compliance with the conditions for importation of products under this part does not excuse the need for compliance with applicable requirements under other laws, including the provisions in Parts 94, 95, and 96 of Chapter I of this Title."

14. a. In § 310.2(a), the words "back tags" are changed to "backtags."

b. In the index and heading for § 311.10, the words "in sheep" following the word bluetongue are deleted.

c. In § 312.5(b), the term "(Form CP 4 of -3)" is changed to "(Form CP-408-3)."

d. In § 314.10(b), the word "not" is deleted.

e. Section 316.4(b) is amended to read:

(b) All official devices for marking products with the official inspection legend, or other official inspection marks, including self-locking seals, shall be used only under supervision of a Program employee, and, when not in use for marking shall be kept locked in properly equipped locks or compartments, the keys of which shall not leave the possession of a Program employee, or the locker or compartment shall be sealed with an official seal of the Department as prescribed in Part 312 of this subchapter.

f. In § 317.2(f)(2), the word "similarly" is changed to "similar."

g. In § 317.7(b)(13), the designation "(i)" is deleted.

h. In § 317.8(b)(15), the phrase "of connection with products" is changed to "in connection with products."

i. In § 318.7(c)(4), in the chart, the phrase "Diotyl sodium sulfosuccinate" in the "Substance" column, with respect to the class of substance, "Cooling and retort water treatment agents," is changed to Dioctyl sodium sulfosuccinate."

j. In § 327.6(m), the term "Form MI-410" is changed to "Form MP-410."

k. In § 329.5, in the third sentence, the word "person" is added after the phrase "addressed to such."

l. In § 331.3(c), the words "toilet rooms" are changed to "facilities."

m. In § 303.1(f), "(c)(1)" is changed to "301(c)(1)" and the phrase "inspection requirements" is deleted and the phrase "requirements of titles I and IV of the Act" is substituted therefor.

n. In § 320.1(b)(1)(iii), the word "shipping" is deleted and the word "outside" is substituted therefor.

(Sec. 21, 34 Stat. 1260, as amended by 81 Stat. 584; 21 U.S.C. 621; 41 Stat. 241, 7 U.S.C. 394; 29 F.R. 16210, as amended; 33 F.R. 10750)

Most of the foregoing amendments were recommended by interested persons. Some of the amendments correct errors or make formal changes. Some reflect current policies and interpretations or relieve restrictions. The amendment of § 307.6 is required to reflect provisions of law (5 U.S.C. 6103) effective on January 1, 1971. It does not appear that further information on any of the amendments would be made available to the Department by publication of a notice and other public rulemaking procedures. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such rulemaking procedures with respect to these amendments are impracticable and unnecessary, and good cause is found for making the amendments effective less than 30 days after publication hereof in the FEDERAL REGISTER. Accordingly, the amendment of § 307.6 is effective as of January 1, 1971, and the other amendments shall become effective upon publication hereof in the FEDERAL REGISTER.

Done at Washington, D.C., on June 15, 1971.

CLAYTON YEUTTER,
Administrator.

[FR Doc.71-8712 Filed 6-23-71;8:45 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-SO-77]

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

Alteration of Control Zone and Transition Areas

On May 11, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 8697), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Gainesville, Fla., control zone and the Gainesville and Lakeland, Fla., 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 § 71.171 (36 F.R. 2055), the Gainesville, Fla., control zone is amended to read:

GAINESVILLE, FLA.

Within a 5-mile radius of Gainesville Municipal Airport (lat. 29°41'22" N., long. 82°16'28" W.); within 1.5 miles each side of Gainesville VORTAC 034° radial, extending from the 5-mile-radius zone to the VORTAC.

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

GAINESVILLE, FLA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Gainesville Municipal Airport (lat. 29°41'22" N., long. 82°16'28" W.); excluding the portion within a 1-mile radius of Stengel Field Airport (lat. 29°37'30" N., long. 82°23'00" W.).

LAKELAND, FLA.

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Lakeland Municipal Airport (lat. 27°59'15" N., long. 82°00'55" W.); within 5 miles each side of Lakeland VORTAC 235° radial, extending from the 8.5-mile-radius area to 9.5 miles southwest of the VORTAC.

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

Issued in East Point, Ga., on June 15, 1971.

W. B. RUCKER,
Acting Director, Southern Region.

[FR Doc. 71-8866 Filed 6-23-71;8:47 am]

[Airspace Docket No. 71-SO-80]

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

Designation of Transition Area

On May 11, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 8697), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Fitzgerald, 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 Regulation is amended, effective 0901 G.m.t., September 16, 1971, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the following transition area is added:

FITZGERALD, GA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Fitzgerald Municipal Airport (lat. 31°41'00" N., long. 83°16'00" W.); within 3 miles each side of the 200° bearing from Fitzgerald RBN (lat. 31°41'06" N., long. 83°16'00" W.), extending from the 5-mile-radius area to 8.5 miles southwest of the RBN.

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

Issued in East Point, Ga., on June 15, 1971.

W. B. RUCKER,
Acting Director, Southern Region.

[FR Doc.71-8867 Filed 6-23-71;8:47 am]

[Airspace Docket No. 751-SW-17]

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

Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Lovington, N. Mex., transition area.

On May 7, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 8525) stating the Federal Aviation Administration proposed to designate a transition area at Lovington, N. Mex.

Interested persons were afforded an opportunity to participate in the rule making through 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 area is added:

LOVINGTON, N. MEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lovington, N. Mex., Lea County Airport (lat. 32°57'30" N., long. 103°24'30" W.) and within 3.5 miles each side of a 244° bearing from the Lovington, N. Mex., NDB (lat. 32°-56'40" N., long. 103°24'08" W.), extending from the NDB to 11.5 miles southwest.

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

Issued in Fort Worth, Tex., on June 15, 1971.

R. V. REYNOLDS,
Acting Director, Southwest Region.

[FR Doc.71-8868 Filed 6-23-71;8:40 am]

[Airspace Docket No. 71-WA-12]

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

Alteration of Positive Control Area

On April 3, 1971, a Notice of Proposed Rule Making was published in the FEDERAL REGISTER (36 F.R. 6435) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would expand the positive control area (PCA) from Flight Level 240 to 18,000 feet MSL in the central and southwestern United States.

Interested persons were afforded an opportunity to participate in the proposed rule through the submission of comments. The adverse comments to the proposal urged that it not be adopted because it was not needed and would serve no useful purpose, that it would impose additional unnecessary restrictions; that it would generate excessive delays and that the air traffic control system does not have the capability to provide the service. Several commentators concurred with the proposal.

The Federal Aviation Administration has consistently maintained that the risk of mid-air collision is less likely in a postive control environment than anywhere else in the system. Many aircraft now operate at closure speeds in excess of 1,000 knots. The "see and avoid" type of separation is increasingly less effective as closure speeds increase, since aircraft now can be upon each other before the pilots are able to detect other aircraft and maneuver to avoid collision. Designation of this stratum as positive control area would augment the "see and avoid" concept with provision of air traffic control services including radar.

The FAA now has the capability to provide positive control service in the proposed area without undue hardship to the users. The FAA's program for increased safety necessarily involves some inconvenience to users of the airspace; however, it is evident that additional safety is attained in a positive controlled environment. The FAA believes that safety considerations require the action being taken.

The area defined in the notice was designed to encompass entire air route traffic control center areas. Since issuance of the notice, several alterations to center boundaries have been effected. As the changes are not of great significance to the user and relate primarily to the internal operation of the air traffic control system, the changes are reflected herein.

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.

Section 71.193 (36 F.R. 11081) is amended by deleting all after "Continental Control Area" and substituting therefor:

That airspace within the continental control area from Flight Level 240 to and including Flight Level 600 bounded by a line beginning at lat. 38°00'00" N., long 75°11'00" W., thence to lat. 38°13'30" N., long. 75°41'00" W.; to lat. 31°42'00" N., long. 89°24'00" W.; to lat. 38°20'30" N., long. 75°36'40" W.; to lat. 38°53'40" N., long. 75°51'20" W.; to lat. 38°26'20" N., long. 77°03'15" W.; to lat. 37°01'00" N., long. 77°55'00" W.; to lat. 36°19'00" N., long. 79°16'00" W.; to lat. 37°00'00" N., long. 80°25'10" W.; to lat. 37°12'15" N., long. 80°25'45" W.; to lat. 37°18'15" N., long. 80°44'45" W.; to lat. 37°16'00" N., long. 80°53'00" W.; to lat. 37°11'30" N., long. 81°09'00" W.; to lat. 36°34'00" N., long. 84°01'00" W.; to lat. 36°30'00" N., long. 84°45'00" W.; to lat. 36°12'30" N., long. 85°10'30" W.; to lat. 36°11'00" N., long. 85°24'00" W.; to lat. 36°54'00" N., long. 85°35'00" W.; to lat. 37°18'00" N., long. 86°09'00" W.; to lat. 37°16'30" N., long. 87°23'50" W.; to lat. 37°43'30" N., long. 88°19'00" W.; to lat. 37°32'00" N., long. 88°50'00" W.; to lat. 37°09'00" N., long. 90°34'00" W.; to lat. 36°26'00" N., long. 94°41'00" W.; to lat. 36°08'00" N., long. 95°00'00" W.; to lat. 35°00'00" N., long. 95°00'00" W.; to lat. 34°53'45" N., long. 94°56'00" W.; to lat. 34°51'00" N., long. 94°12'00" W.; to lat. 34°47'30" N., long. 93°48'00" W.; to lat. 34°30'00" N., long. 93°44'00" W.; to lat. 34°00'00" N., long. 93°20'00" W.; to lat. 33°43'00" N., long. 93°00'00" W.; to lat. 33°31'00" N., long. 92°32'00" W.; to lat. 32°42'00" N., long. 91°30'00" W.; to lat. 31°57'00" N., long. 91°30'00" W.; to lat. 31°39'00" N., long. 90°20'00" W.; to lat. 31°37'00" N., long. 89°35'00" W.; to lat. 31°42'00" N., long. 89°24'00" W.; to lat. 31°34'00" N., long. 89°18'00" W.; to lat. 31°31'00" N., long. 88°20'15" W.; to lat. 31°31'15" N., long. 87°49'00" W.; to lat. 31°25'00" N., long. 87°26'00" W.; to lat. 31°16'50" N., long. 87°24'00" W.; to lat. 30°58'00" N., long. 87°39'00" W.; to lat. 30°28'00" N., long. 87°46'00" W.; to lat. 30°15'00" N., long. 87°41'30" W.; to lat. 30°14'00" N., long. 88°01'30" W.; to lat. 30°09'30" N., long. 88°01'30" W.; Thence via a line 3 NM from the coastline to point of beginning excluding the portion south of lat. 25°04'00" N., and all between "lat. 36°26'-00" N., long. 94°41'00" W." and "lat. 32°31'-00" N., long. 117°11'00" W." is deleted and "lat. 36°08'00" N., long. 95°00'00" W.; to lat. 35°00'00" N., long. 95°00'00" W.; to lat. 34°53'45" N., long. 94°56'00" W.; to lat. 34°51'00" N., long. 94°12'00" W.; to lat. 34°47'30" N., long. 93°48'00" W.; to lat. 34°30'00" N., long. 93°44'00" W.; to lat. 34°00'00" N., long. 93°20'00" W.; to lat. 33°43'00" N., long. 93°00'00" W.; to lat. 33°31'00" N., long. 92°32'00" W.; to lat. 32°42'00" N., long. 91°30'00" W.; to lat. 31°57'00" N., long. 91°30'00" W.; to lat. 31°39'00" N., long. 90°20'00" W.; to lat. 31°37'00" N., long. 89°35'00" W.; to lat. 31°42'00" N., long. 89°24'00" W.; to lat. 31°34'00" N., long. 89°18'00" W.; to lat. 31°31'00" N., long. 88°20'15" W.; to lat. 31°31'15" N., long. 87°49'00" W.; to lat. 31°25'00" N., long. 87°26'00" W.; to lat. 31°16'50" N., long. 87°24'00" W.; to lat. 30°58'00" N., long. 87°39'00" W.; to lat. 30°28'00" N., long. 87°46'00" W.; to lat. 30°15'00" N., long. 87°41'30" W.; to lat. 30°14'00" N., long. 88°01'30" W.; to lat. 30°09'30" N., long. 88°01'30" W.; thence via a line 3 NM from the coastline to lat. 25°58'30" N., long. 97°05'30" W.; thence along the United States/Mexico boundary to" is substituted therefor.

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

Issued in Washington, D.C., on June 21, 1971.

LOUIS H. MCCAUGHEY,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-8979 Filed 6-23-71;8:53 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18476; FCC 71-639]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments; Certain FM Broadcast Stations in Alabama

Third report and order.

In the matter of amendment of § 73.202, Table of Assignments, FM Broadcast Stations; (Doniphan, Mo.; Princeton, W. Va.; Auburn, Nebr.; Sallisaw, Okla.; Heber Springs, Ark; Preston, Minn.; Barnstable, Nantucket, and Falmouth, Mass.; Mineral Wells, Tex.; Fayette, Hartselle, and Talladega, Ala.; Mariposa, Calif.; Flora, Ill., Jasper, Arab, and Demopolis, Fla.); RM-1356, RM-1359, RM-1360, RM-1364, RM-1368, RM-1373, RM-1374, RM-1377, RM-1378, RM-1379, RM-1382, RM-1383, RM-1389, RM-1391, RM-1414, RM-1417, RM-1496.

1. The Commission here considers the further notice of proposed rule making in Docket No. 18476, adopted January 6, 1971, to amend the FM Table of Assignments (§ 73.202(b) of the rules) insofar as concerns various communities in Alabama (FCC 71-22; 36 F.R. 560). As stated therein, the further notice was necessary because: (a) Basic allocation questions were raised, i.e., the addition of multiple Class A assignments at the expense of deleting a wide coverage Class C assignment at Fayette for which there is a demand; and (b) to include additional conflicting petitions filed since the original notice of proposed rule making was adopted in the original proceeding on March 5, 1969 (FCC 69-207; 34 F.R. 5120), more specifically, the petitions of Sid McDonald and Radio South, Inc. seeking assignments for Arab and Jasper, respectively (RM-1417 and RM-1496). Those filing comments and/or reply comments were: Tallabama Broadcasting Co., Inc.; Dorsey Eugene Newman, licensee of Station WHRT, Hartselle; Sid McDonald; Bankhead Broadcasting Co., Inc.; Radio South, Inc.; and J. W. Shirley, Applicant for Channel 225 at Fayette (BPH-6672).

2. The communities involved, the county in which each is located, and the 1970 populations, are as follows:

City	Population	County	Population
Talladega	17,662	Talladega	65,280
Hartselle	7,355	Morgan	77,306
Fayette	4,568	Fayette	16,252
Arab	4,399	Marshall	54,211
Jasper	10,798	Walker	56,246

The further notice pointed out these facts: All the cities have daytime AM stations: Jasper and Talladega also have full-time Class IV AM stations: only Jasper and Fayette have FM channels assigned, both Class C with the Jasper channel in use and the Fayette assignment unoccupied but now applied for by J. W. Shirley (BPH-6672). Fayette and Jasper are the county seats and each is the largest community in the county and there are no other stations or FM assignments in the county. Talladega also is the county seat and the county's largest community but there is other daytime and Class IV AM service and a Class A FM service at Sylacauga, about 20 miles away. Arab is the fourth largest city in its county; two larger communities have Class A FM assignments. Hartselle is about 12 miles from the county seat Decatur (population over 30,000), which has two Class C FM stations in operation. Our further notice also noted that Tallabama Broadcasting Co., Inc.; Radio South, Inc.; Bankhead Broadcasting Co., Inc.; and Dorsey Newman have other broadcast interests.

3. The further notice also traced some of the pertinent background. There was no demand for the Fayette assignment when the original notice was issued, but J. W. Shirley filed an application on March 19, 1969, for use of the Fayette channel, proposing 27-kw. E.R.P. and a 453 feet a.a.t. antenna height which facilities we noted were not insignificant, although far from maximum. The further notice detailed the fundamental question of allocation policies involved. Our concern here is, if and under what circumstances, the only Class B or C channel in the community should be deleted to make possible two or more meritorious Class A assignments elsewhere. The mere fact that more Class A first channel assignments could be made we

felt was not a sufficient answer, since the same argument could be used with respect to probably the bulk of the Class B and C assignments in the United States. The further notice stated that in making our determination we would consider service from Fayette to unserved (no service) and underserved (one service) areas considering a Class C station with 75-kw. E.R.P. and 500-foot height a.a.t. The further notice also pointed out to the merit of the other proposed assignments; for example, that Talladega is a city with over 17,000 population and has no FM outlet, although there is full-time AM service and an FM station in the same county with 1 mv/m signals from Birmingham and Anniston stations. We also noted that Hartselle and Arab have daytime AM outlets and received FM service from other stations in the same county.

4. Our notice also pointed out that only in one previous instance had the Commission deleted a Class C channel in the FM Table of Assignments without substituting another one. In sum, we saw the issue as a close one unless a substitute Class C channel could be made at Fayette. This is fully detailed in the further notice, and little purpose would be served by repeating all the contentions bearing on this point. The following questions, we felt, are raised by the proceeding:

(a) Whether Channel 251 can suitably be used as a Class C assignment at Fayette.

(b) Whether, if Channel 251 cannot be so used, Channel 225 should, nonetheless, be deleted from Fayette and replaced with a Class A channel; or, if left there, whether its assignment should be conditioned on use at a certain level, such as 75-kw. E.R.P. and 453 antenna height a.a.t.

(c) Assuming Channel 225 is deleted from Fayette, what assignments on Channel 224A, in addition to that at Talladega, should be made.

(d) Whether Channel 224A could be used consistent with mileage separation requirements at both Arab and Jasper, considering the mileage shortage between the reference points of these communities (58 miles).

(e) Whether Jasper merits a second FM channel.

5. Tallabama Broadcasting Co., Inc., makes three points in its comments. First, it states that Channel 251 could be substituted at Fayette without any difficulty; despite the Commission's belief that sites were unavailable, there are at least two available at reasonable land cost (see also paragraphs 7 and 10, infra). Tallabama's second point is that, nevertheless, a Class A channel should be substituted at Fayette. It views the needs of the other communities as greater: Talladega is the county seat and has no FM channel, and it is not served by Class A Station WMLS–FM, Sylacauga, as the further notice suggested. Thirdly, the change of the channel at Fayette makes possible new FM allocations at Arab, possibly Jasper, or Hartselle, and it would seem to be more important to give these communities and Talladega a first FM channel rather than keeping a Class C channel in a community which has less population than most of the others. Tallabama also takes issue with the statements in our further notice as to the character of service at Fayette; in this respect, it is pointed out that there is a plethora of AM service which must be considered under the many recent Commission decisions considering AM and FM as a single aural service. This party also takes issue with criteria set out by the Commission for a Class C channel at Fayette:

> Why areas at a considerable distance from Fayette (lying beyond the area to be served by Class A station) need FM service from Fayette is not clear. Such need cannot outweigh the need of several cities (and several "white" areas FM-wise) for their first FM station. (Comments, pages 3–4.)

Tallabama characterizes this concern about outlying areas as being speculative particularly since the application of J. W. Shirley for Channel 225 at Fayette did not employ full widearea potential, i.e., his application is only for 25 kw. E.R.P. with a 453 feet a.a.t. antenna height (BPH–6672).[1] In sum, Tallabama Broadcasting Co., Inc., opposes a Class C channel at Fayette.

6. Dorsey E. Newman, licensee of Station WHRT, states that his only concern is that there be an assignment to Hartselle. Consequently, he directs his comments primarily to the contrast of the situation at Arab and Hartselle. Newman contends that Arab receives services from four FM stations.[2] Newman also states that he intends to operate the FM station as a CBS affiliate thus providing the third network service to Decatur which is now served by ABC and Mutual affiliates. Newman points out that the Arab petitioner, Sid McDonald, is not devoid of communications interests but is the owner of a TV cable system as well as the president of the Brindlee Mountain Telephone Co. Finally, he points to WHRT's operation of a 24-hour telephone service to give weather and other important bulletin information to the public and this central information could be better served by an FM station.

7. Sid McDonald points out that there are sites available for Channel 251 assignment to Fayette (see paragraphs 5 and 10), and, therefore, this party feels that the principal issue to be decided is the choice where Class A channel assignments should be made. In his view, the assignment to Talladega is rather obvious and the remaining question is whether to assign Channel 224A to both Arab and Jasper, or deny both and assign that channel to Hartselle. Sid McDonald urges that assignment of Channel 224A to both Arab and Jasper is possible with full compliance of the rules including mileage separation requirements. In this respect, Sid McDonald restates his willingness to locate an FM station at Arab to comply with spacing to Jasper (while the proponent for the Jasper assignment in his comments states that he will select a site acceptable as an assignment for both communities; see paragraph 9, infra). In this party's view, assignments to Arab and Jasper should be preferred over an assignment to Hartselle merely considering population, that is, the population of Arab and Jasper combined is more than double that of Hartselle. Further, McDonald urges that population statistics alone do not adequately reflect the need of Arab for a first FM broadcast facility as its first nighttime broadcast outlet. McDonald relies on facts previously adduced as to the central position of Arab as a trade area and population center with a continued steady and rapid growth. He states that Jasper's position is similar, while conversely Hartselle evidences a lesser need in part due to its proxmity to Decatur (some 12 miles north with three full-time AM stations and two Class C FM stations). Finally, from a technical point of view, McDonald argues that an engineering study which it filed establishing that assignment of Channel 224A to Arab would have a de minimis effect on future cochannel and adjacent channel assignments while a similar study was not submitted on behalf of Hartselle (and thus the effect of an assignment in this respect is unknown); it is already known that an assignment to Hartselle would preclude assignment to both Jasper and Arab and it is believed that assignments elsewhere would be precluded.

8. We now turn to the comments of Bankhead Broadcasting Co., Inc., which is the licensee of the Fayette daytime AM station largely under common ownership with the daytime AM–FM combination at Jasper and the daytime AM at Russellville, Ala. This party relies substantially on its own commitment to apply for a Class A facility if assigned to Fayette. In this respect, based on Census data, Bankhead contends that Fayette has only a limited population and there has been little growth in the 1960–70 period.[3] It recognizes that Talladega and Jasper and their respective counties—Talladega and Walker—also have experienced little growth; on the other hand, Hartselle (and Morgan County) and Arab (and Marshall County) have been somewhat more. It also relies on economic data and the fact that FM receivers are capable of receiving signals of 50 uv/m.[4]

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[1] Tallabama also feels that the Commission in effect invited Shirley to increase his proposal for facilities and failure to do so evidences a lack of interest and a recognition that Fayette could not provide the economic bases for an expensive high-power operation. See paragraph 10, below.

[2] Station WTWX, Guntersville; WQSB, Albertville; WFMH, Cullman; and WRSA, Decatur. Hartselle also receives service from the Cullman and Decatur stations, and from Decatur's WDRM.

[3] 1960 Census population of 4,273 and 1970 Census population of 4,568.

[4] On this basis, Fayette receives "services" from Station WWWB–FM, Jasper; WRAG–FM, Carrollton; WTBC–FM, Tuscaloosa; WERH–FM, Hamilton; and WMBC–FM, Columbus, Miss.

9. Radio South, Inc., the Jasper Class IV AM licensee, makes several points. Firstly, it agrees that Channel 251 could be suitably assigned to Fayette. With respect to the Channel 224A assignments, it believes that the public interest, convenience, and necessity would be best served by assignment to Jasper and Arab because of their greater populations compared to Hartselle (see paragraph 7). It also asserts other considerations, including the fact that Jasper is the county seat and that more than 70 percent of the residents of Walker County reside within 10 miles of the city limits of Jasper, and there are no other aural facilities than the three existing stations in that city. This party believes that McDonald has amply demonstrated the need of a first FM assignment for Arab. As to Hartselle, not only would an assignment there preclude Jasper and Arab, but, additionally, Hartselle is located about 12 miles from Decatur, the county seat, with two Class C FM stations, two full-time AM stations, and a daytime AM station. Thus, together with Hartselle's own AM station, it has more than sufficient aural service. Radio South indicates that it would cooperate with McDonald in order to find mutually agreeable sites (see paragraph 7, above). As to the question of whether Jasper merits a second FM station, this party argues that it does as the county seat and largest community in Walker County, an important retail, educational, and recreational center, and of sufficient population, economic stability, and socio-economic importance.

10. We now turn to the comments of J. W. Shirley, who also filed reply comments. Shirley's approach is one of "mixed feelings". He expresses concern about the long time delay of action on his application because of the pendency of this docket. He feels that because his expenditures are dissipated whether Channel 225 is supplanted by another Class C as Channel 251—or a Class A channel, he is entitled to reimbursement. If the former, a new site must be found and new engineering prepared to comply with the Commission's rules. If a Class A channel, not only must the application be amended but the service area may be so reduced as to make a station economically unfeasible. Shirley urges that he is entitled to reimbursement in either event. He pertinently states;

> If his application had been granted, the Commission would have followed its long established policy and practice of providing that the reasonable expenses incurred in shifting to another channel be met by those who obtained authorizations as the direct result of the change in channel assignments. There is no reason why the policy and practice cannot and should not be applied here. At least two of the parties to this proceeding, Sid MacDonald [sic] and Radio South, Inc., have indicated informally that they would not be opposed to application of the policy and practice in this unique situation. (Comments, page 6.)

With some reluctance, Shirley is willing to accept substitution of Channel 251 at Fayette; he has ascertained that a site in a small triangular area southwest of that community is available. Thus, Shirley supports the substitution of Channel 251 for 225 at Fayette and the concomitant change at Demopolis.[5] Shirley is opposed to the Commission's suggestion that if Channel 225 is retained at Fayette it operate at a 75-kw. E.R.P. and 453 a.a.t., even though he would make an effort to amend his application for a higher power than now specified in his application.[6] Shirley expresses no views as to how the Class A assignment might be distributed among the other communities. Therefore, he suggest that the portion of the proceeding relating to assignments at Fayette and Demopolis be severed while the Commission considers how the Class A channel should be distributed among the other communities, and, indeed, his comments are subtitled "Petition to Sever". Shirley points to the 2-year pendency of his application and the further delay because of the rule making.

11. Shirley's reply comments are directed primarily at the comments of Bankhead Broadcasting Co., as an opponent of the substitution of Channel 251 for 225 at Fayette. Shirley asserts that Bankhead's position is based on its ownership of the Fayette AM station and relation with stations at Jasper and Russellville. Shirley argues that the substitution of Channel 224A at Fayette, as urged by Bankhead, would protect Bankhead's existing FM station from competition at Jasper, since it would make impossible the addition of a second FM channel to that community. Because of the proximity of the Jasper and Fayette (33 airline miles), operation of a Class A station by Bankhead would significantly preclude improvement of the facilities of Station WWWB–FM (which operates at 27-kw. E.R.P. and an antenna height of 155 a.a.t.). Thus, it is urged, that because of the potential of running afoul of the multiple ownership rule (§ 73.240(a)) the Commission should give little weight to Bankhead's comments. In Shirley's words:

> Bankhead's comments should be recognized as little more than an effort to protect its existing stations in the area from competition. It is respectfully submitted that Bankhead's comments are entitled to little or no weight. (Reply Comments, page 4.)

12. We turn first to Shirley's contention that he is entitled to reimbursement. As we recently stated, this is a doctrine applicable to only stations which are already on the air and quite clearly does not embrace an applicant.[7] Perhaps, as Shirley contends, the doctrine would have been applied if his application had been granted. Even if so, to apply the doctrine here we would have to make a determination that except for the rule makings there would have been no problems with his application. Our procedures do not lend themselves to making any sort of supposition of this type. Nor do we find it necessary to sever the Fayette portion of this part of the docket from the others.

13. We turn now to the issues set out in the notice of proposed rule making. It now appears that there is a suitable site for Channel 251 to serve Fayette.[8] In the circumstances, we need not come to the difficult question of substituting the lower class channel for a Class C channel. Therefore, we find the public interest, convenience, and necessity will be best served by assigning Channel 251 in place of 225 at Fayette. In view of that community's fairly small size and the absence of demand for a second channel, we need not consider a possible Class A assignment there such as Channel 224A.

14. We now turn to the questions posed in our notice as to which of the other communities should have Channel 224A assigned to it based on the facts as we see them. As pretty well indicated by the notice, there is no question that Channel 224A should be assigned to Talladega, and we so decide.

15. The further question raised then is whether the other Channel 224A assignment(s) should be made to Hartselle, or Arab, or Arab and Jasper. In the further notice, we posed the question whether Channel 224A could be used consistently with mileage separation requirements at both Arab and Jasper and considering that only 58 miles separate the cochannel reference points. In this respect, it appears that the petitioners for the respective communities, i.e., Sid McDonald and Radio South, Inc., are willing to mutually accommodate each other to choose sites that would comply with the 65-mile cochannel mileage separation. Thus, these parties are able to argue that the total population of Arab and Jasper, twice that of Hartselle, would be served by Channel 224A assignments to the first two communities. This is an oversimplified solution which would obviate other more essential facts which are raised here.

16. Jasper is not a large city (10,798 in 1970), which has not grown since 1960 (the county has shown a small increase).

[5] If the site is not available, Shirley, nevertheless, is willing to support the substitution with a condition limiting radiation to the nearest short-spaced assignments i.e., Stations WMLS–FM, Channel 252A, Sylacauga, and possibly WNBX, Channel 252, Andalusia.

[6] In this respect, he discusses the merits of circular polarization over horizontal polarization. He would support the adoption of such a condition if the only alternative is the substitution of a Class A channel at Fayette. A Class A station is limited to 3-kw. power and 300-foot a.a.t. antenna height.

[7] Notice of proposed rule making, Docket No. 19074, paragraph 16, p. 7 (FCC 70–1162). Shirley states that MacDonald [sic] and Radio South, Inc., have informally indicated willingness to reimburse Shirley for his expenses of reengineering his application if we are to delete the Channel 255 assignments from Fayette and substitute either Channel 251 or a Class A channel. They are free to do so, but quite clearly it is not required.

[8] A site to meet the required mileage separations must be located at a distance from the Fayette reference point.

It has one FM channel now, as well as two AM stations, one fulltime (Class IV). Under the circumstances, we do not conclude that Channel 224A should be assigned there at this time, particularly since the assignment would conflict with either of the other two assignments mentioned above, completely precluding an assignment at Hartselle or (with a 7-mile shortage between community reference points) imposing limitations on the sites of the stations using the channels in both Jasper and Arab. The latter we do not conceive to be good practice, where neither of the locations is established. The situation, then, comes down to an evaluation of the claims of Hartselle and Arab. Hartselle has one claim as the larger of the two communities, about 7,500 compared to 4,500. Each has one daytime-only AM station; each receives outside FM signals, those in Hartselle including two from stations in Decatur, in the same county some 12 miles away and the largest city in this general area (over 38,000). Considering Hartselle's proximity to this large center in the same county, and its stations, we conclude that the assignment of a first FM channel to Arab is to be preferred under the mandate of section 307(b) of the Communications Act.

17. Authority for the adoption of the amendments proposed herein is contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended.

18. In accordance with the foregoing: *It is ordered*, That effective August 3, 1971, the FM Table of Assignments (§ 73.202(b) of the rules) is amended for the following communities in Alabama as follows:

City	Channel No.
Talladega	224A
Arab	224A
Fayette	251
Demopolis	292A

19. *It is further ordered*, That the petition of Radio South, Inc., RM–1496 is denied.

20. *It is further ordered*, That the petition of Talladega Broadcasting Co., Inc., RM–1368 is denied in part consistent with the discussion above.

21. *It is further ordered*, That J. W. Shirley's motion to sever is denied.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: June 16, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[3]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71–8904 Filed 6–23–71;8:51 am]

[3] Commissioners Robert E. Lee and H. Rex Lee absent.

[Docket No. 19091; FCC 71–637]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, Television Broadcast Station, State College, Pa.

Report and order. In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (State College, Pa.); RM–1564.

1. This proceeding, begun by notice of proposed rule making issued November 13, 1971 (FCC 70–1212), involves the proposed addition of Channel 29 to the Television Table of Assignments (§ 73.606 (b) of the rules) as a first commercial channel at State College, Pa. Petitioner, TV Networks, Inc., states that it will apply for the channel if it is assigned.[1] State College now has unused ETV Channel *55 assigned. It is the largest city in Centre County, with 1970 U.S. Census populations of 33,778 and 99,267 respectively; the population of State College increased by over 50 percent between 1960 and 1970, and its population is now well over the 25,000 figure used in the preparation of the 1966 UHF Table of Assignments (Docket 14229) as the minimum for assigning channels in the absence of a specific demand. The closest commercial assignments are at Altoona, 34 miles away (VHF and UHF); the Channel 10 station puts a Grade A signal into State College and surrounding area, and there is no other Grade B or better signal (although it is stated that the Johnstown Channel 6 station, some 62 miles away, is usable).

2. The only opposition to the notice proposal was from John R. Powley, applicant for UHF Channel 38 at Altoona (BPCT–4377), who advanced the following points: (1) The proposed Channel 29 assignment at State College, at near-minimum separation with Channel 29 at Buffalo, would restrict the location of a UHF station using the latter (which could not be south of the city as the other stations are); (2) Channel *55 at State College could be dereserved—there are, assertedly, no present plans for its use for ETV—and used commercially, with complete site flexibility; (3) TV Networks, Inc., in opposing Powley's Altoona application, described its proposal as a "State College-Altoona" station, and asserted that the station sought by Powley could have a disastrous impact on the TV Networks station; since Powley proposes only very low height and power, this apparently means that TV Networks will oppose any Altoona operation, and if it really means to serve Altoona as well as State College, it could just as well use Channel 47, which is assigned to Altoona now (in addition to Channel 38, specified in Powley's application). In reply, TV Networks asserts that: (1) There will be no impact at Buffalo, since the proposed use of Channel 29 at State College meets separations with respect to the authorized site of the Buffalo station on that channel, which is now operating, and there is no indication it plans to move; (2) Channel *55 at State College should not be dereserved, since it is one of the only three unused ETV assignments in Pennsylvania and, according to TV Networks, State educational authorities would oppose its removal at least until they have evaluated their overall State plan; (3) as to use of Channel 47, this would deprive Altoona of a channel now assigned there, would be less satisfactory than the lower channel from the standpoint of cost of operation and coverage, and would impose severe restrictions on any later use of Channel *55 in the State College area, in view of the 20-mile "taboo" separation specified in the rules between stations on channels eight channels removed from each other.

Conclusions. 3. Upon consideration of the foregoing, we conclude that the assignment of Channel 29 as a first commercial assignment at State College, Pa., would serve the public interest, and that it should be adopted as proposed. The citys size and importance, as well as the relative dearth of other off-air signals in the area, indicate that the provision for a first outlet in this city and its county is of importance in fulfilling our allocations objectives. With respect to the various alternatives mentioned, we are not disposed to consider the dereservation of Channel *55, in view of the importance of preserving an appropriate number of channels for educational use which we have often emphasized, at least as long as there is a reasonably feasible alternative. As to use of Channel 47 for a State College station, we do not believe (at least where there are alternative approaches) that we should assign to the same city two channels on which stations must be 20 miles or more from each other. This practice would not be good allocation policy, and should not be considered where other approaches are possible.

4. In view of the foregoing: *It is ordered*, That, effective August 3, 1971, and pursuant to authority contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, that § 73.606(b) of the Commission's rules, the Table of Television Assignments, is amended, with respect to State College, Pa., to read as follows:

City	Channel
State College, Pa	29, *55

5. *It is further ordered*, That this proceeding is terminated.

[1] Petitioner's original request was for Channel 17. When it developed that (besides a short spacing problem involved in the site contemplated), the channel conflicted with land mobile use of Channels 17 and 18 in various areas, the proposal was amended in August 1970 to specify Channel 29.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: June 16, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[2]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.71-8905 Filed 6-23-71;8:51 am]

[Docket No. 18984; FCC 71-635]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments; Television Broadcast Stations, Pittsburg and Concord, Calif.

Report and order. In the matter of amendment of § 73.606(b) of the Commission's rules, Table of Assignments, Television Broadcast Stations, Pittsburg and Concord, Calif.; RM-1466.

1. This proceeding, begun by notice of proposed rule making issued September 4, 1970 (FCC 70-950), concerns the proposed redesignation of UHF Channel 42, in the area east of San Francisco, as a Concord, Calif., assignment rather than a Pittsburg, Calif., channel (by amendment of § 73.606(b) of the rules, the Table of Television Assignments).

2. The channel can be used in either community in any case, since they are only about 8 miles apart. The change had been sought in a petition filed by Television Communications, Inc., and Watson Communications System, Inc., doing business as TV Hill, which until May 7, 1971, was the permittee of Station KCFT-TV, Concord, using the Channel 42 Pittsburg assignment. This station had operated briefly in earlier years, under a different permittee; but was not operating at the time of the petition and notice, and the permit and call letters were deleted on May 7, 1971, at the permittee's request. Thus there is now no contemplated use of the channel, in either city, before us.

3. The reassignment was supported in brief comments filed by the petitioner (referring to the earlier petition), and in a letter from Mr. James W. Dent, the Assemblyman for the 10th District of California (Contra Costa County, in which both cities are located). The letter urges the greater and faster growing population of Concord as compared to Pittsburg, a matter mentioned in the notice. Other factors urged in the petition and mentioned in the notice are that the reassignment would correspond to the actual usage of the channel (by a Concord station), and would assist from an economic and public-relations standpoint in "market recognition" by audience-survey organizations such as American Research Bureau (ARB). In the latter connection, petitioner claims that the line between the San Francisco and Sacramento-Stockton market "areas of dominant influence" (ADI) passes through Concord; and there are advantages in having the channel so assigned rather than assigned at Pittsburg, which is definitely in the Sacramento-Stockton ADI.

4. While the Concord authorization is no longer outstanding, and thus one of the factors supporting the change has been removed, it is also noted (as mentioned in the notice) that one of the reasons for the original assignment at Pittsburg—site flexibility—also no longer exists, since the pertinent San Francisco station locations have by now been determined, and the Concord reference point is more than 20 miles (actually about 24 miles) from them. It is also noted that the population disparity between Concord and Pittsburg continues to increase, with the respective populations 85,164 and 20,651 according to preliminary 1970 U.S. Census reports (in 1950 and earlier, Pittsburg was larger, and in 1960 Concord was about 36,000 and Pittsburg 19,000).

5. Accordingly, despite the demise of the former Concord permit, we conclude that the change in assignments is appropriate. Therefore, pursuant to authority contained in sections 4(i), 303(r), and 307(b) of the Communications Act of 1934, as amended: *It is ordered,* That, effective August 3, 1971, § 73.606, Table of Assignments, Television Broadcast Stations, is amended, by the addition and deletion of entries, as follows:

(a) Add the following entry:

City	Channel
Concord, Calif	42

(b) Delete the following entry:

Pittsburg, Calif	42

6. *It is further ordered,* That this proceeding, Docket No. 18984, is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: June 16, 1971.

Released: June 21, 1970.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.71-8906 Filed 6-23-71;8:51 am]

[Docket No. 18980; FCC 71-634]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments; Certain Television Broadcast Stations

Report and order. In the matter of amendment of § 73.606(b) of the Commission's rules, Table of Assignments, Television Broadcast Stations; (Coolidge, Ariz.; Chico, Calif.; Portland, Maine, and Rochester, N.Y.); RM-1575, RM-1636, RM-1638, RM-1640.

1. This proceeding, begun by notice of proposed rule making issued August 31, 1970 (FCC 70-928), involves the adding of five UHF assignments to the Table of Television Assignments, § 73.606 (b) of the Commission's rules. Four of those proposed were educational assignments: A first assignment at Coolidge, Ariz., a second reserved channel at Rochester, N.Y., an exchange of the reservation at Portland, Maine, from the higher to the lower of the two UHF channels assigned to that city, and an educational assignment (Channel *30) at Chico, Calif., to replace for the immediate future Channel *18, now assigned there but not presently available because of the "land mobile" decision in Docket 18261. The other proposal was assignment of Channel 24 at Chico, Calif. where it would be the second commercial channel (first commercial UHF), and the third presently available commercial channel in the Chico-Redding market, which now has two VHF stations only (Channel 16 is assigned at Redding but unavailable at present for the same reasons as Channel *18 at Chico).

2. The National Association of Educational Broadcasters (NAEB) filed comments supporting the four educational proposals as helpful in ETV development, and the Rochester Area Educational Television Association (RAETA), which was the original Rochester petitioner and is also the licensee of ETV Station WXXI there (Channel 21), supported that educational proposal. As to Portland, in reply comments the licensee of the Augusta, Maine, Channel 10 ETV station (Colby-Bates-Bowdoin Educational Telecasting Corp., licensee of WCBB), took a position somewhat opposing the Portland proposal which was based on a petition from the University of Maine, essentially on the ground that prompt activation of the UHF assignment at Portland is not necessary to bring ETV service to the Portland area and southwestern Maine. It is asserted that the university's petition was incorrect in stating that Portland receives no ETV service, since Channel 10 puts a Grade A signal into that city and surrounding area, and its UHF translator serves additional area in southwestern Maine. It is also asserted that the Augusta station has contributing supporters, including nine businesses, in the Portland area, and that it is planning shortly to apply for increased antenna height so that it will operate with maximum facilities and render even greater service. In additional comments in response, the University of Maine states that WCBB provides a Grade A signal to most but not all of the Portland area and, even with its translator, does not serve all of southern Maine, said to be the fastest growing area of the State, so that schools therein now rely on a New Hampshire station for in-school instructional service, at a cost to the State of Maine of $7,500,000 annually. The university renews its assertion that it is under a mandate from the State legislature to develop ETV service in Maine, including some which will take the place of that from outside just mentioned, and that by using Channel 26 it

[2] Commissioners Robert E. Lee and H. Rex Lee absent.

[1] Commissioners Robert E. Lee and H. Rex Lee absent.

can obtain greater coverage at less cost than with Channel *51, now reserved at Portland. It asserts that it does not wish to minimize the importance of WCBB's present service or jeopardize its support, but that there is need for both operations.

3. In support of the Chico commercial proposal, the original petitioner refers to its original petition, emphasizing Chico's importance and growth, and the somewhat isolated character of the northern California area. A number of letters from officials and residents of the Chico area, expressing the need for additional service (including a third network outlet) were included.

4. Except as indicated above, the notice proposals were unopposed, and we find them to be in the public interest and they are adopted herein. The proposed assignment for Coolidge, Ariz., which will be the first educational channel in Pinal County and can be used by its only institution of higher learning, appears clearly warranted, as does the making of an educational assignment at Chico to replace Channel *18, which has been withdrawn for the present. Despite the comparatively small size of Chico (1970 census population 19,580), the provision of an additional commercial channel there, to provide additional service and the potential for a full third network outlet in this somewhat isolated area, also appears to be in the public interest. With respect to the Rochester, N.Y., proposal for a second reserved channel, we also conclude that this is warranted. As mentioned in the notice, this was proposed in 1968 in an earlier proceeding (Docket 18282), which was terminated without action (petitioner RAETA acquiescing) when a group proposed to use the channel on an unreserved basis for a station specially designed to meet "inner-city" needs. As RAETA points out, no such application has been filed, and it asserts that it has been in regular contact with inner-city representatives concerning the types of programs and services which the station can provide to meet their needs. It asserts that the station could present "additional instructional programs, supervisory management programs, and high school equivalency programs" not possible on the existing ETV station because of the shortage of prime time, and that RAETA pledges itself "to continued efforts in the future to be a programing outlet for all of its viewers, both within and without the inner city." It is also pointed out that, with one commercial UHF channel available, commercial TV development will not be seriously impaired.

5. As to the Portland matter, we recognize that ETV Station WCBB renders desirable service, including a Grade A signal to most of the Portland area; and, as indicated in the notice, we certainly do not necessarily share the university's views as to the definite superiority of low-UHF channels. However, we conclude that the State of Maine definitely needs an educational service from its largest city, especially one which will reach unserved areas; and if the change in the educational reservation to the lower UHF channel will assist in the prompt activation of such service, it would appear to be in the public interest. As the university points out, there appears no likelihood of UHF commercial development in this market in the near future.

6. In view of the foregoing: *It is ordered,* That, effective August 3, 1971, pursuant to authority contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, § 73.606(b) of the Commission's rules, the Table of Television Assignments, is amended to read as follows:

City	*Channel No.*
Coolidge, Ariz	*43
Chico, Calif	12, *18,[1] 24, *30
Portland, Maine	6−, 13+, *26, 51
Rochester, N.Y.	8, 10+, 13−, *21, 31, *61

[1] Following the decision in Docket No. 18261, channels so indicated will not be available for television use until further action by the Commission.

7. *It is further ordered,* That, this proceeding, Docket 18980, is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: June 16, 1971.

Released: June 21, 1971.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,[1]
BEN F. WAPLE,
Secretary.

[FR Doc.71-8907 Filed 6-23-71;8:51 am]

[Docket No. 19144; FCC 71-632]

PART 73—RADIO BROADCAST SERVICES

Table of Assignments, Certain Television Broadcast Stations in South Carolina

Report and order. In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Cayce, Columbia, and Burnettown, S.C.), RM-1376, RM-1452.

1. The Commission here considers the notice of proposed rule making in Docket No. 19144, adopted February 3, 1971 (FCC 71-110; 36 F.R. 2801) with proposed amendment of the FM Table of Assignments as concerns Cayce, Columbia, and Burnettown, S.C. (§ 73.202(b) of the Commission's rules). These proposals are:

[1] Commissioners Robert E. Lee and H. Rex Lee absent.

PLAN I

City	Channel No.	
	Present	Proposed
Cayce, S.C.		244A or 261A
Columbia, S.C.	228A, 250, 284	228A, 250, 284, 244A or 261A

PLAN II

City	Channel No.	
	Present	Proposed
Burnettown, S.C.		261A
Louisville, Ga.	221A	296A
Washington, Ga.	261A	221A
Claxton, Ga.	296A	280A

The two matters are related in that Channel 261A cannot be assigned both at Burnettown and in the Columbia area.

2. The Channel 244A Cayce proposal had been included in the notice of proposed rule making in Docket No. 18476, adopted March 5, 1969 (FCC 69-207; 34 F.R. 5120), but it was withdrawn from that proceeding because of intervening events. See paragraph 3, below. Those filing comments and/or reply comments are: Lexington County Broadcasters, Inc. (Lexington County), the petitioner in RM-1376; Midland Valley Investment Co., Inc. (Midland Valley), the petitioner in RM-1452; Cosmos Broadcasting Corp. (Cosmos); Congaree Broadcasting Co. (Congaree Broadcasting); Better Broadcasting, Inc. (Better Broadcasting); and Peach Broadcasting Co., Inc. (Peach Broadcasting).[1] Also filing comments and/or reply comments are Hancock Committee on Social and Economic Development (Hancock Committee); and Elberton Broadcasting Co., Inc. (Elberton Broadcasting). Hancock Committee and Elberton Broadcasting are petitioners for rule making who have filed comments because of the "cutoff" procedure (paragraph 8 of the notice, p. 4), and are interested in Sparta and Elberton, respectively (see paragraph 5, infra). We are not acting on either party's counter-proposal here, but we are adopting a notice of proposed rule making so they will be given appropriate consideration (Docket No. 19262, adopted this date (FCC 71-633)).

3. As explained in the notice, Lexington County, licensee of daytime AM Station WCAY, Cayce (population 9,967) sought to provide a first local full-time service to Cayce, and to serve West Columbia (population 7,838) both located in Lexington County (population

[1] This does not include all the parties who commented in Docket 18476. Those filing comments in that proceeding but not here are: World Broadcasters for Christ; Statesville Broadcasting Co., Inc.; and Palmetto Radio Corp.

89,012) [2] and to provide a full-time service to the Columbia Urbanized Area (1960 census population 162,601), all within the 1 mv/m contour, which allegedly was possible with a Class A channel because of the geographical proximity of these places. Our notice noted that the Columbia SMSA (population 322,880) included Lexington and Richland Counties and that Cayce and West Columbia appeared to be large suburbs of Columbia, with them and their county separated from the main city by the Congaree River. Because Channel 244A allegedly would create second harmonic interference to Station WIS–TV, Channel 10, Columbia, licensed to Cosmos, Lexington County counterproposed Channel 228A, which later was assigned to Columbia by the Second Report and Order in Docket No. 18125, adopted May 21, 1969, 17 FCC 2d 992, 955–7 (1969).[3]

4. The Burnettown proposal is based on the petition of Midland Valley which, as amended, is plan II referred to in paragraph 1, above. These were considered together because when Channel 228A was allocated to Columbia the Commission in the Second Report and Order in Docket No. 18125, note was made that Channel 261A could be assigned to the Cayce-Columbia area. Burnettown, population 434, is located in Aiken County, population 91,023, which constitutes part of the Augusta Standard Metropolitan Statistical Area (SMSA). The notice also pointed out that Station WLOV–FM, licensed to Better Broadcasting, operates on Channel 261A at Washington, Ga., and that Peach Broadcasting, licensee of Station WPEH, there, is now the permittee for Louisville's Channel 221A (WPEH–FM). The Commission also noted that Midland Valley "perhaps recognizing that a place with as small a population as Burnettown is not entitled to an FM channel" (notice, paragraph 8, p. 3) urged that the assignment would really be for the entire Langley Division, population 14,423, as "a single community" but we observed that this "contention does not seem very persuasive" (Ibid.).

5. The petitions of Hancock Committee (RM–1706) and Elberton Broadcasting (RM–1743), seeking first assignments at Sparta and Elberton, Ga., respectively, have been given attention in deciding the matter, to the extent they relate to it, i.e., with respect to the Burnettown proposal. Since this is denied for reasons independent of these proposals, we do not treat them further herein; in a notice of proposed rule making adopted today comments upon them are invited.[4]

6. Lexington County Broadcasters, Inc., the petitioner in RM–1376, in its comments here, advised that it had taken steps with the view towards applying for Channel 228A when that channel was assigned to Columbia [5]—surveys were completed, an application was prepared—but it was learned that certain coverage problems would exist because the 1970 census was including Fort Jackson, S.C., as part of Columbia, and, accordingly, Lexington County Broadcasters sought and obtained from the FAA authorization to increase its antenna height by 83 feet (to 552 feet AMSL). However, when Frank Ward applied for that channel (see footnote 3, above), Lexington County concluded that a comparative hearing would not serve its best interests. Therefore, it proceeded with this rule making, particularly since the 1970 census showed a 46.6 percent increase of population of Lexington County between 1960 and 1970.[6] Lexington County Broadcasters contends that on the basis of population quite clearly Cayce is deserving of a channel while Burnettown is not. In the latter respect, it is said that while Burnettown receives substantial service from six FM stations in Augusta and Aiken, Cayce only has reception from three FM stations whose programing is directed toward Columbia and Richland County. Lexington reaffirms its intention to apply for any FM assignment for Cayce or Columbia and hopefully an assignment would be made directly to Cayce. With respect to the choice of channels, Lexington County Broadcasters "reaffirms" that in the event the FCC assigns Channel 244A to Cayce or Columbia, if the successful applicant, it will install equipment at its own expense to protect Station WIS–TV from second harmonic interference. The notice stated that second harmonic interference "may not be an obstacle depending on the extent of the interference and what other steps may be taken to cure it" (footnote 6).

7. Midland Valley filed comments primarily directed at the "community" questions posed by the Commission's notice. In part, this document says:

> * * * Burnettown, an incorporated community, together with the neighboring towns of Bath, Gloverville, and Warrenville constitutes the Langley Civil Division. This area, in reality constitutes a single community which has seen substantial population and economic growth in recent years. The 1970 U.S. Census, in fact, reflects that the population has grown by 46.5 percent since 1960. (Comments, p. 1.)

However, Midland Valley itself refers to "the large unincorporated status of the Valley" (Id., p. 2). The appended letter from Howard M. Jennings, Jr., Community Planner, Lower Savannah Regional Commission, clearly evidences the separateness of Burnettown from other parts of the Langley Civil Division and also other communities in Horse Creek Valley; indeed, it would seem that the Valley is completely lacking in the characteristics of a community in the sense contemplated by the Commission.

8. Cosmos Broadcasting Corp.'s comments are directed solely at the second harmonic interference question. In this respect, Cosmos suggests that, since the assignment of Channel 261A to Burnettown is not warranted, that channel may be assigned to the Cayce-Columbia area rather than Channel 244A, which would cause its Station WIS–TV, Channel 10, second harmonic interference. See paragraph 6, above. Congaree Broadcasting Co. also addresses itself to the second harmonic interference question. In this gests that since Burnettown is not worthy of a channel then Channel 261A should be assigned to Cayce as a first full-time broadcast outlet.

9. We now turn to the reply comments of Lexington County Broadcasters, Inc.; Elberton Broadcasting, Inc.; and Midland Valley Investment Co., Inc. Lexington states that it now feels that the public interest would be served by assigning both Channels 244A and 261A to the Cayce-Columbia area, one to Cayce and the other to Columbia. In this respect, it is urged that the Columbia SMSA should have two Class C channels and three Class A channels, which is merited by Columbia's position as the largest metropolitan area in South Carolina and the 97th in the United States. Lexington says that the engineering data shows that the only possible assignment of Channel 244A in the area is to Columbia; it now feels that the comments previously advanced about second harmonic interference are meaningless. (Actually, the channel can be used better at Cayce.)

10. Broadcasting's reply comments, insofar as they are pertinent here, are the same as those of other parties to the effect that the population of Burnettown is not sufficient to merit a second aural service in view of the plethora of broadcast service received from stations in nearby communities. It differs sharply with Midland Valley's comments as to either Langley Civil Division or Horse Creek Valley being a single community. This party in part says:

> The area possesses none of the usual characteristics of an identifiable community,

[2] All population figures are from the 1970 U.S. Census, unless otherwise indicated.

[3] We stated that the channel could be applied for at Cayce under the "10-mile" rule (sec. 73.203(b)). Frank D. Ward was granted a CP for Columbia and Station WXRY began program test authority on Feb. 1, 1971. See paragraph 6, infra.

[4] The standard paragraph concerning "cut-off procedure" (paragraph 8(b) of the notice herein) states that proposals advanced in petitions for rule making, which conflict with any of the notice proposals, will be considered if filed before the date for filing initial comments. This is meant to indicate that consideration will be given to these requests contained in petitions to the extent they are pertinent in reaching a decision on the notice proposals. Since the Burnettown proposal is denied herein for other reasons, no further discussion as to the Georgia proposals is necessary at this time.

[5] See paragraph 3, above.

[6] Cayce's increase is 17 percent; West Columbia's is 22.3 percent, while that of Columbia and Richland County respectively are 16.8 percent and 16.9 percent.

rather it possesses the characteristics of several individual separate communities. The community planner's letter attached to Midland Valley's comments goes more toward showing the area not to be "a" single community. (Reply Comments, pages 2 and 3.)

11. Finally, we come to the reply comments of Midland Valley Investment Co. These are directed in part against Elberton Broadcasting, stating that in effect the Elberton proposal seeks a second full-time aural service for that community, while both Midland Valley and the Cayce proposal urge the allocation of a first local nighttime transmission service in their respective areas. This party discusses the alternative proposals in our notice of allocating either Channel 244A or 261A to Cayce. It opposes the 261A proposal as conflicting with its own while the assignment of the 244A would be consistent with the assignment of Channel 261A to Burnettown. Midland Valley views the second harmonic interference problem as not being a serious one, and, therefore, Channel 261A need not be assigned to Cayce-Columbia in lieu of Channel 244A. Its position is that the proximity of Cayce to Columbia raises a real question; indeed, it says that Station WCAY, Cayce, S.C., already relies heavily on revenues from Columbia. Midland's proposal, it is contended, is for an incorporated community.

Discussion. 12. One of the basic issues herein is the assignment of Channel 261A to Burnettown, S.C. As our notice indicated, the Commission is not persuaded that a community with a population of only 434 and a plethora of broadcast service from stations in nearby communities is entitled to an assignment of its own. If anything, Midland Valley has done little except enforce the view that there is no principal community of substantial population, i.e., Burnettown, Langley Civil Division, or Horse Creek Valley, to which an allocation could be made. In our view, we must follow the result in the second report and order in Docket No. 18883 as concerns Whaleyville, Va., adopted April 8, 1971 (FCC 71-376, vol. 28 FCC 2d 641) and deny Midland Valley's request. However, another important consideration is that if assigned at Burnettown, Channel 261A could not also be assigned to the Cayce-Columbia area, which we now feel is appropriate in the circumstances. Indeed, it is our intention to assign both Channel 261A and Channel 244A to the Cayce-Columbia area, one to Cayce and the other to Columbia. As noted above, Columbia's 1970 population is 113,542, which under prevailing Commission criteria[7] would support a fourth FM assignment to that city.

13. As to an FM assignment at Cayce, there is no doubt that a community of that size (population 9,967) normally merits a channel of its own. Our concern was rather the proximity to and relationship of Cayce to Columbia. In this respect, we are not unmindful that Lexington County also intends to program for the sizeable community of West Columbia, population 7,838. Despite the "community of interest" of Cayce and West Columbia as part of the Columbia SMSA, we note that they are in a different county from the central city, and both they and their county have had substantial growth in recent years.[8] In these circumstances, the assignment of a first channel to Cayce, and a fifth in the Columbia SMSA, appears warranted.

14. In sum, then, as to the proposals directly before us in this docket, it is our decision to deny the petition of Midland Valley Investment Co., Inc., to assign Channel 261A to Burnettown; and to assign Channels 244A and 261A to Cayce[9] and Columbia, S.C., respectively.

15. Authority for this action is found in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended.

16. *Accordingly, it is ordered,* That effective August 3, 1971, § 73.202(b), FM Table of Assignments, is amended to read as follows with respect to the cities listed:

City	*Channel No.*
Cayce, S.C.	244A
Columbia, S.C.	228A, 250, 261A, 284

17. *It be further ordered,* That the petition of Midland Valley Investment Co., Inc. (RM-1452), is denied.

18. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Adopted: June 16, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[10]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-8908 Filed 6-23-71;8:51 am]

[7] See further notice of proposed rule making, Docket No. 14185, adopted July 25, 1962 (FCC 62-867), incorporated by reference in paragraph 25 of the third report and memorandum opinion and order, adopted July 23, 1963, 23 R.R. 2d 1859, 1871.

[8] The percentage growths of the three cities are: 22.3 percent (West Columbia); 17 percent (Cayce); and 16.8 percent (Columbia); and 46.6 percent for Lexington County. In contrast, Burnettown had a 14.9 percent loss; its county—Aiken—had a 12.3 percent growth.

[9] The flexibility for site selection is limited. The limitations are Stations WEWO-FM, Laurinburg, N.C.; WCRS-FM, Greenwood, S.C.; and WCSC-FM, Charleston, S.C.

[10] Commissioners Robert E. Lee and H. Rex Lee absent.

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

SUBCHAPTER D—APPROVED FORMS, FEDERAL POWER ACT

[Docket No. R-413; Order No. 422-A]

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

Revision of FPC Form No. 80 Licensed Projects Recreation Report

JUNE 17, 1971.

By Order No. 422, issued February 12, 1971, 45 FPC —— (36 F.R. 3189, February 19, 1971), the Commission amended § 8.11 in Part 8, Subchapter B of Chapter I, Title 18 of the Code of Federal Regulations, by setting November 30 of odd-numbered years as the filing date for FPC Form No. 80 and by providing that a licensee of a project with no recreational use or potential may apply for exemption from any further filing of Form No. 80 not later than 6 months prior to the next filing date.

In that order the Commission stated that its Staff was then working on certain minor revisions to Form No. 80, whose completion was anticipated in time for use for the next reporting date.

The Commission has received comments from nine investor-owned utilities[1] that are members of the Western Utilities Recreation Conference making identical recommendations for revision of Form No. 80. The principal changes recommended therein included a requirement that each page of Form No. 80 contain space for identifying information, consisting of the project number, the development name, and the date and number of the report; limitation of Part 2, Subpart E entries by the population figure "over 10,000"; substitution of travel time for air mile distances in delimiting the zones of project influence in Part 2, Subparts F and G; and revision of Part 3, Subpart D to show maximum and minimum surface areas during the recreation season and Part 3, Subpart J to include the winter recreation season. Such proposed revisions also included deletion of the future use columns in Subparts (C), (D), (G), and (H) of Part 5 and Subparts J through P thereof as well as elimination of the columns concerning "ultimate" use data in presently numbered Part 6 "Recreation Facilities Provided or Planned" and Subpart R thereof.

We have considered carefully all of these comments, and adopt several of the

[1] Puget Sound Power & Light Co., Southern California Edison Co., Portland General Electric Co., The Washington Water Power Co., Utah Power & Light Co., Pacific Gas and Electric Co., Idaho Power Co., Public Service Company of Colorado, and Pacific Power & Light Co.

changes suggested therein, along with several modifications of Form No. 80 proposed by the Commission Staff.

The project and development names and the report number have been added to pages 2 through 4 of Form No. 80 as additional identifying information. Entries in Subpart E of Part 2 will be restricted to cities having a population "over 10,000". With respect to Subparts F and G thereof, it is believed that the current method of using air mile distances is preferable because the use of specific travel time involves too many variables to obtain uniform reporting results. Moreover, the present method of showing the range in reservoir pool fluctuations in Part 3, Subpart D by means of pool elevations rather than the proposed maximum and minimum surface areas appears to be the more useful method in analyzing the seasonal or year-round effects on shoreline recreation facilities, aesthetics, fishery habitat, vectors, and year-round residential use. Subpart J of that Part has been revised to include the winter recreation season.

With regard to those portions of Form No. 80 proposed to be deleted, retention of Subparts (C), (D) and (G), (H) of currently numbered Part 5 are necessary since estimates of future recreational use are helpful in determining where additional recreational facilities are needed. Additionally, Subparts J through P of that part are necessary since recreation cost and revenue data by individual project development are not available in other reports to the Commission and are needed to assist the Commission and other agencies to arrive at a better evaluation of the cost and effectiveness of recreation programs undertaken by reporting licensees. However, licensees' recreation costs and revenues have been separated and designated Part 6, since public recreational use in Part 5 is not associated directly therewith. The columns relating to "ultimate" use in presently numbered Part 6 "Recreation Facilities Provided or Planned" and Subpart R should be retained inasmuch as these items contain information showing how the licensee and cooperating agencies plan to meet the estimates of future public needs.

The instructions and schedules of Form No. 80 have been modified in accordance with the above changes as well as several additional changes we have adopted as proposed by our Staff for purposes of clarification based upon review of two filings of this form.

The Commission finds:

(1) Since the revisions of FPC Form No. 80 herein are of a minor nature and such revisions should be helpful to licensees and license applicants, compliance with the notice, public procedure and effective date provisions of 5 U.S.C. 553 is unnecessary.

(2) The revisions of the Commission's Licensed Projects Recreation Report Form No. 80 prescribed herein are necessary and appropriate to the administration of the Federal Power Act.

(3) Since the revisions prescribed herein are for use in FPC Form No. 80 for filing by licensees on November 30, 1971, good cause exists for making these revisions of Form No. 80 effective upon issuance.

The Commission, acting pursuant to the authority granted by the Federal Power Act, and particularly sections 4(g), 10, 304, 309, and 311 thereof (41 Stat. 1068; 49 Stat. 841, 842, 855, 858, 859; 16 U.S.C. 797, 803, 825c, 825h, 825j), orders:

(A) Effective for the reporting date November 30, 1971, and thereafter, the Instructions for Using Federal Power Commission Licensed Projects Recreation Report Form 80, pages 1–5, and schedule pages 1–4 of FPC Form No. 80, Licensed Projects Recreation Report, prescribed by section 141.14, Subchapter D, Chapter I, Title 18 of the Code of Federal Regulations, are hereby amended as set forth in Attachments A and B hereto,[2] respectively.

(B) The amendments herein adopted are effective upon issuance of this order.

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

By the Commission.

[SEAL] KENNETH F. PLUMB, *Acting Secretary.*

[FR Doc.71-8918 Filed 6-23-71;8:52 am]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Yellowstone National Park, Wyo.

On page 7856 of the FEDERAL REGISTER of April 27, 1971, there was published a notice and text of a proposed revision to § 7.13 of Title 36 of the Code of Federal Regulations.

The effect of the revision is to: Make minor changes in wording and format for clarification and consistency; eliminate certain provisions pertaining to the regulation of dogs and cats, travel on roads, oversnow vehicle use, and the posting of notices and orders which are adequately covered in Parts 1, 2, 3, 4, and 5 of Title 36, Code of Federal Regulations; to specify a maximum speed limit of 60 miles per hour on that portion of U.S. Highway 191 which traverses the northwest corner of Yellowstone National Park; specify conditions and measures whereby persons must safeguard foodstuffs from wildlife while camping in the park's campgrounds; apply the same protective measures to the Slough Creek cutthroat trout fishery as exists for cutthroat trout within the Yellowstone Lake Complex; and prohibit the swimming and bathing in the waters of natural thermal features within the park.

Interested persons were given 30 days within which to submit written comments, suggestions, or objections with respect to the proposed revision. No comments, suggestions, or objections were received. The proposed regulation is adopted with the following change: Paragraph (b) has been amended to drop the clause "when official signs specifying such limits are posted." Due to the pressing need for control during the heavy visitor season the revision shall take effect immediately upon publication in the FEDERAL REGISTER (6-24-71).

(5 U.S.C. 553; 39 Stat. 535; 16 U.S.C. 3; 28 Stat. 73; 16 U.S.C. 26)

Section 7.13 of Title 36 of the Code of Federal Regulations is revised as follows:

§ 7.13 Yellowstone National Park.

(a) *Weight and size limits for vehicles.* The operation of a vehicle that does not conform to specified gross weight and size limitations is prohibited. Information detailing the specified gross weight and size limitations is available in the Office of the Superintendent.

(b) *Traffic control.* (1) Speed of vehicles, except vehicles on U.S. Highway 191, and except ambulances on emergency trips, shall not exceed the following prescribed limits:

(i) Fifteen miles per hour: In all campgrounds, picnic areas, parking areas, and residential areas; upon that portion of a park road which passes through or borders upon the scene of a emergency such as a forest fire, accident, or similar emergency; and the visitor use development at Old Faithful.

(ii) Twenty-five miles per hour: Upon that portion of a park road which passes through or borders on visitor use developments at Mammoth Hot Springs, Tower Falls, Canyon, Lake Area, Fishing Bridge, West Thumb, Madison, Norris, and Grant Village; and one-way drives.

(iii) Thirty-five miles per hour: Trucks whose rated gross vehicle weight is in excess of 17,000 pounds.

(iv) Forty-five miles per hour: Passenger cars, buses, and trucks whose rated gross vehicle weight is 17,000 pounds or less except when otherwise posted at a lesser speed limit.

(2) The speed limit on U.S. Highway 191 in the park is 60 miles per hour.

(3) Employee motor vehicle permits:

(i) A motor vehicle owned and/or operated by an employee of the U.S. Government, park concessioners and contractors, whether employed in a permanent or temporary capacity, shall be registered with the Superintendent and a permit authorizing the use of said vehicle in the park is required. This requirement also applies to members of an employee's family living in the park who own or operate a motor vehicle within the park. Such permit, issued free of charge, may be secured only when the

[2] Filed as part of the original document.

vehicle operator can produce a valid certificate of registration, and has in his possession a valid operator's license. No motor vehicle may be operated on park roads unless properly registered.

(ii) The permit is valid only for the calendar year of issue. Registry must be completed and permits secured by April 15 of each year or within one week after bringing a motor vehicle into the park, whichever date is later. The permit shall be affixed to the vehicle as designated by the Superintendent.

(c) *Trucking.* The park Superintendent may issue permits for the use of park roads for trucking, for which fees shall be charged. For schedule of fees, see Part 6 of this chapter.

(d) *Vessels.* (1) Permit:

(i) A general permit, issued by the Superintendent, is required for all vessels operated upon the waters of the park open to boating. In certain areas a special permit is required as specified hereinbelow. These permits must be carried within the vessel at all times when any person is aboard, and shall be exhibited upon request to any person authorized to enforce the regulations in this chapter.

(ii) A special permit shall be issued by the Superintendent to any holder of a general permit who expresses the intention to travel into either the South Arm or the Southeast Arm "Five Mile Per Hour Zones" of Yellowstone Lake, as defined in subparagraph (6) (ii) and (iii) of this paragraph, upon the completion and filing of a form statement in accordance with the provisions of subparagraph (10) of this paragraph.

(iii) Neither a general nor special permit shall be issued until the permittee has signed a statement certifying that he is familiar with the speed and all other limitations and requirements in these regulations. The applicant for a special permit shall also agree in writing to provide, in accordance with subparagraph (10) of this paragraph, information concerning the actual travel within the "Five Mile Per Hour Zones."

(2) Removal of vessels: All privately owned vessels, boat trailers, waterborne craft of any kind, buoys, mooring floats, and anchorage equipment will not be permitted in the park prior to May 1 and must be removed by November 1.

(3) Restricted landing areas:

(i) Prior to July 1 of each year, the landing of any vessel on the shore of Yellowstone Lake between Trail Creek and Beaverdam Creek is prohibited, except upon written permission of the Superintendent.

(ii) The landing or beaching of any vessel on the shores of Yellowstone Lake (a) within the confines of Bridge Bay Marina and Lagoon and the connecting channel with Yellowstone Lake; and (b) within the confines of Grant Village Marina and Lagoon and the connecting channel with Yellowstone Lake is prohibited except at the piers or docks provided for the purpose.

(4) Closed waters:

(i) Vessels are prohibited on Sylvan Lake, Eleanor Lake, Twin Lakes, and Beach Springs Lagoon.

(ii) Vessels are prohibited on park rivers and streams (as differentiated from lakes and lagoons), except on the channel between Lewis Lake and Shoshone Lake, which is open only to hand-propelled vessels.

(5) Lewis Lake motorboat waters: Motorboats are permitted on Lewis Lake.

(6) Yellowstone Lake motorboat waters: Motorboats are permitted on Yellowstone Lake except in Flat Mountain Arm as described in subdivision (i) of this subparagraph and as restricted within the South Arm and the Southeast Arm where operation is confined to areas known as "Five Mile Per Hour Zones" which waters are between the lines as described in subdivisions (ii) and (iii) of this subparagraph in the South Arm and Southeast Arm, but which specifically exclude the southernmost 2 miles of both Arms which are open only to hand-propelled vessels.

(i) The following portion of Flat Mountain Arm of Yellowstone Lake is restricted to hand-propelled vessels: West of a line beginning at a point marked by a monument located on the south shore of the Flat Mountain Arm and approximately 10,200 feet easterly from the southwest tip of the said arm, said point being approximately 44°22'13.2" N. latitude and 110°25'07.2" W. longitude, then running approximately 2,800 feet due north to a point marked by a monument located on the north shore of the Flat Mountain Arm, said point being approximately 44°22'40" N. latitude and 110°25'07.2" W. longitude.

(ii) In the South Arm that portion between a line from Plover Point running generally east to a point marked by a monument on the northwest tip of the peninsula common to the South and Southeast Arms; and a line from a monument located on the west shore of the South Arm approximately 2 miles north of the cairn which marks the extreme southern extremity of Yellowstone Lake in accordance with the Act of Congress establishing Yellowstone National Park; said point being approximately in latitude 44°18'22.8" N., at longitude 110°-20'04.8" W., Greenwich Meridian, running due east to a point on the east shore of the South Arm marked by a monument. Operation of motorboats south of the latter line is prohibited.

(iii) In the Southeast Arm that portion between a line from a monument on the northwest tip of the peninsula common to the South and Southeast Arms which runs generally east to a monument at the mouth of Columbine Creek; and a line from a cairn which marks the extreme eastern extremity of Yellowstone Lake, in accordance with the Act of Congress establishing Yellowstone National Park; said point being approximately in latitude 44°19'42.0" N., at longitude 110°12'-06.0" W., Greenwich Meridian, running westerly to a point on the west shore of the Southeast Arm, marked by a monument; said point being approximately in latitude 44°20'03.6" N., at longitude 110°-16'19.2" W., Greenwich Meridian. Operation of motorboats south of the latter line is prohibited.

(7) Motorboats are prohibited on park waters except as permitted in subparagraphs (5) and (6) of this paragraph.

(8) Hand-propelled vessel waters: Hand-propelled vessels and sail vessels may operate in park waters except on those waters named in subparagraph (4) of this paragraph.

(9) Five Mile Per Hour Zone motorboat restrictions: The operation of motorboats within "Five Mile Per Hour Zones" is subject to the following restrictions:

(i) Motorboats shall satisfy the flame arrestor requirements of the Motorboat Act of April 25, 1940, as amended (46 U.S.C. 5261) and the regulation at 46 CFR 25.35–1(a).

(ii) A speed of 5 miles per hour shall not be exceeded by motorboats.

(iii) Class 1 and Class 2 motorboats shall proceed no closer than one-quarter mile from the shoreline except to debark or embark passengers, or while moored when passengers are ashore.

(10) Permission required to operate motorboats in Five Mile Per Hour Zone: Written authority for motorboats to enter either or both the South Arm or the Southeast Arm "Five Mile Per Hour Zones" shall be granted to an operator providing that prior to commencement of such entry the operator completes and files with the Superintendent a form statement showing:

(i) Length, make, and number of motorboat.

(ii) Type of vessel, such as inboard, inboard-outboard, turbojet, and including make and horsepower rating of motor.

(iii) Name and address of head of party.

(iv) Number of persons in party.

(v) Number of nights planned to spend in each "Five Mile Per Hour Zone."

(vi) Place where camping is planned within each "Five Mile Per Hour Zone," or if applicable, whether party will remain overnight on board.

(11) The disturbance of birds inhabiting or nesting on either of the islands designated as "Molly Islands" in the Southeast Arm of Yellowstone Lake is prohibited; nor shall any vessel approach the shoreline of said islands within one-quarter mile.

(12) Boat racing, water pageants, and spectacular or unsafe types of recreational use of vessels are prohibited on park waters.

(13) The restrictions of this paragraph (d) shall not apply to vessels operated for administrative purposes or in emergencies.

(e) *Fishing*—(1) *Open fishing season.* (i) All rivers and creeks in the Yellowstone River drainage above the Upper Falls at Canyon, except as otherwise provided in subparagraph (2) of this paragraph, are open to fishing from 4 a.m., m.s.t., on July 15 to 9 p.m., m.s.t.,

on October 31. River and creeks will include those portions of Yellowstone Lake marked by buoys within 100 yards of the river or creek inlet.

(ii) All lakes in the Yellowstone River drainage above the Upper Falls at Canyon, except as otherwise provided in subparagraph (2) of this paragraph, are open to fishing from 4 a.m., m.s.t., on June 15 to 9 p.m., m.s.t., on October 31. The marking buoys in the vicinity of the outlet of Yellowstone Lake shall define the northern limit of Yellowstone Lake.

(iii) All other waters, except as provided in subparagraph (2) of this paragraph, are open to fishing from 4 a.m., m.s.t., on May 28 to 9 p.m., m.s.t., on October 31.

(2) *Closed waters.* The following waters of the park are closed to fishing and are so designated by appropriate signs:

(i) The Yellowstone River and its tributary streams from the confluence of Alum Creek with the Yellowstone River upstream to the Sulphur Caldron.

(ii) The Yellowstone River from the top of the Upper Falls downstream to its confluence with Surface Creek.

(iii) Bridge Bay Lagoon and Marina, Grant Village Lagoon and Marina and their connecting channels with Yellowstone Lake.

(iv) Fishing is prohibited from the shores of the southern extreme of the West Thumb thermal area (posted) along the shore of Yellowstone Lake to the mouth of Little Thumb Creek.

(v) The Mammoth water supply reservoir.

(vi) Old Faithful water supply consisting of that section of the Firehole River from the Old Faithful water intake to the Shoshone Lake trail crossing above Lone Star Geyser.

(3) *Daily fishing period.* Fishing in those waters of the park that are open is permitted only between the hours of 4 a.m. and 9 p.m., m.s.t., or 5 a.m. and 10 p.m., m.d.t.

(4) *Daily limits by waters.* Daily limit shall mean the numbers, sizes, or species of fish that may be legally taken from specified waters during the legal fishing hours of a day. All fish a person does not elect to keep in possession shall be carefully and immediately returned to the water from which they were taken.

(i) The possession of grayling caught in park waters is prohibited (catch-and-release fishing only).

(ii) McBride Lake, Slough Creek, Yellowstone Lake, and the Yellowstone River outlet above the Upper Falls at Canyon (except as provided for in subparagraphs (1) and (2) of this paragraph): Three (3) fish, 14 inches or longer.

(iii) Firehole and Madison Rivers, Lower Gibbon River up to the base of Gibbon Falls: Two (2) fish, 16 inches or longer.

(iv) All other waters open to fishing: Five (5) fish, of which no more than three (3) may be cutthroat trout.

(5) *Possession limit.* Possession limit shall mean the numbers or species of fish taken within Yellowstone National Park which may be in the possession of a person, regardless if fresh, stored in freezers or ice chests, or otherwise preserved. A person must cease fishing immediately upon filling his possession limit.

(i) The possession limit is five (5) fish of which no more than three (3) may be cutthroat trout. The possession of grayling is prohibited.

(6) *Restriction of use of lines, bait, and lures.* (i) Each person fishing in park water shall use only one rod or line held in hand.

(ii) Only artificial flies on single hook or lures with one single, double, or treble hook may be used in park waters except as specified in the following paragraphs.

(iii) Only artificial flies with no more than a single hook may be used for fishing in the Firehole River, Madison River, and that section of the Gibbon River extending from the mouth of the stream to the base of Gibbon Falls.

(iv) When in the possession of any fishing equipment and while immediately adjacent to or on waters of the park, no person shall possess any fish bait (e.g., worms, insects, minnows, fish eggs, or other organic matter, or parts thereof) or fish lures, except as provided for in subdivisions (ii), (iii), and (v) of this subparagraph.

(v) Persons 12 years of age or under may fish with worms as bait on the Gardner River, Obsidian Creek, Indian Creek, and Panther Creek.

(f) *Commercial automobiles and buses.* The prohibition against the commercial transportation of passengers by motor vehicles to Yellowstone National Park contained in § 5.4 of this chapter, shall be subject to the following exception: A motor vehicle operated on an infrequent and unscheduled tour, which tour did not originate within 500 miles of the park boundaries, carrying only round-trip passengers traveling from the point of origin of the tour, will, subject to the conditions set forth in this paragraph, be accorded admission to the park for the purpose of delivering passengers to a point of stay in the park and exit from the park. After passengers have completed their stay, such motor vehicles shall leave the park by the most convenient exit station, considering their destination. Motor vehicles admitted to the park under this paragraph shall not, while in the park, engage in general sightseeing operations. Admission will be accorded such vehicles upon establishing to the satisfaction of the Superintendent that the tour originated from such place and in such a manner as not to provide, in effect, a regular and duplicating service conflicting with, or in competition with, the services provided for the public at or outside of the park, pursuant to contract authorization from the Secretary. The Superintendent shall have the authority to specify the route to be followed by such vehicles within the park.

(g) *Camping.* (1) Camping in Yellowstone National Park by any person, party, or organization during any calendar year during the period Labor Day through June 30, inclusive, shall not exceed 30 days, either in a single period or combined separate periods, when such limitations are posted.

(2) The intensive public-use season for camping shall be the period July 1 to Labor Day. During this period camping by any person, party, or organization shall be limited to a total of 14 days either in a single period or combined separate periods.

(3) All food or similar organic material, must be kept completely sealed in a vehicle or camping unit that is constructed of solid, nonpliable material, or must be suspended at least 10 feet above the ground and 4 feet horizontally from any post or tree trunk. This restriction does not apply to food that is being eaten or is being prepared for eating.

(h) *Dogs and cats.* Dogs and cats on leash, crated, or otherwise under physical restraint are permitted in the park only along established roads, walks, paths, and trails, within one-quarter mile of roads or parking areas.

(i) *Alcoholic liquors.* (1) Definitions for the purposes of this section:

(i) The term "minor" means any person under 21 years of age regardless of marital status.

(ii) The term "alcoholic liquor" includes alcohol, spirits, wine, and beer and every liquid containing alcohol, spirits, wine, and beer and capable of being consumed as a beverage by a human being.

(iii) The term "person" includes any natural person, corporation, partnership, or association.

(2) The sale of alcoholic liquor within the park by any person not authorized to do so by written permit or contract issued by the Superintendent or the National Park Service is prohibited. This does not apply to employees of persons to whom permits have been issued, in carrying out their assigned duties.

(3) No person authorized to sell alcoholic liquor shall sell any alcoholic liquor between the hours of 1 a.m. Sunday and 2 p.m. Sunday. No person authorized to sell alcoholic liquor shall sell alcoholic liquor on weekdays between the hours of 1 a.m. and 6 a.m.

(4) No person authorized to sell alcoholic liquor within the park shall employ any minor to sell or dispense alcoholic liquor or permit any minor to sell or dispense any alcoholic liquor for him.

(5) No minor may sell or dispense or have in his possession or physical control any alcoholic liquor.

(6) No minor shall obtain, or attempt to obtain alcoholic liquor by misrepresentation of age, or by any other method in any place where alcoholic liquor is sold.

(7) No person authorized to sell alcoholic liquors shall engage in, allow, permit, or suffer in or upon the premises where such alcoholic liquor is sold any disorderly conduct as defined in § 2.7 of this chapter.

(j) *Travel on trails.* Foot travel in all thermal areas and within the Yellowstone Canyon between the Upper Falls and Inspiration Point must be confined to boardwalks or trails that are main-

tained for such travel and are marked by official signs.

(k) *Portable engines and motors.* The operation of motor-driven chain saws, portable motor-driven electric light plants, portable motor-driven pumps, and other implements driven by portable engines and motors is prohibited in the park, except in Mammoth, Canyon, Fishing Bridge, Bridge Bay, Grant Village, and Madison Campgrounds, for park operation purposes, and for construction and maintenance projects authorized by the Superintendent. This restriction shall not apply to outboard motors on waters open to motorboating.

(l) *Skiing, sledding, tobogganing, and snowshoeing.* (1) The following activities are prohibited:

(i) Skiing, sledding, tobogganing, and snowshoeing upon park roads and parking areas, when such roads and parking areas are open to automobiles, trucks, tractors, bicycles, or motorcycles.

(ii) Skiing, sledding, tobogganing, and snowshoeing within areas closed by the posting of signs or designated as closed on a map located in the Superintendent's Office.

(iii) The towing of persons on skis, sleds, or other sliding devices behind vehicles.

(2) The Superintendent may, by the posting of appropriate signs, require persons to register or obtain a permit before attempting any oversnow travel. The Superintendent shall issue a permit upon ascertaining that suitable winter survival supplies and equipment are available for human use in the event of mechanical failure. Where a permit is required, it must be carried on the person, or within the oversnow vehicle, and shall be exhibited upon request of any authorized person.

(m) *Swimming.* The swimming or bathing in a natural, historical, or archeological thermal pool or stream that has waters originating entirely from a thermal spring or pool is prohibited.

J. LEONARD VOLZ,
Director, Midwest Region.

[FR Doc.71-8873 Filed 6-23-71;8:47 am]

Title 43—PUBLIC LANDS: INTERIOR

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

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5081]

ALASKA

Modification of Public Land Order No. 4582 as Amended by Public Land Order No. 4962

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847, 43 U.S.C. 141), as amended, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Paragraph 1 of Public Land Order No. 4582 of January 17, 1969, as amended by Public Land Order No. 4962 of December 8, 1970, is modified to read as follows:

1. Subject to valid existing rights, and subject to the conditions hereinafter set forth, all public lands in Alaska which are unreserved or which would otherwise become unreserved prior to the expiration of this order, are hereby withdrawn from all forms of appropriation and disposition under the public land laws (except locations for metalliferous minerals), including selection by the State of Alaska pursuant to the Alaska Statehood Act (72 Stat. 339), and from leasing under the Mineral Leasing Act of February 25, 1920 (41 Stat. 437; 30 U.S.C. 181, et seq.), as amended, and reserved under the jurisdiction of the Secretary of the Interior for the determination and protection of the rights of the native Aleuts, Eskimos, and Indians of Alaska. The withdrawal and reservation created by this order shall expire at 12 (midnight), prevailing Alaska time, on the day the First Session of the 92d Congress of the United States shall be officially adjourned or 12 (midnight), prevailing Alaska time, on the day legislation for the determination and protection of the rights of the native Aleuts, Eskimos, and Indians of Alaska shall become law, whichever shall occur first. Said date shall be hereinafter referred to as the "Expiration Date."

2. All prior modifications and amendments of Public Land Order No. 4582, including Public Land Order No. 4962 and all modifications and amendments thereof, are hereby continued in full force and effect until the expiration date.

3. This order shall become effective upon publication in the FEDERAL REGISTER (6-24-71).

ROGERS C. B. MORTON,
Secretary of the Interior.

JUNE 17, 1971.

[FR Doc.71-8872 Filed 6-23-71;8:47 am]

Title 50—WILDLIFE AND FISHERIES

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

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 10—MIGRATORY BIRDS

Hunting Seasons for Puerto Rico

There was published in the FEDERAL REGISTER of May 11, 1971, on page 8677 (36 F.R. 8677) a notice of proposed rule making to issue regulations governing the hunting of doves, pigeons, ducks, coots, gallinules, and Wilson's snipe in Puerto Rico, and of doves in the Virgin Islands. The taking of the designated species of migratory game birds is presently prohibited.

All interested persons were invited to submit written comments, suggestions, or objections to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240. No responses were received from or regarding the Virgin Islands, so the Director has determined that a hunting season for the Virgin Islands should not be prescribed at this time. After consideration of the responses which were received, hunting seasons are prescribed for Puerto Rico. Since these revisions benefit the public by relieving existing restrictions, they shall become effective upon publication in the FEDERAL REGISTER.

Accordingly, Title 50, Chapter I, Subchapter B, Part 10, § 10.52, Code of Federal Regulations is revised to read:

§ 10.52 Migratory game bird hunting seasons for Puerto Rico and Virgin Islands.

Subject to the applicable provisions of the preceding sections of this part, the open seasons (dates inclusive), the shooting hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

(a) Puerto Rico:

	Doves [1]	Pigeons [1]
Open season dates [2]	July 17 to Sept. 24, 1971.	
Daily bag limit [3]	15 singly or in the aggregate of all permitted species.	8 singly or in the aggregate of all permitted species.
Possession limit [3]	23 doves and pigeons, singly or in the aggregate of all permitted species.	
Shooting hours	One-half hour before sunrise to sunset daily.	

Check Commonwealth Regulations for Additional Restrictions.

[1] Only the following species of doves and pigeons may be hunted during the open season: Zenaida dove (Tortola cardosantera); White-winged dove (Tortola aliblanca o cubanita); Mourning dove (Tortola rabilarga o rabiche); Scaly-naped pigeon (Paloma turca o torcaz); White-crowned pigeon (Paloma cabeciblanca).

[2] No open season is prescribed for doves and pigeons of any species on Culebra Island or in the Municipality of Cidra, said Municipality being composed of the following wards: Bayamon, Arenas, Monte Llano, Sud, Beatriz, Ceiba, Rio Abajo, Rincon, Toita, Honduras, Rabanel, and Salto.

[3] On Mona Island the daily bag and possession limit on doves and pigeons is 15 singly or in the aggregate of all permitted species.

(b) Puerto Rico:

	Ducks	Coots	Gallinules	Common snipe (Wilson's)
Daily bag limit	4	6	8	8
Possession limit	8	12	16	16
Open season dates [1] [2]	Dec. 1, 1971 to Jan. 29, 1972.			
Shooting hours	One-half hour before sunrise until sunset daily.			

Check Commonwealth Regulations for Additional Restrictions.

[1] No open season for waterfowl is prescribed for Culebra Island.

[2] The season on Bahama pintail is closed by Commonwealth law.

(c) Virgin Islands: Closed season.

(40 Stat. 755, 16 U.S.C. 703 et seq.)

Effective date: Upon publication in the FEDERAL REGISTER (6-24-71).

J. P. LINDUSKA,
Acting Director, Bureau of Sport Fisheries and Wildlife.

JUNE 18, 1971.

[FR Doc.71-8861 Filed 6-23-71;8:46 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

SALES OR OTHER DISPOSITIONS OF TERM INTERESTS IN PROPERTY

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 26, 1971.

Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 26, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

In order to conform the Income Tax Regulations (26 CFR Part 1) to section 1001(e) of the Internal Revenue Code of 1954, relating to certain term interests in property, as added by section 516(a) of the Tax Reform Act of 1969 (Public Law 91-172, 83 Stat. 646), such regulations are hereby amended as follows:

PARAGRAPH 1. Section 1.1001 is amended by adding new subsections (e) and (f) to section 1001 and by revising the historical note, as follows:

§ 1.1001 Statutory provisions; determination of amount of and recognition of gain or loss.

SEC. 1001. *Determination of amount of and recognition of gain or loss.* * * *

(e) *Certain term interests*—(1) *In general.* In determining gain or loss from the sale or other disposition of a term interest in property, that portion of the adjusted basis of such interest which is determined pursuant to section 1014 or 1015 (to the extent that such adjusted basis is a portion of the entire adjusted basis of the property) shall be disregarded.

(2) *Term interest in property defined.* For purposes of paragraph (1), the term "term interest in property" means—

(A) A life interest in property,

(B) An interest in property for a term of years, or

(C) An income interest in a trust.

(3) *Exception.* Paragraph (1) shall not apply to a sale or other disposition which is a part of a transaction in which the entire interest in property is transferred to any person or persons.

(f) *Cross reference.* For treatment of certain expenses incident to the sale of a residence which were deducted as moving expenses by the taxpayer or his spouse under section 217(a), see section 217(e).

[Sec. 1001 as amended by secs. 231(c)(2) and 516(a), Tax Reform Act 1969 (83 Stat. 579, 646)]

PAR. 2. Section 1.1001 is amended by revising paragraph (a) and by adding a new paragraph (f), as follows:

§ 1.1001-1 Computation of gain or loss.

(a) *General rule.* Except as otherwise provided in subtitle A of the Code, the gain or loss realized from the conversion of property into cash, or from the exchange of property for other property differing materially either in kind or in extent, is treated as income or as loss sustained. The amount realized from a sale or other disposition of property is the sum of any money received plus the fair market value of any property (other than money) received. The fair market value of property is a question of fact, but only in rare and extraordinary cases will property be considered to have no fair market value. The general method of computing such gain or loss is prescribed by section 1001 (a) through (d) which contemplates that from the amount realized upon the sale or exchange there shall be withdrawn a sum sufficient to restore the adjusted basis prescribed by section 1011 and the regulations thereunder (i.e., the cost or other basis adjusted for receipts, expenditures, losses, allowances, and other items chargeable against and applicable to such cost or other basis). The amount which remains after the adjusted basis has been restored to the taxpayer constitutes the realized gain. If the amount realized upon the sale or exchange is insufficient to restore to the taxpayer the adjusted basis of the property, a loss is sustained to the extent of the difference between such adjusted basis and the amount realized. The basis may be different depending upon whether gain or loss is being computed. For example, see section 1015 (a) and the regulations thereunder. Section 1001 (e) and paragraph (f) of this section prescribe the method of computing gain or loss upon the sale or other disposition of a term interest in property the adjusted basis (or a portion) of which is determined pursuant, or by reference, to section 1014 (relating to the basis of property acquired from a decedent) or section 1015 (relating to the basis of property acquired by gift or by a transfer in trust).

* * * * *

(f) *Sale or other disposition of a term interest in property*—(1) *General rule.* Except as otherwise provided in subparagraph (3) of this paragraph, for purposes of determining gain or loss from the sale or other disposition after October 9, 1969, of a term interest in property (as defined in subparagraph (2) of this paragraph) a taxpayer shall not take into acount that portion of the adjusted basis of such interest which is determined pursuant, or by reference, to section 1014 (relating to the basis of property acquired from a decedent) or section 1015 (relating to the basis of property acquired by gift or by a transfer in trust) to the extent that such adjusted basis is a portion of the adjusted uniform basis of the entire property (as defined in § 1.1014-5). Where a term interest in property is transferred to a corporation in connection with a transaction to which section 351 applies and the adjusted basis of the term interest (i) is determined pursuant to section 1014 or 1015 and (ii) is also a portion of the adjusted uniform basis of the entire property, a subsequent sale or other disposition of such term interest by the corporation will be subject to the provisions of section 1001(e) and this paragraph to the extent that the basis of the term interest so sold or otherwise disposed of is determined by reference to its basis in the hands of the transferor as provided by section 362(a). See subparagraph (2) of this paragraph for rules relating to the characterization of stock received by the transferor of a term interest in property in connection with a transaction to which section 351 applies. That portion of the adjusted uniform basis of the entire property which is assignable to such interest at the time of its sale or other disposition shall be determined under the rules provided in § 1.1014-5. Thus, gain or loss realized from a sale or other disposition of a term interest in property shall be determined by comparing the amount of the proceeds of such sale with that part of the adjusted basis of such interest which is not a portion of the adjusted uniform basis of the entire property.

(2) *Term interest defined.* For purposes of section 1001(e) and this paragraph, a "term interest in property" means—

(i) A life interest in property,

(ii) An interest in property for a term of years, or

(iii) An income interest in a trust.

Generally, subdivisions (i), (ii), and (iii) refer to an interest, present or future, in the income from property or the right to use property which will terminate or fail on the lapse of time, on the occurrence of an event or contingency, or on the failure of an event or contingency to occur. Such divisions do not refer to remainder or reversionary interests in the property itself or other interests in the property which will ripen into ownership of the entire property upon termination or failure of a preceding term interest. A "term interest in property" also includes any property received upon a sale or other disposition of a life interest in property, an interest in property for a term of years, or an income interest in a trust by the original holder of such interest, but only to the extent that the adjusted basis of the property received is determined by reference to the adjusted basis of the term interest so transferred.

(3) *Exception.* Paragraph (1) of section 101(e) and subparagraph (1) of this paragraph shall not apply to a sale or other disposition of a term interest in property as a part of a single transaction in which the entire interest in the property is transferred to a third person or to two or more other persons, including persons who acquire such entire interest as joint tenants, tenants by the entirety, or tenants in common. See § 1.1014–5 for computation of gain or loss upon such a sale or other disposition where the property has been acquired from a decedent or by gift or transfer in trust.

(4) *Illustrations.* For examples illustrating the application of this paragraph, see paragraph (c) of § 1.1014–5.

PAR. 3. Section 1.1014–5 is amended to read as follows:

§ 1.1014–5 Gain or loss.

(a) *Sale or other disposition of a life interest, remainder interest, or other interest in property acquired from a decedent.* (1) Except as provided in paragraph (b) of this section with respect to the sale or other disposition after October 9, 1969, of a term interest in property, gain or loss from a sale or other disposition of a life interest, remainder interest, or other interest in property acquired from a decedent is determined by comparing the amount of the proceeds with the amount of that part of the adjusted uniform basis which is assignable to the interest so transferred. The adjusted uniform basis is the uniform basis of the entire property adjusted to the date of sale or other disposition of any such interest as required by sections 1016 and 1017. The uniform basis is the unadjusted basis of the entire property determined immediately after the decedent's death under the applicable sections of part II of subchapter O of chapter 1 of the Code.

(2) Except as provided in paragraph (b) of this section, the proper measure of gain or loss resulting from a sale or other disposition of an interest in property acquired from a decedent is so much of the increase or decrease in the value of the entire property as is reflected in such sale or other disposition. Hence, in ascertaining the basis of a life interest, remainder interest, or other interest which has been so transferred, the uniform basis rule contemplates that proper adjustments will be made to reflect the change in relative value of the interests on account of the passage of time.

(3) The factors set forth in the tables contained in § 20.2031–7 or § 20.2031–10, whichever is applicable, of Part 20 of this chapter (Estate Tax Regulations) shall be used in the manner provided therein in determining the basis of the life interest, the remainder interest, or the term certain interest in the property on the date such interest is sold. The basis of the life interest, the remainder interest, or the term certain interest is computed by multiplying the uniform basis (adjusted to the time of the sale) by the appropriate factor. In the case of the sale of a life interest or a remainder interest, the factor used is the factor (adjusted where appropriate) which appears in the life interest or the remainder interest column of the table opposite the age (on the date of the sale) of the person at whose death the life interest will terminate. In the case of the sale of a term certain interest, the factor used is the factor (adjusted where appropriate) which appears in the term certain column of the table opposite the number of years remaining (on the date of sale) before the term certain interest will terminate.

(b) *Sale or other disposition of certain term interests.* In determining gain or loss from the sale or other disposition after October 9, 1969, of a term interest in property (as defined in paragraph (f)(2) of § 1.1001–1) the adjusted basis of which is determined pursuant, or by reference, to section 1014 (relating to the basis of property acquired from a decedent) or section 1015 (relating to the basis of property acquired by gift or by a transfer in trust), that part of the adjusted uniform basis assignable under the rules of paragraph (a) of this section to the interest sold or otherwise disposed of shall be disregarded to the extent and in the manner provided by section 1001(e) and paragraph (f) of § 1.1001–1.

(c) *Illustrations.* The application of this section may be illustrated by the following examples, in which references are made to the actuarial tables contained in Part 20 of this chapter (Estate Tax Regulations):

Example (1). Securities worth $500,000 at the date of decedent's death on January 1, 1971, are bequeathed to his wife, W, for life, with remainder over to his son, S. W is 48 years of age when the life interest is acquired. The estate does not elect the alternate valuation allowed by section 2032. By reference to Table A(2) in paragraph (f) of § 20.2031–10, the life estate factor for age 48, female, is found to be 0.77488 and the remainder factor for such age is found to be 0.22512. Therefore, the present value of the portion of the uniform basis assigned to W's life interest is $387,440 ($500,000 × 0.77488), and the present value of the portion of the uniform basis assigned to S's remainder interest is $112,560 ($500,000 × 0.22512). W sells her life interest to her nephew, A, on February 1, 1971, for $370,000, at which time W is still 48 years of age. Pursuant to section 1001(e), W realizes no loss; her gain is $370,000, the amount realized from the sale. A has a basis of $370,000 which he can recover by amortization deductions over W's life expectancy.

Example (2). The facts are the same as in example (1) except that W retains the life interest for 12 years, until she is 60 years of age, and then sells it to A on February 1, 1983, when the fair market value of the securities has increased to $650,000. By reference to Table A(2) in paragraph (f) of § 20.2031–10, the life estate factor for age 60, female, is found to be 0.63226 and the remainder factor for such age is found to be 0.36774. Therefore, the present value on Febthat date of the portion of the uniform basis assigned to W's life interest is $316,130 ($500,000 × 0.63226) and the present value on that date of the portion of the uniform basis assigned to S's remainder interest is $183,870 ($500,000 × 0.36774). W sells her life interest for $410,969, that being the commuted value of her remaining life interest in the securities as appreciated ($650,000 × 0.63226). Pursuant to section 1001(e), W's gain is $410,969, the amount realized. A has a basis of $410,969 which he can recover by amortization deductions over W's life expectancy.

Example (3). Unimproved land having a fair market value of $18,800 at the date of the decedent's death on January 1, 1970, is devised to A, a male, for life, with remainder over to B, a female. The estate does not elect the alternate valuation allowed by section 2032. On January 1, 1971, A sells his life interest to S for $12,500. S is not related to A or B. At the time of the sale, A is 39 years of age. By reference to Table A(1) in paragraph (f) of § 20.2031–10, the life estate factor for age 39, male, is found to be 0.79854. Therefore, the present value of the portion of the uniform basis assigned to A's life interest is $15,012.55 ($18,800 × 0.79854). This portion is disregarded under section 1001(e). A realizes no loss; his gain is $12,500, the amount realized. S has a basis of $12,500 which he can recover by amortization deductions over A's life expectancy.

Example (4). The facts are the same as in example (3) except that on January 1, 1971, A and B jointly sell the entire property to S for $25,000 and divide the proceeds equally between them. A and B are not related, and there is no element of gift or compensation in the transaction. By reference to Table A(1) in paragraph (f) of § 20.2031–10, the remainder factor for age 39, male, is found to be 0.20146. Therefore, the present value of the uniform basis assigned to B's remainder interest is $3,787.45 ($18,800 × 0.20146). On the sale A realizes a loss of $2,512.55 ($15,012.55 less $12,500), the portion of the uniform basis assigned to his life interest not being disregarded by reason of section 1001(e)(3). B's gain on the sale is $8,712.55 ($12,500 less $3,787.45). S has a basis in the entire property of $25,000, no part of which, however, can be recovered by amortization deductions over A's life expectancy.

Example (5). (a) Nondepreciable property having a fair market value of $54,000 and an estimated useful life of 27 years at the date of decedent's death on January 1, 1971, is devised to her husband, H, for life and, after his death, to her daughter, D, for life, with remainder over to her grandson, G. The estate does not elect the alternate valuation allowed by section 2032. On January 1, 1973, H sells his life interest to D for $32,000. At the date of the sale, H is 62 years of age, and D is 45 years of age. By reference to Table A(1) in paragraph (f) of § 20.2031–10, the

life estate factor for age 62, male, is found to be 0.52321. Therefore, the present value on January 1, 1973, of the portion of the adjusted uniform basis assigned to H's life interest is $28,253 ($54,000×0.52321). Pursuant to section 1001(e), H realizes no loss; his gain is $32,000, the amount realized from the sale. D has a basis of $32,000 which she can recover by amortization deductions over H's life expectancy.

(b) On January 1, 1976, D sells both life estates to G for $40,000. During each of the years 1973 through 1975, D is allowed a deduction for the amortization of H's life interest. At the date of the sale H is 65 years of age, and D is 48 years of age. For purposes of determining gain or loss on the sale by D, the portion of the adjusted uniform basis assigned to H's life interest and the portion assigned to D's life interest are not taken into account under section 1001(e). However, pursuant to § 1.1001–1(f)(1), D's cost basis in H's life interest, minus deductions for the amortization of such interest, is taken into account. On the sale, D realizes gain of $40,000 minus an amount which is equal to the $32,000 cost basis (for H's life estate) reduced by amortization deductions. G is entitled to amortize over H's life expectancy that part of the $40,000 cost which is attributable to H's life interest. That part of the $40,000 cost which is attributable to D's life interest is not amortizable by G until H dies.

Example (6). Securities worth $1,000,000 at the date of decedent's death on January 1, 1971, are bequeathed to his wife, W, for life, with remainder over to his son, S. W is 48 years of age when the life interest is acquired. The estate does not elect the alternate valuation allowed by section 2032. By reference to Table A(2) in paragraph (f) of § 20.2031–10, the life estate factor for age 48, female, is found to be 0.77488, and the remainder factor for such age is found to be 0.22512. Therefore, the present value of the portion of the uniform basis assigned to W's life interest is $774,880 ($1,000,000×0.77488), and the present value of the portion of the uniform basis assigned to S's remainder interest is $225,120 ($1,000,000×0.22512). On February 1, 1971, W transfers her life interest to corporation X in exchange for all of the stock of X pursuant to a transaction in which no gain or loss is recognized by reason of section 351. On February 1, 1972, W sells all of her stock in X to S for $800,000. Pursuant to section 1001(e) and § 1.1001–1(f)(2), W realizes no loss; her gain is $800,000, the amount realized from the sale. On February 1, 1972, X sells to N for $900,000 the life interest transferred to it by W. Pursuant to section 1001(e) and § 1.1001–1(f)(1), X realizes no loss; its gain is $900,000, the amount realized from the sale. N has a basis of $900,000 which he can recover by amortization deductions over W's life expectancy.

PAR. 4. Section 1.1014–6 is amended by revising paragraph (b)(3)(ii) to read as follows:

§ 1.1014–6 Special rule for adjustments to basis where property is acquired from a decedent prior to his death.

* * * * *

(b) *Multiple interests in property described in section 1014(b)(9) and acquired from a decedent prior to his death.* * * *

(3) * * *

(ii) In cases of the type described in subdivision (i) of this subparagraph, the basis of any interest which is included in the decedent's gross estate may be ascertained by adding to (or subtracting from) the basis of such interest determined immediately prior to the decedent's death the increase (or decrease) in the uniform basis of the property attributable to the inclusion of the interest in the decedent's gross estate. Where the interest is sold or otherwise disposed of at any time after the decedent's death, proper adjustment must be made in order to reflect the change in value of the interest on account of the passage of time, as provided in § 1.1014–5. For an illustration of the operation of this subdivision, see step 6 of the example in § 1.1014–7.

PAR. 5. Section 1.1015–1 is amended by revising paragraph (b) to read as follows:

§ 1.1015–1 Basis of property acquired by gift after December 31, 1920.

* * * * *

(b) *Uniform basis; proportionate parts of.* Property acquired by gift has a single or uniform basis although more than one person may acquire an interest in such property. The uniform basis of the property remains fixed subject to proper adjustment for items under sections 1016 and 1017. However, the value of the proportionate parts of the uniform basis represented, for instance, by the respective interests of the life tenant and remainderman are adjustable to reflect the change in the relative values of such interest on account of the lapse of time. The portion of the basis attributable to an interest at the time of its sale or other disposition shall be determined under the rules provided in § 1.1014–5. In determining gain or loss from the sale or other disposition after October 9, 1969, of a term interest in property (as defined in § 1.1001–1(f)(2)) the adjusted basis of which is determined pursuant, or by reference, to section 1015, that part of the adjusted uniform basis assignable under the rules of § 1.1014–5(a) to the interest sold or otherwise disposed of shall be disregarded to the extent and in the manner provided by section 1001(e) and § 1.1001–1(f).

* * * * *

[FR Doc.71–8921 Filed 6–23–71;8:52 am]

[26 CFR Part 1]

MINIMUM TAX FOR TAX PREFERENCES

Notice of Proposed Rule Making

On December 30, 1969, notice of proposed rule making was published in the FEDERAL REGISTER in regard to regulations under sections 56, 57, and 58 of the Internal Revenue Code of 1954, relating to the minimum tax for tax preferences, as added by section 301 of the Tax Reform Act of 1969 (35 F.R. 19757). Notice is hereby given that so much of the proposed regulations as are contained in § 1.56, paragraphs (b) and (c) of § 1.56–1, subparagraphs (1) (iii)(*a*) and (iv), (2), (4), and (5)(iii) of § 1.57–2(b), paragraph (c)(4) of § 1.58–7, and paragraphs (b) and (c) of § 1.58–8, as set forth in paragraph 6 of the appendix to the notice of proposed rule making is hereby withdrawn.

Further, notice is hereby given that, in lieu of the proposed rules which are so withdrawn, the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto whch are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 12, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 12, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

RANDOLPH W. THROWER,
Commissioner of Internal Revenue.

On December 30, 1969, notice of proposed rule making was published in the FEDERAL REGISTER (35 F.R. 19757) regarding the amendment of the Income Tax Regulations (26 CFR Part 1) and the Regulations on Procedure and Administration (26 CFR Part 301) to conform such regulations to the amendments of the Internal Revenue Code made by section 301 of the Tax Reform Act of 1969 (83 Stat. 580). In order to conform such regulations to the amendment of the Internal Revenue Code made by Public Law 91–614 (84 Stat. 1846) (relating to reduction of minimum tax liability because of tax carryovers) and to provide additional and modified rules with respect to the outstanding notice, so much of the proposed regulations as are contained in § 1.56, paragraphs (b) and (c) of § 1.56–1, subparagraphs (1) (iii)(*a*) and (iv), (2), (4), and (5)(iii) of § 1.57–2(b), paragraph (c)(4) of § 1.58–7, and paragraphs (b) and (c) of § 1.58–8, as set forth in paragraph 6 of the appendix to the notice of proposed rule making is hereby withdrawn. The following rules are hereby prescribed in lieu of the rules which are so withdrawn.

§ 1.56 Statutory provisions; minimum tax for tax preferences; imposition of tax.

SEC. 56. *Imposition of tax.*—(a) *In general.* In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 10 percent of the amount (if any) by which—

(1) The sum of the items of tax preference in excess of $30,000 is greater than

(2) The sum of—

(A) The taxes imposed by this chapter for the taxable year (computed without regard to this part aid without regard to the taxes imposed by sections 531 and 541) reduced by the sum of the credits allowable under—

(i) Section 33 (relating to foreign tax credit),

(ii) Section 37 (relating to retirement income), and

(iii) Section 38 (relating to investment credit); and

(B) The tax carryovers to the taxable year.

(b) *Deferral of tax liability in case of certain net operating losses*—(1) *In general.* If for any taxable year a person—

(A) Has a net operating loss any portion of which (under section 172) remains as a net operating loss carryover to a succeeding taxable year, and

(B) Has items of tax preference in excess of $30,000,

then an amount equal to the lesser of the tax imposed by subsection (a) or 10 percent of the amount of the net operating loss carryover described in subparagraph (A) shall be treated as tax liability not imposed for the taxable year, but as imposed for the succeeding taxable year or years pursuant to paragraph (2).

(2) *Year of liability.* In any taxable year in which any portion of the net operating loss carryover attributable to the excess described in paragraph (1)(B) reduces taxable income, the amount of tax liability described in paragraph (1) shall be treated as tax liability imposed in such taxable year in an amount equal to 10 percent of such reduction.

(3) *Priority of application.* For purposes of paragraph (2), if any portion of the net operating loss carryover described in paragraph (1)(A) is not attributable to the excess described in paragraph (1)(B), such portion shall be considered as being applied in reducing taxable income before such other portion.

(c) *Tax carryovers.* If for any taxable year—

(1) The taxes imposed by this chapter (computed without regard to this part and without regard to the taxes imposed by sections 531 and 541) reduced by the sum of the credits allowable under—

(A) Section 33 (relating to foreign tax credit),

(B) Section 37 (relating to retirement income), and

(C) Section 38 (relating to investment credit), exceed

(2) The sum of the items of tax preference in excess of $30,000,

then the excess of the taxes described in paragraph (1) over the sum described in paragraph (2) shall be a tax carryover to each of the 7 taxable years following such year. The entire amount of the excess for a taxable year shall be carried to the first of such 7 taxable years, and then to each of the other such taxable years to the extent that such excess is not used to reduce the amount subject to tax under subsection (a) for a prior taxable year to which excess may be carried.

[Sec. 56 as added by sec. 301(a) of the Tax Reform Act of 1969 (83 Stat. 580) as amended by sec. 501, Act of December 31, 1970 (Public Law 91-614, 84 Stat. 1846)]

* * * * *

§ 1.56-1 Imposition of tax.

(b) *Computation of tax.* The amount of such tax is 10 percent of the excess (referred to herein as "the minimum tax base") of—

(1) The sum of the taxpayer's items of tax preference for such year in excess of the taxpayer's minimum tax exemption (determined under § 1.58-1) for such year, over

(2) The sum of:

(i) The taxes imposed for such year under chapter 1 other than the taxes imposed by section 56 (relating to minimum tax for tax preferences), by section 531 (relating to accumulated earnings tax), or by section 541 (relating to personal holding company tax), reduced by the sum of the credits allowable under—

(*a*) Section 33 (relating to taxes of foreign countries and possessions of the United States),

(*b*) Section 37 (relating to retirement income), and

(*c*) Section 38 (relating to investment credit), and

(ii) The tax carryovers to such taxable year (as described in § 1.56-5).

(c) *Special rule.* For purposes of paragraph (b) of this section where for any taxable year in which a tax is imposed under section 668 (relating to treatment of amounts deemed distributed by a trust in preceding years), that portion of the section 668 tax representing an increase in an earlier year's chapter 1 taxes as recomputed (other than taxes imposed by section 56, section 531, and section 541) is allowable as a reduction in such earlier year's minimum tax base and is not allowable as a reduction in the minimum tax base for the current taxable year. The remaining portion of the section 668 tax is not allowable as a reduction in the minimum tax base for any taxable year. Similarly, taxes imposed under section 614(c)(4) (relating to increase in tax with respect to aggregation of certain mineral interests) or under section 1351(d) (relating to recoveries of foreign expropriation losses) for any taxable year are not allowed as a reduction in the minimum tax base for such taxable year to the extent they represent chapter 1 taxes which are allowable as a reduction in a minimum tax base for an earlier taxable year for purposes of the computations under section 614(c)(4) or section 1351(d) or to the extent they represent an increase in the tax imposed by section 56, section 531, or section 541 in an earlier taxable year.

(d) *Limitation on amounts treated as tax preferences.* See § 1.57-4 with respect to a limitation on the amount of the sum of the items of tax preference where there is no tax benefit from the use of an item of tax preference.

* * * * *

§ 1.56-5 Tax carryovers.

(a) *In general.* Section 56(c) provides a 7-year carryover of the excess of the taxes described in paragraph (1) of such section imposed during the taxable year over the items of tax preference described in paragraph (2) of such section for such taxable year for the purpose of reducing the amount subject to tax under section 56(a) in subsequent taxable years.

(b) *Computation of amount of carryover.* The amount of tax carryover described in section 56(c) is the excess (if any) of—

(1) The taxes imposed for the taxable year under chapter 1 other than taxes imposed by section 56 (relating to minimum tax for tax preferences), by section 531 (relating to accumulated earnings tax), or by section 541 (relating to personal holding company tax), reduced by the sum of the credits allowable under—

(i) Section 33 (relating to taxes of foreign countries and possessions of the United States),

(ii) Section 37 (relating to retirement income), and

(iii) Section 38 (relating to investment credit), over

(2) The sum of the taxpayer's items of tax preference for such year in excess of the taxpayer's minimum tax exemption (determined under § 1.58-1) for such year.

For purposes of section 56(c) and this section, taxes imposed in a taxable year ending on or before December 31, 1969, are not included in the taxes described in subparagraph (1) of this paragraph. In addition, the rules of paragraph (c) of § 1.56-1 are applicable in determining the taxable year for which taxes are imposed under chapter 1 for purposes of paragraph (a)(1) of this section.

(c) *Operation of carryover.* Tax carryovers attributable to the taxable year shall be carried over to each of the 7 succeeding taxable years as follows:

(1) To the first such succeeding taxable year to reduce in the manner described in paragraph (d) of this section the amount subject to tax under section 56(a) for such first succeeding taxable year and

(2) To the extent such amount is not used as a reduction in the amount subject to tax under section 56(a) for such taxable year, such amount (if any) is carried over to each of the succeeding 6 taxable years but only to the extent such amount is not used to reduce the amount subject to tax under section 56(a) in taxable years intervening between the taxable year to which such amount is attributable and the taxable year to which such amount may otherwise be carried over.

(d) *Priority of reduction.* Where tax carryovers attributable to two or more taxable years are carried over to a subsequent taxable year such amounts attributable to the earliest taxable year shall be used to reduce the amount subject to tax under section 56(a) for such subsequent taxable year before any such amounts attributable to a later taxable year.

(e) *Special rules*—(1) *Periods of less than 12 months.* A fractional part of a year which is a taxable year under section 441(b) or 7701(a)(23) is a taxable year for purposes of section 56(c) and this section.

(2) *Electing small business corporations.* A taxable year for which a corporation is an electing small business corporation (as defined in section 1371(b))

shall be counted as a taxable year for purposes of determining the taxable years to which amounts which are available as a carryover under paragraph (a) of this section may be carried whether or not such carryovers arose in a year in which an election was in effect.

(3) *Husband and wife*—(i) *From joint to separate return.* If a joint return is filed by a husband and wife in a taxable year or years to which a tax carryover is attributable but separate returns are filed in any subsequent taxable year to which such carryover may be carried over to reduce the amount subject to tax under section 56(a), such carryover described in paragraph (b) of this section shall be allocated between husband and wife for purposes of reducing the amount subject to tax under section 56(a) for such subsequent taxable year in accordance with the principles of § 1.172–7(d).

(ii) *From separate to joint return.* If separate returns are filed by a husband and wife in a taxable year or years in which a tax carryover is attributable but a joint return is filed in any subsequent taxable year to which such carryover may be carried over to reduce the amount subject to tax under section 56(a), such carryover shall be aggregated for purposes of reducing the amount subject to tax under section 56(a) for such subsequent taxable year.

(4) *Estates and trusts.* In the case of the termination of an estate or trust, tax carryovers attributable to the estate or trust shall not be allowed to the beneficiaries succeeding to the property of the estate or trust.

(5) *Corporate acquisitions.* In the case of a transaction to which section 381(a) applies, the acquiring corporation shall succeed to and take into account, as of the close of the date transfer the tax carryovers attributable to the distributor or distribution or transferor corporation. The portion of such carryovers which may be taken into account under paragraph (b)(2)(ii) of § 1.56–1 for any taxable year shall not exceed the excess of (i) the sum of the items of tax preference for such year resulting from the continuation of the business in which the distributor or transferor corporation was engaged at the time of such transaction and the items of tax preference not related to the continuation of such business which are directly attributable to the assets acquired from the distributor or transferor corporation over (ii) an amount which bears the same ratio to the acquiring corporation's minimum tax exemption for such year as the items of tax preference described in subdivision (i) of this subparagraph bears to all of the acquiring corporation's items of tax preference for such year. This item shall be taken into account by the acquiring corporation subject to the rules in section 381(b) and the regulations thereunder.

(f) *Suspense preferences.* Where an item of tax preference which is a suspense preference (as defined in § 1.58–7) arises in a taxable year in which tax carryovers may be used to reduce the minimum tax base (or in which such carryovers arise) the minimum tax liability for that year and the tax carryovers to subsequent taxable years shall be recomputed upon the conversion of the suspense preference in a subsequent year. In lieu of the above, in all cases, since there is no difference in tax consequence, the recomputation may be accomplished by recomputing the minimum tax liability of the taxable year in which the suspense preference arose without reduction of the minimum tax base for the tax carryovers which have been used as a reduction in the minimum tax base in intervening taxable years. If such method is used, the minimum tax liability of the intervening year is not recomputed and any tax carryovers carried from the taxable year in which the suspense preference arose which remain as a carryover in the year of conversion are reduced, in the priority provided in paragraph (d) of this section, to the extent used to reduce an increase in the mimimum tax base for the earlier year resulting from the conversion of the suspense preference.

(g) *Taxes imposed in a taxable year beginning in 1969 and ending in 1970.* In the case of a taxable year beginning in 1969 and ending in 1970 the amount of the carryover determined under paragraph (b) of this section is reduced to an amount equal to the amount of such carryover (without regard to this paragraph) multiplied by the following fraction:

$$\frac{\text{Number of days in taxable year ending after December 31, 1969}}{\text{Number of days in the entire taxable year.}}$$

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

Example (1). A is a single individual who uses a June 30 fiscal year. For fiscal 1968–1969, A had income tax liability under chapter 1 in the amount of $100,000. For fiscal 1969–1970, A had items of tax preference in the amount of $212,500 and income tax liability under chapter 1 (other than taxes imposed under sections 56, 531, and 541) of $365,000.

(a) The chapter 1 tax attributable to fiscal 1968–1969 is not available as a carryover under section 56(c) to reduce the amount subject to tax under section 56(a) since this tax arose in a taxable year ending on or before December 31, 1969.

(b) A portion of the excess of chapter 1 tax over the amount subject to tax under section 56(a) attributable to fiscal year 1969–1970 is available as a carryover as provided in section 56(c) to reduce the amount subject to tax under section 56(a). The amount of this carryover is $91,000 computed as follows:

1. Carryover under paragraph (b) of this section:	
Chapter 1 taxes	$365,000
Items of tax preference in excess of exemption	182,500
Total	182,500
2. Reduction pursuant to paragraph (g) of this section: $\frac{182}{365} \times \$182,500 = \$91,000$	

Example (2). A is a calendar year taxpayer who is a single individual. In 1972, A had chapter 1 income tax liability (other than taxes imposed under sections 56, 531, and 541) of $200,000 and $50,000 of items of tax preference. In 1973, A had chapter 1 income tax liability (other than taxes imposed under sections 56, 531, and 541) of $120,000 and $40,000 of items of tax preference. In 1974, A had $400,000 of items of tax preference and no liability for tax under chapter 1 other than under section 56(a). Under section 56(c), the excess of the taxes described in paragraph (1) of that section arising in an earlier taxable year not used to reduce the amount subject to tax under section 56(a) for such taxable year can be carried over as provided in section 56(c) to reduce the amount subject to tax under section 56(a).

(a) The amount of the carryover from 1972 is $180,000 computed as follows:

Carryover under paragraph (b) of this section:	
Chapter 1 taxes	$200,000
Items of tax preference in excess of exemption	20,000
Total	180,000

(b) The amount of the carryover from 1973 is $110,000 computed as follows:

Carryover under paragraph (b) of this section:	
Chapter 1 taxes	$120,000
Items of tax preference in excess of exemption	10,000
Total	110,000

(c) For 1974, the excess of taxes in the preceding taxable years is used to reduce the amount subject to tax under section 56(a). The amount of carryover attributable to excess taxes arising in 1972 is used before such excess arising in 1973. The amount of tax under section 56(a) is $8,000 computed as follows:

1974 tax preferences	$400,000
Less exemption	30,000
	370,000
Less 1972 carryover	180,000
	190,000
Less 1973 carryover	110,000
1974 minimum tax base	80,000
1974 minimum tax ($80,000 × 10%)	8,000

Example (3). The facts are the same as in example (2) except that in 1974 A had $300,000 of items of tax preference. The amount of the carryover for taxable years after 1974 is computed as follows:

1974 tax preferences	$300,000
Less exemption	30,000
	270,000
Less 1972 carryover	180,000
	90,000
Less 1973 carryover	90,000
Minimum tax base	—0—
1973 carryover	110,000
Amount used in 1974	90,000
Amount available for taxable years after 1974	20,000

The $20,000 remaining of the 1973 carryover is available to reduce the amount subject to tax under section 56(a) in 1975 or other future taxable years as provided in section 56(c).

Example (4). M Corporation is a calendar year taxpayer. N Corporation uses a June 30 fiscal year. For the fiscal year 1970–1971, N Corporation had excess chapter 1 tax liability

as described in paragraph (a) of this section in the amount of $75,000. On January 1, 1972, M Corporation acquired N Corporation in a reorganization described in section 368 (a)(1)(A). N Corporation does not use any of such excess chapter 1 tax liability to reduce the amount subject to tax under section 56(a) for the short taxable year beginning on July 1, 1971, and ending on December 31, 1971. Thus, the excess chapter 1 tax liability is available to M Corporation as a carryover under paragraph (a) of this section to reduce the amount subject to tax for the next 6 succeeding taxable years beginning with taxable year 1972 as provided in this section. In applying the carryover to 1972 and succeeding taxable years, the carryover of N Corporation subject to the limitation of §1.56–5(e)(4) is combined with any carryovers originating with M Corporation in 1970.

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§ 1.57–2 Excess investment interest.

* * * * *

(b) *Definitions.* * * *

(1) *Investment interest expense.* * * *

(iii) (*a*) The determination of whether the purpose of incurring or continuing an indebtedness is to purchase or carry property held for investment must be made on the basis of the facts and circumstances of each particular case. Where it is clear that the intent of the taxpayer in incurring or continuing a particular indebtedness is solely for the purchase, improvement, or maintenance of business property, solely to engage in or continue a trade or business activity, or otherwise to use the proceeds of the indebtedness in the ordinary course of business, interest on such indebtedness is not treated as investment interest expense. Where it is clear that the intent of the taxpayer in incurring or continuing a particular indebtedness is solely for the purchase, improvement, or maintenance of property which is primarily for personal, as opposed to business or investment, use, or solely to engage in or continue an activity which is primarily personal, interest on such indebtedness is not treated as investment interest expense. Thus, indebtedness in the form of a purchase money mortgage on a personal residence, a student loan, a home improvement loan, or an installment obligation for the acquisition of consumer goods for personal use will not be investment interest expense unless it is clear that, in substance, such indebtedness was incurred to purchase or carry investment property. Similarly, interest on a purchase money mortgage or installment obligation for the acquisition of business property will not normally be investment interest expense. Where the proceeds of an indebtedness can be traced to a particular activity or property or the indebtedness constitutes all or a part of the payment for a particular activity or property, it will be inferred that such indebtedness was incurred or continued for the purpose of purchasing or carrying such property or engaging in or continuing such activity. In addition, if substantially identical amounts are borrowed and expended simultaneously it will be inferred that the resulting indebtedness was incurred to purchase or of such expenditure. Indebtedness which was originally incurred for one purpose may be continued for another purpose. Thus, if the taxpayer incurred an indebtedness to purchase business property but continued the indebtedness in order to avoid liquidation of property held for investment, the indebtedness is continued in order to carry the property held for investment. An indebtedness may be incurred or continued for multiple purposes. Where such a multiple purpose is established, including an investment purpose, a portion of the loan will be treated as incurred or continued in order to purchase or carry property held for investment. In cases where the proceeds of an indebtedness cannot be traced by application of the principles of this subdivision to a particular activity or property, it will be inferred that the indebtedness was incurred or continued in order to carry property held for investment. In some cases, however, it may be established that all or part of such indebtedness was not incurred or continued in order to carry property held for investment. Thus, where a taxpayer owns $100,000 in value of appreciated investment property, indebtedness in excess of that amount will ordinarily not be considered to be incurred or continued in order to carry investment property.

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(iv) For purposes of this subparagraph, interest paid or accrued on indebtedness incurred or continued in the construction of property to be used by the taxpayer in a trade or business is not treated as investment interest expense. Thus, if the taxpayer pays or accrues construction interest with respect to a building which he intends to use in his trade or business such interest is not investment interest expense. Similarly, interest paid or accrued with respect to the construction of property which is neither business nor investment property, such as the taxpayer's personal residence, is not treated as investment interest expense. On the other hand, if the taxpayer intends to hold property by leasing such property under a net lease entered into after October 9, 1969 (as defined in § 1.57–3), the resulting construction interest is investment interest expense. For this purpose, the use which the taxpayer intends is determined from the facts and circumstances of each case giving due weight to the actual use of the property and any similar property held or constructed by the taxpayer. Thus, a pattern of constructing net leased buildings is a factor to be taken into account. Similarly, if at any time prior to or during construction, the taxpayer has entered into an agreement to lease the property under an arrangement which would be considered a net lease pursuant to § 1.57–3(c), the construction interest will be investment interest expense. In determining the taxpayer's intent, however, the fact that the property is leased (regardless of when the lease is executed) under an arrangement which is subsequently considered to be a net lease pursuant to § 1.57–3(b) (but not § 1.57–3(c)) will not be considered.

(2) *Investment property.* (i) The determination whether property is held for investment must be made on the basis of the particular facts and circumstances. For purposes of this paragraph, the term "property" includes any form of property whether real, personal, tangible, or intangible. Under the facts and circumstances test, property is held for investment only if it is held for the production or collection of passive income, such as interest, rent, dividends, royalties, or capital gain (including amounts which would be capital gain but for the application of section 1245 or section 1250) to the extent such income, gain, and amounts are not derived from properties actively used in the conduct of trade or business. Except as provided in subdivision (ii) of this subparagraph, property is not held for investment if the expenses paid or incurred by the taxpayer in connection with his use thereof are allowable as deductions under section 162. For example, real property held in the conduct of the business of renting real property is property actively used in the conduct of a trade or business. Where is can reasonably be expected that a property will generate passive income, such property will ordinarily be considered investment property. Thus, portfolio investments held in a trade or business will constitute property held for investment. Generally, stock in a corporation, other than an electing small business corporation, whether a portfolio investment or a controlling interest constitutes property held for investment since such stock is not actively used in the trade or business of the taxpayer and can reasonably be expected to generate investment income. Stock in electing small business corporations and partnership interests constitute property held for investment to the extent the assets of the corporation or partnership are held for investment.

(ii) Property which is subject to a net lease (as defined in § 1.57–3) entered into after October 9, 1969, shall be treated as property held for investment. Property subject to a lease entered into on or before October 9, 1969, shall not be considered investment property by reason of the lease being a net lease. For this purpose, a renewal or extension of a lease (unless pursuant to a right of the lessee, exercisable without consent or approval of the lessor, existing on October 9, 1969, and at all times thereafter) shall constitute a new lease entered into on the date such renewal or extension takes effect. Modifications of a lease (other than a renewal or extension thereof) shall cause the lease to be considered a new lease entered into on the date such modifications take effect unless the modifications do not cause the lease to be a net lease under § 1.57–3(c). Moreover, modifications of a lease which is a net lease on October 9, 1969, pursuant to § 1.57–3(c) shall not deem the lease to be a new lease until the expiration of such lease (determined with regard to renewals or extensions which may

be effected as a matter of right by the lessee without consent or approval of the lessor on October 9, 1969, and at all times thereafter) since the modification did not cause the lease to be a net lease.

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(4) *Investment income.* The term "investment income" includes:

(i) Interest, dividends, rents, and royalties, to the extent includible in gross income;

(ii) The net short-term capital gain attributable to the disposition of property held for investment; and

(iii) Amounts treated under sections 1245 and 1250 as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231,

but only to the extent such income, gain, and amounts are not derived from the conduct of a trade or business. Income, gain, and other amounts shall be considered investment income and not derived from the conduct of a trade or business only if derived from investment property as defined in subparagraph (2) of this paragraph. Generally, dividends received by a dealer in securities, or royalties received by a manufacturer will not constitute investment income since such amounts normally constitute income from the conduct of a trade or business. However, property subject to a net lease entered into after October 9, 1969 (as defined in § 1.57–3) is, for purposes of the minimum tax, treated as property held for investment. Accordingly, rents derived from such property are, for purposes of this section, considered investment income. Where the primary purpose of holding property is for investment, net income from the incidental or temporary use of the property in the active conduct of a trade or business will be treated as investment income. Thus, for example, where a taxpayer who owns investment property which consists of a large tract of wooded country realty realizes small amounts of annual income from the sale of hunting rights, the net income will be treated as investment income. Dividends from an electing small business corporation and undistributed taxable income of such a corporation taxed to the shareholders thereof pursuant to section 1373 are investment income only to the extent of the shareholder's proportionate share of the corporation's net investment income in excess of investment interest. The balance is income derived from the conduct of a trade or business.

(5) *Investment expenses.* * * *

(iii) Property subject to a net lease entered into after October 9, 1969, is for purposes of the minimum tax treated as property held for investment. Accordingly, solely for purposes of this section, deductions allowable under section 162 are considered deductions allowable under section 212 to the extent such deductions would have been allowable under section 212 were that section applicable to the taxpayer and were the property considered held for the production of investment income for all purposes of the Internal Revenue Code. Thus, for example, deductions of an electing small business corporation (as defined in section 1371(b)) allowable under section 162 will be considered as investment expenses allowable under section 212 if directly connected with the production of investment income.

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§ 1.58–7 Tax preferences attributable to foreign sources; preferences other than capital gains and stock options.

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(c) *Reduction in taxes on United States source income.* * * *

(4) *Carryover of excess taxes.* For rules relating to carryover of excess taxes described in paragraph (1) of section 56(c) when suspense preferences are converted to actual items of tax preference, see § 1.56–5(f).

(5) *Character of amounts.* Where the amounts from sources within a foreign country or possession of the United States (or all such countries or possessions in the case of a taxpayer who has elected the overall foreign tax credit limitation) which are treated as reducing chapter 1 tax on income from sources within the United States or as suspense preferences are less than the total items of tax preference described in subparagraph (1)(i)(*a*) of this paragraph attributable to such sources, the amounts so treated are considered derived proportionately from each such item of tax preference.

§ 1.58–8 Capital gains and stock options.

* * * * *

(b) *Source of capital gains and stock options.* Generally, in determining whether the capital gain or stock option item of tax preference is attributable to sources within any foreign country or possession of the United States, the principles of sections 861–863 and the regulations thereunder are applied. Thus, the stock option item of tax preference, representing compensation for personal services, is attributable, in accordance with § 1.861–4, to sources within the country in which the personal services were performed. Where the capital gain item of tax preference represents gain from the purchase and sale of personal property, such gain is attributable, in accordance with § 1.861–7, entirely to sources within the country in which the property is sold. In accordance with paragraph (c) of § 1.861–7, in any case in which the sales transaction is arranged in a particular manner for the primary purpose of tax avoidance, all factors of the transaction, such as negotiations, the execution of the agreement, the location of the property, and the place of payment, will be considered, and the sale will be treated as having been consummated at the place where the substance of the sale occurred.

(c) *Preferential treatment.* For purposes of this section, gain, profit, or other income is accorded preferential treatment by a foreign country or possession of the United States if (1) recognition of the income, for foreign tax purposes, is deferred beyond the taxpayer's taxable year or comparable period for foreign tax purposes which coincides with the taxpayer's U.S. taxable year in cases where other items of profit, gain, or other income may not be deferred; (2) it is subject to tax at a lower effective rate (including no rate of tax) than other items of profit, gain, or other income, by means of a special rate of tax, artificial deductions, exemptions, exclusions, or similar reductions in the amount subject to tax; (3) it is subject to no significant amount of tax; or (4) the laws of the foreign country or possession by any other method provide tax treatment for such profit, gain, or other income more beneficial than the tax treatment otherwise accorded income by such country or possession. For the purpose of the preceding sentence, gain, profit, or other income is subject to no significant amount of tax if the amount of taxes imposed by the foreign country or possession of the United States is equal to less than 2.5 percent of the gross amount of such income.

(d) *Examples.* The principles of this section may be illustrated by the following examples:

Example (1). The Bahamas imposes no income tax on individuals or corporations, whether resident or nonresident. Since capital gains are subject to no tax in the Bahamas, capital gains are considered to be accorded preferential treatment and will be taken into account for purposes of the minimum tax.

Example (2). In France, except in certain cases involving the sale of large blocks of stock, a nonresident individual is not subject to tax on isolated capital gains transactions. Since such capital gains are not subject to tax in France, they are considered to be accorded preferential treatment irrespective of the treatment accorded other capital gains in France and such gains will be taken into account for purposes of the minimum tax.

Example (3). In Germany, in the case of the sale within 1 taxable year of 1 percent or more of the shares of a corporation in which an individual taxpayer is regarded as holding a substantial interest, the gains on the sale of the large block of stock will be taxed as extraordinary income at one-half the ordinary income tax rate. Since these gains are taxed as a reduced rate of tax in comparison to other income, they are considered to be accorded preferential treatment and will be taken into account for purposes of the minimum tax.

Example (4). In Belgium, gains derived by an individual in the course of regular speculative transactions are taxed as ordinary income, but with an upper limit of 30 percent. Rates of tax on individuals in Belgium range from approximately 30 percent to approximately 60 percent. Since the gains on speculative transactions are taxed at a maximum rate which is more beneficial than the rates accorded to other income, such gains are considered to be accorded preferential treatment and will be taken into account for purposes of the minimum tax.

Example (5). In France, gains derived by a company on the sale of fixed assets held for less than 2 years are treated as short-term gains. The excess of short-term gains in any fiscal year is taxed at the full company tax rate of 50 percent. However, this tax may be paid in equal portions over the 5 years immediately following the realization of such short-term gains. Since recognition of the short-term gains for tax purposes

is subject to deferral over a 5-year period, such gains are considered to be accorded preferential teatment and will be taken into account for purposes of the minimum tax.

Example (6). Also in France, in the case of the sale or exchange by a company of depreciable assets and nondepreciable assets owned for at least 2 years, the excess of long-term capital gains over long-term capital losses in a fiscal year is subject to an immediate tax at the reduced rate of 10 percent. Such excess, reduced by the 10 percent tax, is carried in a special reserve account on the taxpayer's books. If the excess is reinvested in other fixed assets within a stated period, no further tax is due. If the amounts in the special reserve are distributed, they will be treated as ordinary income for the fiscal year in which the distribution is made. Since such gains (other than those distributed in the same fiscal year they are realized) are subject to deferral or a reduced rate of tax, they are (except to the extent distributed in the year of realization) considered to be accorded preferential treatment and are taken into account for purposes of the minimum tax.

Example (7). In Sweden, in the case of gains derived by an individual on the sale of shares or bonds held for 5 years or less, 25 percent of the gains are taxed if the holding period is 4 to 5 years, 50 percent of the gain is taxed if the holding period is 3 to 4 years, and 75 percent of the gain is taxed if the holding period is 2 to 3 years. The gain is fully taxable at ordinary income rates if held for less than 2 years. Thus, gains on shares or bonds held for 2 years or more are considered accorded preferential treatment in Sweden since they are either subject to exemption or treatment comparable to the U.S. capital gains deduction and are taxed at a reduced rate. Thus, such gains are taken into account for purposes of the minimum tax.

Example (8). Pursuant to Article XIV of the United States-United Kingdom Income Tax Convention, a resident of the United States is exempt from United Kingdom tax on most capital gains. Since such capital gains are exempt from United Kingdom taxation, they are considered to be accorded preferential treatment and are taken into account for purposes of the minimum tax.

Example (9). An individual resident of the United States, is desirous of selling his stock in a corporation listed on the New York Stock Exchange. He requests the stock certificates from his broker in the United States, travels to a foreign country, delivers the certificates to a broker in that country, and has the foreign broker execute the sale which takes place on the New York Stock Exchange. Since the sale was consummated in the United States, pursuant to paragraph (b) of this section and § 1.861–7, the resulting capital gain item of tax preference is attributable to sources within the United States.

Example (10). Two individuals, both residing in the United States, negotiate and reach agreement in New York City for the sale of stock of a close corporation. Prior to the transfer of the stock, in order to avoid imposition of the minimum tax, both individuals travel to a foreign country which does not accord preferential treatment to capital gains, but imposes a 5-percent rate of income tax which would be fully creditable against U.S. tax under sections 901 and 904 if the capital gains were sourced in that country. The stock is actually transferred and consideration paid in the foreign country. Since the primary purpose of consummating the sale in the foreign country was the avoidance of tax, pursuant to paragraph (b) of this section, and § 1.861–7(c), the resulting capital gain item of tax preference will be considered attributable to sources within the country in which the substance of sale took place or, in this case, the United States.

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[FR Doc. 71–8923 Filed 6–23–71;8:52 am]

[26 CFR Part 53]

TAXES ON INVESTMENTS WHICH JEOPARDIZE CHARITABLE PURPOSE

Notice of Proposed Rule Making

Notice is hereby given that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, preferably in quintuplicate, to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by July 26, 1971. Any written comments or suggestions not specifically designated as confidential in accordance with 26 CFR 601.601(b) may be inspected by any person upon written request. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by July 26, 1971. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

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

The following regulations are prescribed under section 4944 of the Internal Revenue Code of 1954, as enacted by section 101(b) of the Tax Reform Act of 1969 (83 Stat. 498), relating to taxes on investments which jeopardize the exempt purposes of private foundations. Except where otherwise specifically provided, these regulations are applicable with respect to jeopardizing investments made on or after January 1, 1970.

PRIVATE FOUNDATION EXCISE TAXES

Subpart E—Taxes on Investments Which Jeopardize Charitable Purpose

§ 53.4944 Statutory provisions; private foundations; taxes on investments which jeopardize charitable purpose.

SEC. 4944. *Taxes on investments which jeopardize charitable purpose*—(a) *Initial taxes*—(1) *On the private foundation.* If a private foundation invests any amount in such a manner as to jeopardize the carrying out of any of its exempt purposes, there is hereby imposed on the making of such investment a tax equal to 5 percent of the amount so invested for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by the private foundation.

(2) *On the management.* In any case in which a tax is imposed by paragraph (1), there is hereby imposed on the participation of any foundation manager in the making of the investment, knowing that it is jeopardizing the carrying out of any of the foundation's exempt purposes, a tax equal to 5 percent of the amount so invested for each year (or part thereof) in the taxable period, unless such participation is not willful and is due to reasonable cause. The tax imposed by this paragraph shall be paid by any foundation manager who participated in the making of the investment.

(b) *Additional taxes*—(1) *On the foundation.* In any case in which an initial tax is imposed by subsection (a)(1) on the making of an investment and such investment is not removed from jeopardy within the correction period, there is hereby imposed a tax equal to 25 percent of the amount of the investment. The tax imposed by this paragraph shall be paid by the private foundation.

(2) *On the management.* In any case in which an additional tax is imposed by paragraph (1), if a foundation manager refused to agree to part or all of the removal from jeopardy, there is hereby imposed a tax equal to 5 percent of the amount of the investment. The tax imposed by this paragraph shall be paid by any foundation manager who refused to agree to part or all of the removal from jeopardy.

(c) *Exception for program-related investments.* For purposes of this section, investments, the primary purpose of which is to accomplish one or more of the purposes described in section 170(c)(2)(B), and no significant purpose of which is the production of income or the appreciation of property, shall not be considered as investments which jeopardize the carrying out of exempt purposes.

(d) *Special rules.* For purposes of subsections (a) and (b)—

(1) *Joint and several liability.* If more than one person is liable under subsection (a)(2) or (b)(2) with respect to any one investment, all such persons shall be jointly and severally liable under such paragraph with respect to such investment.

(2) *Limit for management.* With respect to any one investment, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $5,000, and the maximum amount of the tax imposed by subsection (b)(2) shall not exceed $10,000.

(e) *Definitions.* For purposes of this section—

(1) *Taxable period.* The term "taxable period" means, with respect to any investment which jeopardizes the carrying out of exempt purposes, the period beginning with the date on which the amount is so invested and ending on whichever of the following is the earlier: (A) The date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(1) under section 6212; or (B) the date on which the amount so invested is removed from jeopardy.

(2) *Removal from jeopardy.* An investment which jeopardizes the carrying out of exempt purposes shall be considered to be removed from jeopardy when such investment is sold or otherwise disposed of, and the proceeds of such sale or other disposition are not investments which jeopardize the carrying out of exempt purposes.

(3) *Correction period.* The term "correction period" means, with respect to any investment which jeopardizes the carrying out of exempt purposes, the period beginning with the date on which such investment is entered into and ending 90 days after the mailing of a notice of deficiency with respect to the tax imposed by subsection (b)(1) under section 6212, extended by—

(A) Any period in which a deficiency cannot be assessed under section 6213(a), and

(B) Any other period which the Secretary or his delegate determines is reasonable and necessary to bring about removal from jeopardy.

[Sec. 4944 as added by sec. 101(b), Tax Reform Act 1969 (83 Stat. 498)]

§ 53.4944–1 Initial taxes.

(a) *On the private foundation*—(1) *In general.* If a private foundation (as defined in section 509) invests any amount in such a manner as to jeopardize the carrying out of any of its exempt purposes, section 4944(a)(1) of the Code imposes an excise tax on the making of such investment. This tax is to be paid by the private foundation and is at the rate of 5 percent of the amount so invested for each taxable year (or part thereof) in the taxable period (as defined in section 4944(e)(1)). The tax imposed by section 4944(a)(1) and this paragraph shall apply to investments of either income or principal.

(2) *Jeopardizing investments.* (i) Except as provided in section 4944(c), § 53.4944–3, § 53.4944–6(a), and subdivision (ii) of this subparagraph, an investment shall be considered to jeopardize the carrying out of the exempt purposes of a private foundation if it is determined that the foundation managers, in making such investment, have failed to exercise ordinary business care and prudence, under the facts and circumstances prevailing at the time of making the investment, in providing for the long- and short-term financial needs of the foundation to carry out its exempt purposes. In the exercise of the requisite standard of care and prudence the foundation managers may take into account the expected return, the risks of rising and falling price levels, and the need for diversification within the investment portfolio (for example, with respect to type of security, type of industry, maturity of company, degree of risk and potential for return). The determination whether the investment of a particular amount jeopardizes the carrying out of the exempt purposes of a foundation shall be made on an investment by investment basis, in each case taking into account the foundation's portfolio as a whole. No category of investments shall be treated as a per se violation of section 4944. However, the following are examples of types or methods of investment which will be closely scrutinized to determine whether the foundation managers have met the requisite standard of care and prudence: Trading in securities on margin, trading in commodity futures, investments in oil and gas wells, the purchase of "puts," "calls," and "straddles," the purchase of warrants, and selling short. The determination whether the investment of any amount jeopardizes the carrying out of a foundation's exempt purposes is to be made as of the time that the foundation makes the investment and not subsequently on the basis of hindsight. Therefore, once it has been ascertained that an investment does not jeopardize the carrying out of a foundation's exempt purposes, the investment shall never be considered to jeopardize the carrying out of such purposes, even though, as a result of such investment, the foundation subsequently realizes a loss. The provisions of section 4944 and the regulations thereunder shall not exempt or relieve any person from compliance with any Federal or State law imposing any obligation, duty, responsibility, or other standard of conduct with respect to the operation or administration of an organization or trust to which section 4944 applies. Nor shall any State law exempt or relieve any person from any obligation, duty, responsibility, or other standard of conduct provided in section 4944 and the regulations thereunder.

(ii) (*a*) Section 4944 shall not apply to an investment made by any person which is later gratuitously transferred to a private foundation. If such foundation furnishes any consideration to such person upon the transfer, the foundation will be treated as having made an investment (within the meaning of section 4944(a)(1)) in the amount of such consideration.

(*b*) Section 4944 shall not apply to an investment which is acquired by a private foundation solely as a result of a corporate reorganization within the meaning of section 368(a).

(iii) For purposes of section 4944, a private foundation which, after December 31, 1969, changes the form or terms of an investment (regardless of whether subdivision (ii) of this subparagraph applies to such investment), will be considered to have entered into a new investment on the date of such change, except as provided in subdivision (ii)(*b*) of this subparagraph. Accordingly, a determination, under subdivision (i) of this subparagraph, whether such change in the investment jeopardizes the carrying out of the foundation's exempt purposes shall be made at such time.

(b) *On the management*—(1) *In general.* In any case in which a tax is imposed by section 4944(a)(1) and paragraph (a) of this section, section 4944(a)(2) of the Code imposes on the participation of any foundation manager in the making of the investment, knowing that it is jeopardizing the carrying out of any of the foundation's exempt purposes, a tax equal to 5 percent of the amount so invested for each taxable year of the foundation (or part thereof) in the taxable period (as defined in section 4944(e)(1)), subject to the provisions of section 4944(d) and § 53.4944–4, unless such participation is not willful and is due to reasonable cause. The tax imposed under section 4944(a)(2) shall be paid by the foundation manager.

(2) *Definitions and special rules*—(i) *Knowing.* For purposes of section 4944, a foundation manager shall be considered to have participated in the making of an investment "knowing" that it is jeopardizing the carrying out of any of the foundation's exempt purposes if he knows or has reason to know that it is a jeopardizing investment under paragraph (a)(2) of this section.

(ii) *Willful.* A foundation manager's participation in a jeopardizing investment is willful if it is voluntary, conscious, and intentional. No motive to avoid the restrictions of the law or the incurrence of any tax is necessary to make such participation willful. However, a foundation manager's participation in a jeopardizing investment is not willful if he does not know or have reason to know that it is a jeopardizing investment under paragraph (a)(2) of this section.

(iii) *Dues to reasonable cause.* A foundation manager's actions are due to reasonable cause if he has exercised ordinary business care and prudence. If a foundation manager relied on the advice of qualified investment counsel that a particular investment would not jeopardize the carrying out of any of the foundations's exempt purposes and if, in fact, the investment was a jeopardizing investment under paragraph (a)(2) of this section, the foundation manager's participation in such investment would generally be considered "not willful" and "due to reasonable cause."

(iv) *Participation.* The participation of any foundation manager in the making of an investment shall consist of any manifestation of approval of the investment.

(v) *Cross reference.* For provisions relating to the burden of proof in cases involving the issue whether a foundation manager has knowingly participated in the making of a jeopardizing investment, see section 7454(b).

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

Example (1). A is a foundation manager of B, a private foundation with assets of $100,000. A approves the following three investments by B after taking into account with respect to each of them B's portfolio as a whole: (1) An investment of $5,000 in the common stock of corporation X; (2) an investment of $10,000 in the common stock of corporation Y; and (3) an investment of $8,000 in the common stock of corporation Z. Corporation X has been in business a considerable time, its record of earnings is good and there is no reason to anticipate a diminution of its earnings. Corporation Y has a promising product, has had earnings in some years and substantial losses in others, has never paid a dividend, and is widely reported in investment advisory services as seriously undercapitalized. Corporation Z has been in business a short period of time and manufactures a product that is new, is not sold by others, and must compete with a well-established alternative product that serves the same purpose. Z's stock is classified as a high-risk investment by most investment advisory services with the possibility of substantial long-term appreciation but with little prospect of a current return. A has studied the records of the three corporations and knows the foregoing facts. In each case the price per share of common stock purchased by B is favorable to B. Under the standards of paragraph (a)(2)(i) of this section, the investment of $10,000 in the common stock of Y and the investment of $8,000 in the common stock of Z may be classified as jeopardizing investments, while the investment of $5,000 in the common stock of X will not be so

classified. B would then be liable for an initial tax of $500 (i.e., 5 percent of $10,000) for each year (or part thereof) in the taxable period for the investment in Y, and an initial tax of $400 (i.e., 5 percent of $8,000) for each year (or part thereof) in the taxable period for the investment in Z. Further, since A had reason to know that the investments in the common stock of Y and Z were jeopardizing investments, A would then be liable for the same amount of initial taxes as B.

Example (2). Assume the facts as stated in Example (1), except that: (1) In the case of corporation Y, B's investment will be made for new stock to be issued by Y and there is reason to anticipate that B's investment, together with investments required by B to be made concurrently with its own, will satisfy the capital needs of corporation Y and will thereby overcome the difficulties that have resulted in Y's uneven earnings record; and (2) in the case of corporation Z, the management has a demonstrated capacity for getting new businesses started successfully and Z has received substantial orders for its new product. The investments in Y and Z have been recommended by well-qualified investment counsel engaged to advise B with respect to investment of its funds generally. Under the standards of paragraph (a)(2)(i) of this section, neither the investment in Y nor the investment in Z will be classified as a jeopardizing investment and neither A nor B will be liable for an initial tax on either of such investments.

Example (3). D is a foundation manager of E, a private foundation with assets of $200,000. D was hired by E to manage E's investments after a careful review of D's training, experience and record in the field of investment management and advice indicated to E that D was well qualified to provide professional investment advice in the management of E's investment assets. D, after careful research into how best to diversify E's investments, provide for E's long-term financial needs, and protect against the effects of long-term inflation, decides to allocate a portion of E's investment assets to unimproved real estate in selected areas of the country where population patterns and economic factors strongly indicate continuing growth at a rapid rate. D determines that the short-term financial needs of E can be met through E's other investments. Under the standards of paragraph (a)(2)(i) of this section, the investment of a portion of E's investment assets in unimproved real estate will not be classified as a jeoparidizing investment and neither D nor E will be liable for an initial tax on such investment.

§ 53.4944–2 Additional taxes.

(a) *On the private foundation.* Section 4944(b)(1) of the Code imposes an excise tax in any case in which an initial tax is imposed by section 4944(a)(1) and § 53.4944–1(a) on the making of a jeopardizing investment by a private foundation and such investment is not removed from jeopardy within the correction period (as defined in section 4944(e)(3)). The tax imposed under section 4944(b)(1) is to be paid by the private foundation and is at the rate of 25 percent of the amount of the investment. This tax shall be imposed upon the portion of the investment which has not been removed from jeopardy within the correction period.

(b) *On the management.* Section 4944(b)(2) of the Code imposes an excise tax in any case in which an additional tax is imposed by section 4944(b)(1) and paragraph (a) of this section and a foundation manager has refused to agree to part or all of the removal of the investment from jeopardy. The tax imposed under section 4944(b)(2) is at the rate of 5 percent of the amount of the investment, subject to the provisions of section 4944(d) and § 53.4944–4. This tax is to be paid by any foundation manager who has refused to agree to the removal of part or all of the investment from jeopardy, and shall be imposed upon the portion of the investment which has not been removed from jeopardy within the correction period.

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

Example (1). X is a foundation manager of Y, a private foundation. On the advice of X, Y invests $5,000 in the common stock of corporation M. Assume that both X and Y are liable for the taxes imposed by section 4944(a) on the making of the investment. Assume further that no part of the investment is removed from jeopardy within the correction period and that X refused to agree to such removal. Y will be liable for an additional tax of $1,250 (i.e., $5,000×25%). X will be liable for an additional tax of $250 (i.e., $5,000×5%).

Example (2). Assume the facts as stated in Example (1), except that X is not liable for the tax imposed by section 4944(a)(2) for his participation in the making of the investment, because such participation was not willful and was due to reasonable cause. X will nonetheless be liable for the tax of $250 imposed by section 4944(b)(2) since an additional tax has been imposed upon Y and since X refused to agree to the removal of the investment from jeopardy.

Example (3). Assume the facts as stated in Example (1), except that Y removes $2,000 of the investment from jeopardy within the correction period, with X refusing to agree to the removal from jeopardy of the remaining $3,000 of such investment. Y will be liable for an additional tax of $750, imposed upon the portion of the investment which has not been removed from jeopardy within the correction period (i.e., $3,000×25%). Further X will be liable for an additional tax of $150, also imposed upon the same portion of the investment (i.e., $3,000×5%).

§ 53.4944–3 Exception for program-related investments.

(a) *In general.* (1) For purposes of section 4944 and §§ 53.4944–1 through 53.4944–6, a "program-related investment" shall not be classified as an investment which jeopardizes the carrying out of the exempt purposes of a private foundation. A "program-related investment" is an investment which possesses the following characteristics:

(i) The primary purpose of the investment is to accomplish one or more of the purposes described in section 170(c)(2)(B);

(ii) No significant purpose of the investment is the production of income or the appreciation of property; and

(iii) No purpose of the investment is to accomplish one or more of the purposes described in section 170(c)(2)(D).

(2) (i) An investment shall be considered as made primarily to accomplish one or more of the purposes described in section 170(c)(2)(B) if it significantly furthers the accomplishment of the private foundation's exempt activities and if the investment would not have been made but for such relationship between the investment and the accomplishment of the foundation's exempt activities. For purposes of section 4944 and §§ 53.4944–1 through 53.4944–6, the term "purposes described in section 170(c)(2)(B)" shall be treated as including purposes described in section 170(c)(2)(B) whether or not carried out by organizations described in section 170(c).

(ii) An investment in an activity described in section 4942(j)(5)(B) and the regulations thereunder shall be considered, for purposes of this paragraph, as made primarily to accomplish one or more of the purposes described in section 170(c)(2)(B).

(iii) In determining whether a significant purpose of an investment is the production of income or the appreciation of property, it shall be relevant whether investors solely engaged in the investment for profit would be likely to make the investment on the same terms as the private foundation. However, the fact that an investment produces significant income or capital appreciation shall not, in the absence of other factors, be conclusive evidence of a significant purpose involving the production of income or the appreciation of property.

(3) (i) Once it has been determined that an investment is "program-related" it shall not cease to qualify as a "program-related investment" provided that changes, if any, in the form or terms of the investment are made primarily for exempt purposes and not for any significant purpose involving the production of income or the appreciation of property. A change made in the form or terms of a program-related investment for the prudent protection of the foundation's investment shall not ordinarily cause the investment to cease to qualify as program-related. Under certain conditions, a program-related investment may cease to be program-related because of a critical change in circumstances, as, for example, where it is serving an illegal purpose or the private purpose of the foundation or its managers.

(ii) If a private foundation changes the form or terms of an investment, and if, as a result of the application of subdivision (i) of this subparagraph, such investment no longer qualifies as program-related, the determination whether the investment jeopardizes the carrying out of exempt purposes shall be made pursuant to the provisions of § 53.4944–1(a)(2).

(b) *Types of program-related investments.* A program-related investment may consist of an interest in any form of property or of any credit arrangement, including, but not limited to, any type of securities, mortgages, or guarantees. The following are examples of types of investments which ordinarily will satisfy the requirements of paragraph (a) of this section as program-related investments:

(1) Low-interest or interest-free loans to needy students;

(2) High-risk investments in low-income housing operated on a nonprofit basis;

(3) Loans to or investments in small businesses where commercial sources of funds are not readily available at reasonable interest rates and where the funds are being used as part of a program of economic assistance for members of a charitable class;

(4) Investments in businesses in deteriorated urban areas where the investments are part of a program to revitalize the economy of such areas by providing employment or training for the unemployed or underemployed residents thereof; and

(5) Investments in nonprofit organizations for the purpose of combating community deterioration.

The quality of the investment from a financial standpoint is irrelevant if it satisfies the requirements of paragraph (a) of this section. Thus, for example, even a low-risk investment may qualify as program-related.

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

Example (1). X is a small business enterprise located in a deteriorated urban area and owned by members of an economically disadvantaged minority group. Conventional sources of funds are unwilling or unable to provide funds to X on terms it considers economically feasible. Y, a private foundation, makes a loan to X bearing interest at or below the market rate for commercial loans of comparable risk pursuant to a program run by Y to make such loans. Y's primary purpose for making such loans is to encourage the economic development of such minority groups. The financial terms of the loans are primarily intended to demonstrate to the financial community the economic viability of such enterprises, and the loans have no significant purpose involving the production of income or the appreciation of property. Accordingly, the loan is a program-related investment even though Y may earn income from the investment in an amount comparable to or higher than earnings from conventional portfolio investments. The loan significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities.

Example (2). Assume the facts as stated in Example (1), except that after the date of execution of the loan Y extends the due date of the loan. The extension is granted in order to permit X to achieve greater financial stability before it is required to repay the loan. Since the change in the terms of the loan is made primarily for exempt purposes and not for any significant purpose involving the production of income or the appreciation of property, the loan shall continue to qualify as a program-related investment.

Example (3). X is a small business enterprise located in a deteriorated urban area and owned by members of an economically disadvantaged minority group. Conventional sources of funds are unwilling to provide funds to X at reasonable interest rates unless it increases the amount of its equity capital. Consequently, Y, a private foundation, purchases shares of X's common stock pursuant to a program run by Y to provide such assistance. Y's primary purpose in purchasing the stock is to encourage the economic development of such minority group, and no significant purpose involves the production of income or the appreciation of property. Accordingly, the purchase of the common stock is a program-related investment, even though Y may realize a profit if X is successful and the common stock appreciates in value. The investment significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the investment and Y's exempt activities.

Example (4). X is a business enterprise which is not owned by low-income persons or minority group members, but the continued operation of X is important to the economic well-being of a deteriorated urban area because X employs a substantial number of low-income persons from such area. Conventional sources of funds are unwilling or unable to provide funds to X on terms it considers economically feasible. Y, a private foundation, makes a loan to X at an interest rate below the market rate for commercial loans of comparable risk with a provision for increasing the interest rate if its operations become profitable. The purpose of such provision is to demonstrate the economic viability of X to the financial community and help to obtain financing from conventional sources in the future. The loan is made pursuant to a program run by Y to assist low-income persons by providing increased economic opportunities and to prevent community deterioration. No significant purpose of the loan involves the production of income or the appreciation of property. Accordingly, the loan is a program-related investment since the investment significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities.

Example (5). X is a business enterprise which is financially secure and the stock of which is listed and traded on a national exchange. Y, a private foundation, makes a loan to X at an interest rate below the market rate in order to induce X to establish a new plant in a deteriorated urban area which, because of the high risks involved, X would be unwilling to establish absent such inducement. The loan is made pursuant to a program run by Y to enhance the economic development of the area by providing employment opportunities for low-income persons at the new plant, and no significant purpose involves the production of income or the appreciation of property. Even though X is large and established, the investment is program-related since it significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities.

Example (6). X is a business enterprise which is owned by a nonprofit community development corporation. When fully operational, X will market agricultural products, thereby providing a marketing outlet for low-income farmers in a depressed rural area. Y, a private foundation, makes a loan to X bearing interest at a rate equal to the rate charged by financial institutions which have agreed to lend funds to X if Y makes the loan. The loan is made pursuant to a program run by Y to encourage conventional sources of funds to provide funds for ventures which may enhance the economic redevelopment of depressed areas, and no significant purpose involves the production of income or the appreciation of property. Accordingly, the loan is a program-related investment, even though the rate of financial return to Y is the same as the rate of return to participating financial institutions whose primary purpose for making the loan is financial. The loan significantly furthers the accomplishment of Y's exempt activities and would not have been made but for such relationship between the loan and Y's exempt activities.

Example (7). X, a private foundation, invests $100,000 in the common stock of corporation M. The dividends received from such investment are later applied by X in furtherance of its exempt purposes. Although there is a relationship between the return on the investment and the accomplishment of X's exempt activities, there is no relationship between the investment per se and such accomplishment. Therefore, the investment cannot be considered as made primarily to accomplish one or more of the purposes described in section 170(c)(2)(B) and cannot qualify as program-related.

Example (8). S, a private foundation, makes an investment in T, a business corporation, which qualifies as a program-related investment under section 4944(c) at the time that it is made. All of T's voting stock is owned by S. T experiences financial and management problems which, in the judgment of the foundation, require changes in management, in financial structure or in the form of the investment. The following three methods of resolving the problems appear feasible to S, but each of the three methods would result in reduction of the exempt purposes for which the program-related investment was initially made:

(*a*) *Sale of stock or assets.* The foundation sells its stock to an unrelated person. Payment is made in part at the time of sale; the balance is payable over an extended term of years with interest on the amount outstanding. The foundation receives a purchase-money mortgage.

(*b*) *Lease.* The corporation leases its assets for a term of years to an unrelated person, with an option in the lessee to buy the assets. If the option is exercised, the terms of payment are to be similar to those described in (*a*) of this example.

(*c*) *Management contract.* The corporation enters into a management contract which gives broad operating authority to one or more unrelated persons for a term of years. The foundation and the unrelated persons are obligated to contribute toward working capital requirements. The unrelated persons will be compensated by a fixed fee or a share of profits, and they will receive an option to buy the stock held by S or the assets of the corporation. If the option is exercised, the terms of payment are to be similar to those described in (*a*) of this example.

Each of the three methods involves a change in the form or terms of a program-related investment for the prudent protection of the foundation's investment. Thus, under § 53.4944–3(a)(3)(i), none of the three transactions (nor any debt instruments or other obligations held by S as a result of engaging in one of these transactions) would cause the investment to cease to qualify as program-related.

§ 53.4944–4 Special rules.

(a) *Joint and several liability.* In any case where more than one foundation manager is liable for the tax imposed under section 4944(a)(2) or (b)(2) with respect to any one jeopardizing investment, all such foundation managers shall be jointly and severally liable for the tax imposed under each such paragraph with respect to such investment.

(b) *Limits on liability for management.* With respect to anyone jeopardizing investment, the maximum amount of tax imposed by section 4944(a)(2) shall not exceed $5,000, and the maximum amount of tax imposed by section 4944(b)(2) shall not exceed $10,000.

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

Example (1). A, B, and C are foundation managers of X, a private foundation. Assume that A, B, and C are liable for both initial and additional taxes under sections 4944(a)(2) and 4944(b)(2), respectively, for the following investments by X: an investment of $5,000 in the common stock of corporation M, and an investment of $10,000 in the common stock of corporation N. A, B, and C will be jointly and severally liable for the following initial taxes under section 4944(a)(2): a tax of $250 (i.e., 5 percent of $5,000) for each year (or part thereof) in the taxable period (as defined in section 4944(e)(1)) for the investment in M, and a tax of $500 (i.e., 5 percent of $10,000) for each year (or part thereof) in the taxable period for the investment in N. Further, A, B, and C will be jointly and severally liable for the following additional taxes under section 4944(b)(2): a tax of $250 (i.e., 5 percent of $5,000) for the investment in M, and a tax of $500 (i.e., 5 percent of $10,000) for the investment in N.

Example (2). Assume the facts as stated in Example (1), except that X has invested $500,000 in the common stock of M, and $1 million in the common stock of N. A, B, and C will be jointly and severally liable for the following initial taxes under section 4944(a)(2): a tax of $5,000 for the investment in M, and a tax of $5,000 for the investment in N. Further, A, B, and C will be jointly and severally liable for the following additional taxes under section 4944(b)(2): a tax of $10,000 for the investment in M, and a tax of $10,000 for the investment in N.

§ 53.4944–5 Definitions.

(a) *Taxable period—(1) In general.* For purposes of section 4944, the term "taxable period" means, with respect to any investment which jeopardizes the carrying out of a private foundation's exempt purposes, the period beginning with the date on which the amount is so invested and ending on whichever of the following is the earlier:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on the making of the investment by section 4944(a)(1); or

(ii) The date on which the amount so invested is removed from jeopardy.

(2) *Special rule.* Where a notice of deficiency referred to in subparagraph (1)(i) of this paragraph is not mailed because there is a waiver of the restrictions on assessment and collection of a deficiency, or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the taxable period.

(b) *Removal from jeopardy.* An investment which jeopardizes the carrying out of a private foundation's exempt purposes shall be considered to be removed from jeopardy when—

(1) The foundation sells or otherwise disposes of the investment, and

(2) The proceeds of such sale or other disposition are not themselves investments which jeopardize the carrying out of such foundation's exempt purposes.

A change by a private foundation in the form or terms of a jeopardizing investment shall result in the removal of the investment from jeopardy if, after such change, the investment no longer jeopardizes the carrying out of such foundation's exempt purposes. For purposes of section 4944, the making by a private foundation of one jeopardizing investment and a subsequent exchange by the foundation of such investment for another jeopardizing investment will be treated as only one jeopardizing investment, except as provided in § 53.4944–6 (b) and (c). For the treatment of a jeopardizing investment which is removed from jeopardy or otherwise transferred by a private foundation by the making of a grant or by bargain-sale, see sections 4941 and 4945 and the regulations thereunder. A jeopardizing investment cannot be removed from jeopardy by a transfer from a private foundation to another private foundation which is related to the transferor foundation within the meaning of section 4946(a)(1)(H)(i) or (ii), unless the investment is a program-related investment in the hands of the transferee foundation.

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

Example (1). X, a private foundation on the calendar year basis, makes a $1,000 jeopardizing investment on January 1, 1970. X thereafter sells the investment for $1,000 on January 3, 1971. The taxable period is from January 1, 1970, to January 3, 1971. X will be liable for an initial tax of $100, that is, a tax of 5 percent of the amount of the investment for each year (or part thereof) in the taxable period.

Example (2). Assume that both C and D are investments which jeopardize exempt purposes. X, a private foundation, purchases C in 1971 and later exchanges C for D. Such exchange does not constitute a removal of C from jeopardy. In addition, no new taxable period will arise with respect to D, since, for purposes of section 4944, only one jeopardizing investment has been made.

Example (3). Assume the facts as stated in Example (2), except that X sells C for cash and later reinvests such cash in D. Two separate investments jeopardizing exempt purposes have resulted. Since the cash received in the interim is not of a jeopardizing nature, the amount invested in C has been removed from jeopardy and, thus, the taxable period with respect to C has been terminated. The subsequent reinvestment of such cash in D gives rise to a new taxable period with respect to D.

(d) *Correction period—(1) In general.* For purposes of section 4944, the correction period shall begin with the date on which the investment which jeopardizes the exempt purposes of the private foundation is entered into and end 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4944(b)(1). This period shall be extended by any period in which a deficiency cannot be assessed under section 6213(a) and any other period which the Commissioner determines is reasonable and necessary to bring about removal of such investment from jeopardy.

(2) *Extensions of correction period.* (i) Except as provided in subdivision (ii) of this subparagraph, the Commissioner ordinarily will not extend the correction period for an investment which jeopardizes exempt purposes unless the following factors are present—

(a) The foundation or an appropriate State officer (as defined in section 6104(c)(2)) is actively in good faith seeking to remove the investment from jeopardy;

(b) The investment cannot reasonably be expected to be removed from jeopardy during the unextended correction period; and

(c) The jeopardizing investment appears to have been an isolated occurrence and it appears unlikely that the foundation will make similar investments in the future.

The fact that a jeopardizing investment is decreasing in value shall not, by itself, prevent an extension of the correction period with respect to such investment.

(ii) If a foundation pays a tax imposed under section 4944(a)(1) with respect to an investment and thereafter files a claim for refund of such tax within the unextended correction period, and if such foundation has not filed a petition contesting the tax with respect to such investment with the Tax Court within the time prescribed by section 6213(a), the Commissioner shall extend the correction period during the pendency of the claim. If such claim is denied, the correction period will be extended by an additional 90 days to permit the foundation to file a suit or proceeding referred to in section 7422(b) with respect to such claim or to make the required correction. If such suit or proceeding is filed, the correction period will be extended by the Commissioner during the pendency of such suit or proceeding.

§ 53.4944–6 Special rules for investments made prior to January 1, 1970.

(a) Except as provided in paragraph (b) or (c) of this section, an investment made by a private foundation prior to January 1, 1970, shall not be subject to the provisions of section 4944.

(b) If the form or terms of an investment made by a private foundation prior to January 1, 1970, are changed (other than as described in paragraph (c) of this section) on or after such date, the provisions of § 53.4944–1(a)(2)(iii) shall apply with respect to such investment.

(c) In the case of an investment made by a private foundation prior to January 1, 1970, which is exchanged on or after such date for another investment, for purposes of section 4944 the foundation will be considered to have made a new investment on the date of such exchange, unless the post-1969 investment is described in § 53.4944–1(a)(2)(ii)(*b*). Accordingly, a determination, under § 53.4944–1(a)(2)(i), whether the investment jeopardizes the carrying out of the foundation's exempt purposes shall be made at such time.

[FR Doc.71–8922 Filed 6–23–71;8:52 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Ch. X]

[Ex Parte No. 268]

DETERMINATION OF AVOIDABLE LOSSES UNDER THE RAIL PASSENGER SERVICE ACT OF 1970

Extension of Filing Date

JUNE 21, 1971.

In accordance with the Commission's notice of proposed rulemaking and order dated March 23, 1971, and published in the May 4, 1971, issue of the FEDERAL REGISTER (36 F.R. 8327), the date on or before which initial statements were due to be filed was fixed as June 24, 1971, by notice to all parties dated May 21 and served May 26, 1971.

At the request of National Railroad Passenger Corporation (AMTRAK), the date for filing initial statements is hereby extended to August 31, 1971. Statements in reply will be due on or before September 20, 1971. An original and 15 copies of each party's statement, including a certificate showing service upon all parties of record, should be directed to the Interstate Commerce Commission, Office of Proceedings, Room 5349, Washington, D.C. 20423.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8885 Filed 6-23-71;8:49 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 924]

FRESH PRUNES GROWN IN WASHINGTON AND OREGON

Notice of Proposed Rule Making

Consideration is being given to the following proposal, which would limit the handling of fresh prunes by establishing minimum grades and sizes recommended by the Washington-Oregon Fresh Prune Marketing Committee, established pursuant to the marketing agreement and Order No. 924 (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington and in Umatilla County, Oreg. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than the seventh day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The recommendations of the Washington-Oregon Fresh Prune Marketing Committee reflect its appraisal of the crop and current and prospective market conditions. Shipments of prunes from the production area are expected to begin on or about August 2, 1971. The grade and size requirements provided herein are necessary to prevent the handling, on and after August 2, 1971, of any prunes which do not comply with such requirements, so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while maximizing returns to producers pursuant to the declared policy of the act. Individual shipments, not exceeding 500 pounds, of prunes of the Stanley or Merton varieties of prunes, subject to necessary safeguards, are excepted from these requirements because the production of these varieties is relatively small and those few which are produced are primarily consumed locally or are sold for home use and not for resale. Individual shipments, not exceeding 150 pounds, of any variety other than Stanley or Merton varieties of prunes sold for home use and not for resale, subject to necessary safeguards, are excepted from these requirements in that the quantity of prunes so handled is relatively inconsequential when compared with the total quantity handled, and because it would be administratively impractical to regulate the handling of such shipments due to the nearness of the source of supply.

Such proposal reads as follows:

§ 924.310 Prune Regulation 9.

(a) Order: During the period August 2, 1971, through July 31, 1972, no handler shall handle any lot of prunes, except prunes of the Brooks variety, unless such prunes meet the following applicable requirements, or are handled in accordance with subparagraph (3) of this paragraph:

(1) Minimum grade: such prunes grade at least U.S. No. 1: *Provided*, That any prunes having not less than two-thirds (⅔) of the surface with purplish color may be shipped if they otherwise grade at least U.S. No. 1;

(2) Minimum size: Such prunes, except prunes of the Stanley variety, measure not less than 1¼ inches in diameter: *Provided*, That not more than 10 percent, by count, of such prunes may fail to meet such diameter requirement; and

(3) Notwithstanding any other provision of this regulation, any individual shipment which, in the aggregate, does not exceed 500 pounds net weight, of prunes of the Stanley or Merton varieties of prunes, or 150 pounds net weight, of prunes of any variety other than Stanley or Merton varieties of prunes, which meets each of the following requirements may be handled without regard to the restrictions of this paragraph, of § 924.41 (Assessments), and of § 924.55 (Inspection and certification):

(i) The shipment consists of prunes sold for home use and not for resale, and

(ii) Each container is stamped or marked with the handler's name and address and with the words "not for resale" in letters at least one-half inch in height.

(b) The term "U.S. No. 1" shall have the same meaning as when used in the U.S. Standards for Fresh Plums and Prunes (§§ 51.1520-51.1538 of this title); the term "purplish color" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Italian Prunes (May 1954) and in the Oregon State Department of Agriculture Standards for Italian Prunes (July 1965); and, except as otherwise specified, all other terms shall have the same meaning as when used in the marketing agreement and order.

Dated: June 21, 1971.

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

[FR Doc.71-8892; Filed 6-23-71;8:49 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 70-EA-98]

TRANSITION AREAS

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to

Part 71 of the Federal Aviation Regulations that would alter the 700-foot floor portion of the Rockland, Maine, transition area and the 1,200-foot floor portion of the Bangor, Maine, 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 identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

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

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The airspace actions proposed in this docket would:

1. Amend the 700-foot floor portion of the Rockland, Maine, transition area to read as follows:

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Knox County Regional Airport, Rockland, Maine (lat. 44°03'40" N., long. 69°06'05" W.), and within 3.5 miles each side of the 203° bearing from the Rockland RBN, extending from the 7.5-mile-radius area to 11.5 miles southwest of the RBN.

2. Amend the 1,200-foot floor portion of the Bangor, Maine, transition area to include the airspace bounded by a line beginning at lat. 43°48'00" N., long. 69°03'00" W.; thence to lat. 43°44'00" N., long. 69°19'42" W.; to lat. 43°50'00" N., long. 69°18'00" W.; thence to point of beginning.

The alteration of transition areas as proposed herein is needed to provide controlled airspace for aircraft executing approaches and departures at the Knox County Regional Airport in accordance with recently revised procedures.

These amendments are proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-8869 Filed 6-23-71;8:47 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-21]

CONTROL ZONE AND TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration (FAA) is considering amendments to Part 71 of the Federal Aviation Regulations that would alter the Mayport, Fla., control zone and Jacksonville, Fla., 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 identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received.

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

As parts of these proposals relate to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since these actions involve, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State

and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The airspace actions proposed in this docket would:

1. Amend the Mayport, Fla. (NS Mayport) control zone to read as follows:

Within a 5-mile radius of NS Mayport (lat. 30°23'25" N., long. 81°25'15" W.); within 3 miles each side of the 057° bearing from the Navy Mayport RBN, extending from the 5-mile-radius zone to 8.5 miles northeast of the RBN, excluding the portion southwest of a line connecting the two points of intersection with a 5-mile-radius circle centered on Craig Municipal Airport (lat. 30°20'15" N., long. 81°31'00" W.).

2. The Jacksonville, Fla., transition area would be amended to read as follows:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Jacksonville International Airport (lat. 30°29'26" N., long. 81°41'19" W.), NAS Jacksonville (lat. 30°14'00" N., long. 81°40'-30" W.). NAS Cecil Field (lat. 30°13'00" N., long. 81°52'45" W.), Craig Municipal Airport (lat. 30°20'15" N., long. 81°31'00" W.) and NS Mayport (lat. 30°23'25" N., long. 81°25'-15" W.).

The alterations of the control zone and transition area proposed herein are necessary to provide controlled airspace, specified by existing criteria, for aircraft executing instrument approach and departure procedures at NS Mayport and Craig Municipal Airport.

These amendments are proposed under the authority of sections 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 F.R. 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on June 17, 1971.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.71-8870 Filed 6-23-71;8:47 am]

National Highway Traffic Safety Administration

[49 CFR Part 571]

[Docket No. 71-13; Notice 1]

MOTOR VEHICLE BRAKE FLUIDS

Advance Notice of Proposed Motor Vehicle Safety Standard

The purpose of this notice is to request comments on requirements for motor vehicle brake fluids not included in Federal Motor Vehicle Safety Standard No. 116, *Motor Vehicle Brake Fluids*, published today (36 F.R. 11987).

Standard No. 116 specifies physical and chemical properties that effectively prohibit the use of fluids other than polyglycol and similar synthetic fluids in motor vehicle brake systems. Additional types of fluids, however, such as petroleum-base fluids and silicones, are either in service or undergoing development for eventual use in conventional brake systems and central hydraulic systems. The National Highway Traffic Safety Administration is considering rulemaking that would allow use of such fluids, in braking systems of motor vehicles on and after January 1, 1973, provided acceptable safety performance parameters can be established, with particular reference to water miscibility and component compatibility.

Specifically, the NHTSA requests comments concerning:

1. Minimum performance values for the following properties:

a. Boiling point—as applicable to specific types of brake fluid.

b. Resistance to vapor lock.

c. Viscosity at 212° F. and minus 40° F.

d. Acidity or alkalinity characteristics necessary for safe operation of each brake fluid.

e. High temperature stability.

f. Chemical stability.

g. Corrosion resistance.

h. Fluidity and appearance at low temperature.

i. Evaporation.

j. Water tolerance.

k. Compatibility with other fluids not covered by Standard No. 116, and with synthetic fluids.

l. Resistance to oxidation.

m. Stroking properties.

n. Effects on rubber, including a definition of a chemical formulation of rubber compound, and effects on rubber components of existing systems.

o. Resistance to shear degradation.

p. Resistance to spray ignition.

2. Means to insure that rubber components used in brake systems intended for use with fluids conforming to Standard No. 116 cannot be used as replacements for similar components in systems using fluids not included in Standard No. 116. One possibility is that rings, cups, seals, etc. should be of significantly different sizes.

3. Means to insure that incompatible fluids are not mixed. Fluid container labeling, and labeling and location of brake fluid reservoir are areas of possible regulation to achieve this desired end.

4. Data on water absorption of brake fluid. Possibly a simulated service test could be run on a complete brake system or central power system under various environmental conditions, followed by addition of specified amounts of water and performance of a second set of environmental tests.

Interested persons are invited to submit data, views, and arguments concerning the proposed regulations. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5217, 400 Seventh Street SW., Washington, DC 20591. It is requested, but not required, that 10 copies be submitted. All comments received before the close of business on September 20, 1971, will be considered, and will be available in the docket at the above address for examination both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

This advance notice of proposed rulemaking is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1401 and 1407), and the delegations of authority and 49 CFR 1.51 and 49 CFR 501.8.

Issued on June 16, 1971.

ROBERT L. CARTER,
Acting Associate Administrator, Motor Vehicle Programs.

[FR Doc. 71-8731 Filed 6-23-71;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Administration

[24 CFR Part 200]

[Docket No. R-71-119]

PROJECT SELECTION CRITERIA

Notice of Proposed Rule Making

The Department proposes to amend Chapter II of Title 24 of the Code of Federal Regulations to add a new Subpart N, entitled "Project Selection Criteria." The proposed subpart is intended to apprise sponsors, developers, and other interested persons of the criteria and data to be used by Area and Insuring Offices to evaluate:

(a) Requests for reservation of contract authority for lower income homeowners assistance projects under the National Housing Act (sec. 235(i) of the Act, 12 U.S.C. 1715z(i)),

(b) Requests for reservation of contract authority for rent supplement and lower income families assistance projects under section 236 of the Act (12 U.S.C. 1715z-1), and

(c) Applications for low-rent public housing assistance pursuant to the United States Housing Act of 1937 (42 U.S.C. 1401, et seq.). Because the clear and accurate presentation of the required data, and the priorities assigned to that data, are of the utmost importance in evaluating applications, we are publishing the proposed Project Selection Criteria which Area and Insuring Offices would be required to consider.

As indicated in the rating table which follows the criteria, an application will be disapproved in the event of either:

(a) Two or more "poor" ratings in either the 235(i) or 236 applications or three or more "poor" ratings on the low-rent public housing application; or

(b) A "poor" rating on any of the required criteria in any of the three applications.

The required criteria are: Item No. 1, "Community Need for Lower Income Housing"; Item No. 2, "Efficient Production"; Item No. 3, "Nondiscriminatory Location"; Item No. 4 "Improved Environmental Location for Lower Income Families"; Item No. 6, "Relationship to Orderly Growth and Development"; and, if applicable, Item No. 8, "Provision for Sound Housing Management."

When these proposed regulations become final, they will supercede the Nondiscrimination in Housing section of the site selection chapter of the HUD Low-Rent Housing Preconstruction Handbook, RHA 7410.1(2)(g).

Interested persons are invited to participate in the making of the proposed rule by submitting written data, views, or statements with regard to the proposed regulations. Communications should identify the proposed rule by the above docket number and title and should be filed in triplicate with the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Washington, D.C. 20410. All relevant material received on or before July 26, 1971, will be considered by the Secretary before taking action on the proposal. Copies of comments submitted will be available during business hours, both before and after the specified closing date, at the above address, for examination by interested persons.

The proposed Subpart N reads as follows:

Subpart N—Project Selection Criteria

§ 200.700 Purpose.

The purpose of this subpart is to set forth the project selection criteria to be used in evaluating (a) requests for reservation of contract authority for projects under section 235(i) of the National Housing Act; (b) requests for reservation of contract authority for rent supplements and projects under section 236 of the Act; and (c) applications for low-rent housing assistance under the United States Housing Act of 1937.

§ 200.705 Authority.

The regulations in this subpart are issued pursuant to Executive Order 11063, 27 F.R. 11527; title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d–1; title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608; sections 235(i) and 236 of the National Housing Act (12 U.S.C. 1715z(i) and 1715z–1); and the United States Housing Act of 1937 (42 U.S.C. 1401).

§ 200.710 Request for reservation of contract authority for section 235 projects.

A request for reservation of contract authority for a proposed project pursuant to section 235(i) of the National Housing Act shall be evaluated and processed in accordance with the following Evaluation of Request:

EVALUATION OF REQUESTS FOR RESERVATION OF CONTRACT AUTHORITY—SECTION 235(i)

☐ Reservation
☐ Priority registration
Date of request _____
Builder or developer: _____
Identification of subdivision: _____
Registration number, if approved _____

INSTRUCTIONS: In evaluating applications for low-rent public housing, the Area Office shall take into consideration the following selection criteria. Each criterion should be commented upon in the space provided and evaluated by checking the appropriate box in each category. Only one box should be checked in each category. The criteria shall be evaluated in accordance with the guidance provided in the instructions set forth hereinafter.

1. *Community need for lower income housing*—☐ Superior ☐ Adequate ☐ Poor.

(a) Relative need for housing by lower income families in the neighborhood and market area to be served. _____

(b) Proposed unit types conform with the composition of the lower income housing need in the neighborhood and market area to be served. _____

(c) Housing will serve as a relocation resource for families displaced by governmental action. _____

2. *Efficient production*—☐ Superior ☐ Adequate ☐ Poor.

(a) Experience and resources of the sponsor/developer to proceed promptly to construction and completion. _____

(b) Ability of the sponsor/developer to provide housing at the lowest practicable cost and rentals without sacrificing good design and a marketable product. _____

3. *Nondiscriminatory location*—☐ Superior ☐ Adequate ☐ Poor.

(a) Outside an area of minority concentration. _____

(b) Area substantially racially mixed. _____

(c) In area of minority concentration but project will be part of major comprehensive development providing housing at various income levels and expected to be racially inclusive. _____

(d) In area of minority concentration but responsive to overriding need for housing which cannot feasibly be met by other new or existing housing. _____

4. *Improved environmental location for lower income families*—☐ Superior ☐ Adequate ☐ Poor.

The opportunity for low-income families to live in neighborhoods which are:

(a) Outside areas which have an excessive concentration of subsidized housing. _____

(b) Accessible to job opportunities. _____

(c) Provided with good transportation at reasonable cost. _____

(d) Accessible to good educational, commercial, and recreational facilities. _____

5. *Effect of proposed housing upon neighborhood environment*—☐ Superior ☐ Adequate ☐ Poor.

(a) Compatibility of the land use concept and architectural design of the proposed housing with the existing neighborhood. _____

(b) Ability of project to uphold or improve existing property values. _____

(c) Compatibility of density levels of the proposed housing with existing and projected plans for the neighborhood. _____

6. *Relationship to orderly growth and development*—☐ Superior ☐ Adequate ☐ Poor.

(a) Neighborhood is undergoing comprehensive improvement via urban renewal, model cities, or rehabilitation—either Federal, State, or locally assisted. _____

(b) Proposed housing is compatible with A–95 areawide planning and/or other established local planning. _____

(c) Project will contribute to orderly and economical community growth. _____

7. *Employment and utilization of employees and business in project area*—☐ Superior ☐ Adequate ☐ Poor.

Project will provide an opportunity for training and employment of lower income persons residing in the area and/or opportunity for work to be performed by business concerns located in or owned in substantial part by persons residing in the area. _____

SUMMARY

Score on required criteria 1, 2, 3, 4, 6	Total score	Priority group (circle appropriate group number)
Superiors	Superiors	1. At least 5 superior ratings and no poor ratings, or 6 superior ratings and 1 poor rating.
Adequates	Adequates	2. Up to 4 superior ratings and no poor ratings, or 5 superior ratings and 1 poor rating.
Poors	Poors	3. Up to 4 superior ratings and 1 poor rating, or 5 superior ratings and 2 poor ratings.
		4. Up to 4 superior ratings and 2 poor ratings.

☐ *Disapproval.* More that 2 Poor ratings, or one Poor rating on a required criterion.

NOTE: A request which does not have at least an adequate rating on all of the required criteria Nos. 1, 2, 3, 4, 6 shall be disapproved. Proposals in priority group No. 1 shall be processed ahead of those in a lower priority group. Proposals in priority group No. 2 shall be processed ahead of those in groups No. 3 and No. 4, and those in group No. 3 ahead of those in No. 4. Within each group proposals shall be processed in order of date of receipt in the office.

Criteria and Reviewers (Name, Title, Date)

1. ----------
2. ----------
3. ----------
4. ----------
5. ----------
6. ----------
7. ----------

INSTRUCTIONS FOR EVALUATION OF REQUESTS FOR RESERVATION OF CONTRACT AUTHORITY—SECTION 235(i)

GENERAL—Appropriate Area or Insuring Office staff shall review the criteria which relate to their responsibilities. Final feasibility approval is dependent upon satisfying all statutory and administrative requirements which are a normal part of processing.

1. *Community Need for Lower Income Housing.*

A "superior" rating shall be given under the following conditions: Proposed unit types conform to the needs of the lower income population; there is a shortage of standard housing to meet the needs of the lower income population of the housing market area, taking into account existing employment and employment opportunities; waiting lists for existing projects are substantial; or, the housing will serve as a relocation resource for families displaced by governmental action.

An "adequate" rating shall be given if the proposed unit types conform to the needs of the lower income population; there is not a substantial supply of standard housing available to the lower income population, taking into account existing employment and employment opportunities.

A "poor" rating shall be given if the proposed unit types do not conform to the needs of the lower income population; or if there exists a substantial supply of standard housing available to the lower income population, taking into account existing employment and employment opportunities.

2. *Efficient Production.*

A "superior" rating shall be given if it appears likely that the targeted production dates will be met, and that the housing will be produced at a cost at least 10 percent below the cost of comparable units being produced in the area.

An "adequate" rating shall be given if it appears likely that the start of construction or rehabilitation will occur within 9 months from approval of program reservation, and that the housing will be produced at a cost which does not exceed the cost of comparable units being produced in the area by more than 5 percent.

A "poor" rating shall be given if it appears likely that more than 9 months will be required from date of approval of reservation to start of construction or rehabilitation, and/or the housing will be produced at a cost which exceeds the comparable cost by more than 10 percent.

3. *Nondiscriminatory Location.*

A "superior" rating shall be given if the proposed project (1) will be located in an area with respect to which there is no present likelihood, in the judgment of the area or insuring office director, that it will become one of minority group concentration, or (2) will be located in an area of minority concentration but is to be located in a major comprehensive development which will include a range of housing at various income levels and where experience and judgment indicate that the area will have a racially inclusive residential pattern.

An "adequate" rating shall be given (1) if the proposed project will be located in an area which is substantially racially mixed and on the basis of existing demographic trends it appears that the project will have no significant effect on the proportion of minority to nonminority families, or (2) is the proposed project will provide housing in or near an area of minority concentration in response to an overriding need which cannot otherwise feasibly be met. In the case of an "adequate" rating based on (2), the rating shall be accompanied by documented findings based upon relevant racial and socioeconomic information supporting both the overriding need and the availability of alternate housing.

A "poor" rating shall be given to any proposed project if the conditions specified above are not met.

4. *Improved Environmental Location for Lower Income Families.*

A "superior" rating shall be given if the percentage of subsidized housing to the total number of housing units in the neighborhood will be less than 15 percent, and travel time via adequate public transportation from the neighborhood to commercial and industrial job centers is less than 30 minutes and the proposed housing will be located in a neighborhood with good education, commercial, and recreational facilities.

An "adequate" rating shall be given if the percentage of subsidized units is less than 25 percent, and travel time to job centers is less than 60 minutes, and the proposed housing will be located in a neighborhood with average educational, commercial, and recreational facilities.

A "poor" rating shall be given if the percentage of subsidized units is more than 25 percent, or if travel time to major job centers is more than 60 minutes, or if adequate educational, commercial, and recreational facilities are not available in the neighborhood or are not easily accessible via low cost public transportation.

For the purposes of the above determination, the term "neighborhood" generally should not exceed a ½-mile radius from the site of a proposed project.

5. *Effect of Proposed Housing Upon Neighborhood Environment.*

A "superior" rating shall be given if the proposed project will result in a substantial improvement in the quality of life within the neighborhood, and the proposed housing will improve the neighborhood in which it is located.

An "adequate" rating shall be given if the project design is compatible with the neighborhood, and if the project will maintain or improve the quality of life.

A "poor" rating shall be given if the project design is likely to reduce living standards and conditions in the neighborhood.

6. *Relationship to Orderly Growth and Development.*

A "superior" rating shall be given if the proposed project (1) will be located in and is consistent with plans for a neighborhood that is undergoing comprehensive improvement via urban renewal, model cities, or Project Rehab—either Federal, State, or locally assisted; (2) has been requested by residents of the neighborhood who have participated in and planned an improvement program for their neighborhood; or (3) will affirmatively contribute to orderly growth and development in the metropolitan area, either by reference to A-95 planning or otherwise.

An "adequate" rating shall be given if the project is part of an improvement program to stabilize or upgrade the neighborhood or its equivalent, or is compatible with ongoing growth trends in the metropolitan area, either by reference to A-95 planning or otherwise.

A "poor" rating shall be given if the project is not part of an established improvement program, or is inconsistent with sound growth patterns.

7. *Employment and Utilization of Employees and Business in Project area.*

A "superior" rating shall be given if the developer, contractors and subcontractors have definite plans to train and employ lower income persons residing in the proposed project area; and to actively seek out business concerns located in or owned in substantial part by persons living in the proposed project area; and if the developer has plans for the training and employment of lower income persons residing in the project area in the management of the project.

An "adequate" rating shall be given to proposals which provide some opportunities for training and employment of lower income persons residing in the project area; or which will provide opportunities for business concerns located in or owned in substantial part by persons living in the proposed project area; or which will provide for the training and employment of lower income persons residing in the project area in the management of the project.

A "poor" rating shall be given if training or employment opportunities will not be provided and it is unlikely that area businesses will perform any work on the project.

§ 200.715 Request for reservation of contract authority for rent supplement and section 236 projects.

A request for reservation of contract authority for rent supplement and projects pursuant to section 236 of the National Housing Act shall be evaluated and processed in accordance with the following Evaluation of Request:

EVALUATION OF REQUEST FOR RESERVATION OF CONTRACT AUTHORITY FOR RENT SUPPLEMENT AND SECTION 236 PROJECTS

☐ Section 236
☐ Rent supplement
Date of request ----------
Builder or developer: ----------
Location of proposed project: ----------
Registration number, if approved ----------

INSTRUCTIONS: In evaluating applications for low-rent public housing, the Area Office shall take into consideration the following selection criteria. Each criterion should be commented upon in the space provided and evaluated by checking the appropriate box in each category. Only one box should be checked in each category. The criteria shall be evaluated in accordance with the guidance provided in the instructions set forth hereinafter.

1. *Community need for lower income housing*—☐ Superior ☐ Adequate ☐ Poor.

(a) Relative need for housing by lower income families in the neighborhood and market area to be served. ----------
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(b) Proposed unit types conform with the composition of the low income housing need in the neighborhood and market area to be served. ----------
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(c) Housing will serve as a relocation resource for families displaced by governmental action. ----------
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2. *Efficient production*—☐ Superior ☐ Adequate ☐ Poor.

(a) Experience and resources of the sponsor/developer to proceed promptly to construction and completion. _____

(b) Ability of the sponsor/developer to provide housing at the lowest practicable cost and rentals without sacrificing good design and a marketable product. _____

3. *Nondiscriminatory location*—☐ Superior ☐ Adequate ☐ Poor.

(a) Outside an area of minority concentration _____

(b) Area substantially racially mixed _____

(c) In area of minority concentration but project will be part of major comprehensive development providing housing at various income levels and expected to be racially inclusive _____

(d) In area of minority concentration but responsive to overriding need for housing which cannot feasibly be met by other new or existing housing _____

4. *Improved environmental location for lower income families*—☐ Superior ☐ Adequate ☐ Poor.

The opportunity for low income families to live in neighborhoods which are:

(a) Outside areas which have an excessive concentration of subsidized housing. _____

(b) Accessible to job opportunities. _____

(c) Provided with good transportation at reasonable cost. _____

(d) Accessible to good educational, commercial, and recreational facilities. _____

5. *Effect of proposed housing upon neighborhood environment*—☐ Superior ☐ Adequate ☐ Poor.

(a) Compatibility of the land use concept and architectural design of the proposed housing with the existing neighborhood. _____

(b) Ability of project to uphold or improve existing property values. _____

(c) Compatibility of density levels of the proposed housing with existing and projected plans for the neighborhood. _____

6. *Relationship to orderly growth and development*—☐ Superior ☐ Adequate ☐ Poor.

(a) Neighborhood is undergoing comprehensive improvement via urban renewal, model cities or rehabilitation—either Federal, State, or locally assisted. _____

(b) Proposed housing is compatible with A–95 areawide planning and/or other established local planning. _____

(c) Project will contribute to orderly and economical community growth. _____

7. *Employment and utilization of employees and business in project area*—☐ Superior ☐ Adequate ☐ Poor.

Project will provide an opportunity for training and employment of lower income persons residing in the area and/or opportunity for work to be performed by business concerns located in or owned in substantial part by persons residing in the area. _____

8. *Provision for sound housing management*—☐ Superior ☐ Adequate ☐ Poor.

Sponsor presents a plan to assure good management, social services and counseling, and to develop constructive tenant relations. _____

Score on required criteria 1, 2, 3, 4, 6, 8	Total score	Priority group (circle appropriate group number)
Superiors _____	Superiors _____	1. 5 or more ratings of superior and no poor ratings, or one poor and at least 6 superior ratings.
Adequates _____	Adequates _____	2. Up to 4 ratings of superior and no poor ratings, or 5 superiors, 2 adequates and 1 poor rating or 6 superiors and 2 poor ratings.
Poors _____	Poors _____	3. Up to 4 superior ratings and 1 poor rating, or 2 poor ratings and at least 4 superior ratings.
		4. Up to 3 superior ratings and 2 poor ratings.

☐ *Disapproval.* More than two ratings of Poor, or one rating of Poor on a required criterion.

NOTE: A request which does not have at least an Adequate rating on all of the required criteria Nos. 1, 2, 3, 4, 6, 8 shall be disapproved. Proposals in priority group No. 1 shall be processed ahead of those in a lower priority group. Proposals in priority group No. 2 shall be processed ahead of those in groups No. 3 and No. 4, and those in No. 3 ahead of those in No. 4. Within each group, proposals shall be processed in order of date of receipt in the office.

Criteria and Reviewers (Name, Title, Date)

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

INSTRUCTIONS FOR EVALUATION OF REQUESTS FOR RESERVATION OF CONTRACT AUTHORITY FOR RENT SUPPLEMENT OR SECTION 236 PROJECTS

GENERAL—Appropriate Area or Insuring Office staff shall review the criteria which relate to their responsibilities. Final feasibility approval is dependent upon satisfying all statutory and administrative requirements which are a normal part of processing.

1. *Community Need for Lower Income Housing.*

A "superior" rating shall be given under the following conditions: Proposed unit types conform to the needs of the lower income population; there is a shortage of standard housing to meet the needs of the lower income population of the housing market area, taking into account existing employment and employment opportunities; waiting lists for existing projects are substantial; or, the housing will serve as a relocation resource for families displaced by Governmental action.

An "adequate" rating shall be given if the proposed unit types conform to the needs of the lower income population; there is not a substantial supply of standard housing available to the lower income population, taking into account existing employment and employment opportunities.

A "poor" rating shall be given if the proposed unit types do not conform to the needs of the lower income population; or if there exists a substantial supply of standard housing available to the lower income population, taking into account existing employment and employment opportunities.

2. *Efficient Production.*

A "superior" rating shall be given if it appears likely that the targeted production dates will be met, and that the housing will be produced at a cost at least 10 percent below the cost of comparable units being produced in the area.

An "adequate" rating shall be given if it appears likely that the start of construction or rehabilitation will occur within 9 months from approval of program reservation, and that the housing will be produced at a cost which does not exceed the cost of comparable units being produced in the area by more than 5 percent.

A "poor" rating shall be given if it appears likely that more than 9 months will be required from date of approval of reservation to start of construction or rehabilitation, and/or the housing will be produced at a cost which exceeds the comparable costs by more than 10 percent.

3 *Nondiscriminatory Location.*

A "superior" rating shall be given if the proposed project (1) will be located in an area with respect to which there is no present likelihood, in the judgment of the area or insuring office director, that it will become one of minority group concentration, or (2) will be located in an area of minority concentration but is to be located in a major comprehensive development which will include a range of housing at various income levels and where experience and judgment indicate that the area will have a racially inclusive residential pattern.

An "adequate" rating shall be given (1) if the proposed project will be located in an area which is substantially racially mixed and on the basis of existing demographic trends it appears that the project will have no significant effect on the proportion of minority to non-minority families, or (2) if the proposed project will provide housing in or near an area of minority concentration in response to an overriding need which cannot otherwise feasibly be met. In the case of an "adequate" rating based on (2), the rating shall be accompanied by documented findings based upon relevant racial and socio-economic information supporting both the overriding need and the availability of alternate housing.

A "poor" rating shall be given to any proposed project if the conditions specified above are not met.

4. *Improved Environmental Location for Lower Income Families.*

A "superior" rating shall be given if the percentage of subsidized housing to the total number of housing units in the neighborhood will be less than 15 percent, and travel time via adequate public transportation from the neighborhood to commercial and industrial

job centers is less than 30 minutes and the proposed housing will be located in a neighborhood with good educational, commercial, and recreational facilities.

An "adequate" rating shall be given if the percentage of subsidized units is less than 25 percent, and travel time to job centers is less than 60 minutes, and the proposed housing will be located in a neighborhood with average educational, commercial, and recreational facilities.

A "poor" rating shall be given if the percentage of subsidized units is more than 25 percent, or if travel time to major job centers is more than 60 minutes, or if adequate educational, commercial, and recreational facilities are not available in the neighborhood or are not easily accessible via low cost public transportation.

For the purposes of the above determination, the term "neighborhood" generally should not exceed a ½-mile radius from the site of a proposed project.

5. *Effect of Proposed Housing Upon Neighborhood Environment.*

A "superior" rating shall be given if the proposed project will result in a substantial improvement in the quality of life within the neighborhood, and the proposed housing will improve the neighborhood in which it is located.

An "adequate" rating shall be given if the project design is compatible with the neighborhood, and if the project will maintain or improve the quality of life.

A "poor" rating shall be give . if the project design is likely to reduce living standards and conditions in the neighborhood.

6. *Relationship to Orderly Growth and Development.*

A "superior" rating shall be given if the proposed project (1) will be located in and is consistent with plans for a neighborhood that is undergoing comprehensive improvement via urban renewal, model cities, or Project Rehab—either Federal, State, or locally assisted; (2) has been requested by residents of the neighborhood, who have participated in and planned an improvement program for their neighborhood, or (3) will affirmatively contribute to orderly growth and development in the metropolitan area, either by reference to A–95 planning or otherwise.

An "adequate" rating shall be given if the project is part of an improvement program to stabilize or upgrade the neighborhood or its equivalent, or is compatible with ongoing growth trends in the metropolitan area, either by reference to A–95 planning or otherwise.

A "poor" rating shall be given if the project is not part of an established improvement program, or is inconsistent with sound growth patterns.

7. *Employment and Utilization of Employees and Business in Project Area.*

A "superior" rating shall be given if the developer, contractors, and subcontractors have definite plans to train and employ lower income persons residing in the proposed project area; and to actively seek out business concerns located in or owned in substantial part by persons living in the proposed project area; and if the developer has plans for the training and employment of lower income persons residing in the project area in the management of the project.

An "adequate" rating shall be given to proposals which provide some opportunities for training and employment of lower income persons residing in the project area; or which will provide opportunities for business concerns located in or owned in substantial part by persons living in the proposed project area; or which will provide for the training and employment of lower income persons residing in the project area in the management of the project.

A "poor" rating shall be given if training or employment opportunities will not be provided and it is unlikely that area businesses will perform any work on the project.

8. *Provision for Sound Housing Management.*

A "superior" rating will be given if the sponsor presents an outstanding plan to assure good management of the project when completed, and to provide social services and tenant counseling; and provides evidence of ability to carry out the proposed management plan.

An "adequate" rating shall be given if an acceptable plan is presented to accomplish the objectives outlined above.

A "poor" rating shall be given if there is any question regarding management capability to accomplish the above objectives.

§ 200.720 Application for low-rent public housing.

An application for low-rent public housing assistance under the United States Housing Act of 1937 shall be evaluated and processed in accordance with the following Evaluation of Application:

EVALUATION OF APPLICATIONS FOR LOW-RENT PUBLIC HOUSING

Date received _____
Local Housing Authority _____
Locality _____
Program type _____
Number of units _____

INSTRUCTIONS: In evaluating applications for low-rent public housing the Area Office shall take into consideration the following selection criteria. Each criterion should be commented upon in the space provided and evaluated by checking the appropriate box in each category. Only one box should be checked in each category. The criteria shall be evaluated in accordance with the guidance provided in the Instructions set forth hereinafter.

Community need for low-income housing—☐ Superior ☐ Adequate ☐ Poor.

(a) Relative need for housing by low-income families in the neighborhood and market area to be served. _____

(b) Proposed unit types conform with the composition of the low-income housing need in the neighborhood and market area to be served. _____

(c) Housing will serve as a relocation resource for families displaced by governmental action. _____

(d) Waiting list for public housing. _____

Efficient production—☐ Superior ☐ Adequate ☐ Poor.

(a) Time expected to be required from date of application approval to construction start, acquisition, or lease. _____

(b) Cost of housing relative to prototype costs. _____

Nondiscriminatory location — ☐ Superior ☐ Adequate ☐ Poor.

(a) Outside an area of minority concentration _____

(b) Area substantially racially mixed _____

(c) In area of minority concentration but project will be part of major comprehensive development providing housing at various income levels and expected to be racially inclusive _____

(d) In area of minority concentration but responsive to overriding need for housing which cannot feasibly be met by other new or existing housing _____

Improved environmental location for low-income families — ☐ Superior ☐ Adequate ☐ Poor.

The opportunity for low-income families to live in neighborhoods which are:

(a) Outside areas which have an excessive concentration of subsidized housing. _____

(b) Accessible to job opportunities. _____

(c) Provided with good transportation at unreasonable cost. _____

(d) Accessible to good educational, commercial, and recreational facilities. _____

5. *Effect of proposed housing upon neighborhood environment*—☐ Superior ☐ Adequate ☐ Poor.

(a) Compatibility of the land use concept and architectural design of the proposed housing with the existing neighborhood. _____

(b) Use of scattered sites. _____

(c) Compatibility of density levels of the proposed housing with existing and projected plans for the neighborhood. _____

6. *Relationship to orderly growth and development*—☐ Superior ☐ Adequate ☐ Poor.

(a) Neighborhood is undergoing comprehensive improvement via urban renewal, model cities, or rehabilitation—either Federal, State, or locally assisted. _____

(b) Proposed housing is compatible with A–95 areawide planning and/or other established local planning. _____

(c) Project will contribute to orderly and economical community growth. _____

7. *Employment and utilization of employees and business in project area*—☐ Superior ☐ Adequate ☐ Poor.

Project will provide an opportunity for training and employment of lower income persons residing in the area and/or opportunity for work to be performed by business concerns located in or owned in substantial part by persons residing in the area. _____

8. *Provision for sound housing management*—☐ Superior ☐ Adequate ☐ Poor.

(a) Administrative capacity. _____

(b) Financial position. _____

(c) Crime prevention encouragement. _____

(d) Provision of community services. _____

(e) Administration of tenant selection plan and good faith efforts to achieve integration. _____

(f) Management-tenant relations. _____

9. *Homeownership*—☐ Superior ☐ Adequate ☐ Poor.

(a) Homeownership opportunities of the proposed project. _____

(b) LHA has other homeownership projects existing or under development. _____

[Check as applicable]

Score on required criteria 1, 2, 3, 4, 6, 8	Total score	Priority group
Superiors	Superiors	1. (a) No poor ratings and 6 or more superior ratings. ☐
Adequates	Adequates	(b) One poor rating and 7 or more superior ratings. ☐
Poors	Poors	2. (a) No poor ratings and up to 5 superior ratings. ☐
		(b) One poor rating and 5 or 6 superior ratings. ☐
		3. (a) One poor rating and up to 4 superior ratings. ☐
		(b) Two poor ratings and 5 or more superior ratings. ☐
		4. (a) Two poor ratings and up to 4 superior ratings. ☐
		(b) Three poor ratings and 5 or 6 superior ratings. ☐
		5. Three poor ratings and up to 4 superior ratings. ☐

☐ *Disapproval.* More than three ratings of Poor, or one rating of Poor on a required criterion.

NOTE: A request which does not have at least an Adequate rating on all of the required criteria Nos. 1, 2, 3, 4, 6, 8 shall be disapproved. Proposals in higher ranking priority groups shall be processed ahead of those in lower priority groups. Within each group, proposals shall be processed in order of date of receipt in the office.

Criteria and Reviewers (Name, Title, Date)

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____

INSTRUCTIONS FOR EVALUATION OF APPLICATIONS FOR LOW-RENT PUBLIC HOUSING

A. *General.*—Appropriate Area Office staff shall review the criteria which relate to their responsibilities. Statements and other evidence of intent on the part of the applicant to comply at a "superior" or "adequate" level may be accepted in the absence of specific information needed to rate a criterion. If the terms of a statement of intent are not met, the scheduling of the application for future action shall be affected accordingly. Final application approval is dependent upon satisfying all statutory and administrative requirements which are a normal part of processing.

1. *Community Need for Low-Income Housing.*

A "superior" rating shall be given under the following conditions: Proposed unit types conform to the needs of the low-income population; there is a shortage of standard housing to meet the needs of the low-income population of the housing market area, taking into account existing employment and employment opportunities; waiting lists for existing projects are substantial; and the ratio of the number of families within public housing admission income limits to the existing and potential supply of public and rent supplement housing units is greater than 5:1; or, the housing will serve as a relocation resource for families displaced by governmental action.

An "adequate" rating shall be given if the proposed unit types conform to the needs of the low income population; there is not a substantial supply of standard housing available to the low income population, taking into account existing employment and employment opportunities; and the ratio of the number of families within public housing admission income limits to the supply of public and rent supplement housing units is greater than 2:1 (an exception to this required ratio is allowed for suburban communities willing to provide public housing for central city poor).

A "poor" rating shall be given if the proposed unit types do not conform to the needs of the low income population; or if there exists a substantial supply of standard housing available to the low-income population, taking into account existing employment and employment opportunities; or the ratio of eligible families to the supply of subsidized low-rent housing is less than 2:1.

2. *Efficient Production.*

A "superior" rating shall be given if it appears likely that the established production milestones will be met, and that the housing will be produced at a cost at least 10 percent below the applicable prototype costs.

An "adequate" rating shall be given if it appears likely that the start of construction or rehabilitation will occur within 18 months from approval of program reservation, and that the housing will be produced at a cost which does not exceed the prototype costs by more than 5 percent (unless the Area Director, through the Regional Administrator, secures the approval of the Assistant Secretary, HPMC, for a specific project).

A "poor" rating shall be given if it appears likely that more than 18 months will be required from approval of program reservation to start of construction or rehabilitation, and the housing will be produced at a cost which exceeds the prototype costs by more than 10 percent.

3. *Nondiscriminatory Location.*

A "superior" rating shall be given if the proposed project (1) will be located in an area with respect to which there is no present likelihood, in the judgment of the area director, that it will become one of minority group concentration, or (2) will be located in an area of minority concentration but is to be located in a major comprehensive development which will include a range of housing at various income levels and where experience and judgment indicate that the area will have a racially inclusive residential pattern.

An "adequate" rating shall be given (1) if the proposed project will be located in an area which is substantially racially mixed and on the basis of existing demographic trends it appears that the project will have no significant effect on the proportion of minority to nonminority families, or (2) if the proposed project will provide housing in or near an area of minority concentration in response to an overriding need which cannot otherwise feasibly be met. In the case of an "adequate" rating based on (2), the rating shall be accompanied by documented findings based upon relevant racial and socioeconomic information supporting both the overriding need and the availability of alternate housing.

A "poor" rating shall be given to any proposed project if the conditions specified above are not met.

4. *Improved Environmental location for Low-Income Families.*

A "superior" rating shall be given if the percentage of subsidized housing to the total number of housing units in the neighborhood will be less than 15 percent, and travel time via adequate public transportation from the neighborhood to commercial and industrial job centers is less than 30 minutes and the proposed housing will be located in a neighborhood with good educational, commercial, and recreational facilities.

An "adequate" rating shall be given if the percentage of subsidized units is less than 25 percent, and travel time to job centers is less than 60 minutes, and the proposed housing will be located in a neighborhood with average educational, commercial, and recreational facilities.

A "poor" rating shall be given if the percentage of subsidized units is more than 25 percent, or if travel time to major job centers is more than 60 minutes, or if adequate educational, commercial, and recreational facilities are not available in the neighborhood or are not easily accessible via low cost public transportation.

For the purposes of the above determination, the term "neighborhood" generally should not exceed a ½-mile radius from the site of a proposed project.

5. *Effect of Proposed Housing Upon Neighborhood Environment.*

A "superior" rating shall be given if the proposed project will result in a substantial improvement in the quality of life within the neighborhood, and the proposed housing will improve the neighborhood in which it is located.

An "adequate" rating shall be given if the project design is compatible with the neighborhood, and if the project will maintain or improve the quality of life.

A "poor" rating shall be given if the project design is likely to reduce living standards and conditions in the neighborhood.

6. *Relationship to Orderly Growth and Development.*

A "superior" rating shall be given if the proposed project (1) will be located in and is consistent with plans for a neighborhood that is undergoing comprehensive improvement via urban renewal, model cities, or Project Rehab—either Federal, State, or locally assisted; (2) has been requested by residents of the neighborhood who have participated in and planned an improvement program for their neighborhood, or (3) will affirmatively contribute to orderly growth and development in the metropolitan area, either in reference to A-95 planning or otherwise.

An "adequate" rating shall be given if the project is part of an improvement program to stabilize or upgrade the neighborhood or its equivalent, or is compatible with ongoing growth trends in the metropolitan area, either by reference to A–95 planning or otherwise.

A "poor" rating shall be given if the project is not part of an established improvement program, or is inconsistent with sound growth patterns.

7. *Employment and Utilization of Employees and Business in Project Area.*

A "superior" rating shall be given if the LHA has definite plans to: (1) Actively encourage developers, contractors and subcontractors to train and employ lower income persons residing in the proposed project area; (2) actively seek out business concerns located in or owned in substantial part by persons living in the proposed project area; and (3) actively implement plans for the training and employment of lower income persons residing in the project area in the management of the project.

An "adequate" rating shall be given if the LHA has agreed to give special consideration to: (1) Proposals from developers, etc., providing opportunities for training and employment of lower income persons residing in the project area; (2) proposals from business concerns located in or owned in substantial part by persons living in the proposed project area; and (3) the training and employment of lower income persons residing in the project area in the management of the project.

A "poor" rating shall be given if training opportunities will not be provided and it is unlikely that area businesses will perform any work on the project.

8. *Provision for Sound Housing Management.*

Rank separately as superior, adequate, or poor, the following specific criteria: (1) administrative capacity; (2) financial position; (3) maintenance; (4) crime prevention encouragement; (5) provision of community services; (6) administration of HUD-approved tenant selection plan and good faith efforts to achieve desegregation; and (7) management-tenant relations. If the rating of an LHA is "poor" on any of these items, no application should be approved unless: (1) The LHA has a satisfactory plan to improve in its area of deficiency (2) it can be shown that the new project will not be plagued by this deficiency; or (3) the provision of the new project will aid the LHA in overcoming this deficiency. Under no circumstances should a project be approved when an LHA in ranked "poor" in administrative capacity. The definitions of superior, adequate, or poor for these criteria shall be consistent with Housing Management policy.

In the case of an application from an LHA with no units under management, an "adequate" rating ordinarily will be given, unless there is information available which would justify a superior or poor rating. A "poor" rating shall always be assigned if there is any question regarding management feasibility. This is an especially important consideration in connection with a new LHA proposing a small program.

9. *Homeownership.*

A "superior" rating shall be given if the proposed project is to be developed as an authority-owned (Turnkey III) or leased (Turnkey IV) homeownership project.

An "adequate" rating shall be given if the LHA has other homeownership projects in some stage of development, or if it can be determined that the design of the project is such that eventual ownership by the tenants would be facilitated (e.g., detached, semi-detached, townhouse construction).

A "poor" rating shall be given if it appears unlikely that the proposed project will be converted to a homeownership program, and the design of the project is such that eventual ownership by the tenants will not be facilitated.

B. *Use of the Rating System.* All applications for low-rent public housing meeting the minimum requirement for assignment to a priority group shall be separated by the category of housing applied for (e.g., conventional, turnkey, leased—new construction). Within each production category, applications in higher ranking priority groups shall be processed ahead of those in the lower ranking priority groups. Within each priority group, applications shall be ordered by the date the applications were received in the office.

C. *Exceptions to the Rating System for Low-Rent Public Housing.*

1. At the discretion of the Area Office Director, an application meeting the minimum score may be placed in a higher priority group. The reasons for such special consideration shall be recorded.

2. Lower ranking applications for Indian housing or homeownership programs may be processed out-of-turn when necessary to meet the production targets in these categories.

3. Applications for units to be used as a resource for relocating displacees from urban renewal projects may be processed out-of-turn when necessary to assure that an Annual Contributions Contract will be executed by the time the Part II Loan and Grant Application is ready for approval.

4. Applications for units to be located in an urban renewal area may be processed out-of-turn when necessary to meet the urban renewal requirement that evidence of a program reservation must be submitted with the Part II Loan and Grant Application.

5. Lower ranking applications may be processed out-of-turn when necessary to meet our national goal of a balanced public housing program consisting of two-thirds family units and one-third elderly units.

GEORGE ROMNEY,
Secretary of Housing and Urban Development.

[FR Doc.71–8844 Filed 6–23–71;8:45 am]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 214]

STUDENTS, EMPLOYMENT, AND APPROVAL OF SCHOOLS

Notice of Proposed Rule Making

Pursuant to section 553 of title 5 of the United States Code (80 Stat. 383), notice is hereby given of the proposed issuance of the following rules pertaining to students, their employment, and the approval of schools for attendance by nonimmigrant students. In accordance with section 553, interested persons may submit to the Commissioner of Immigration and Naturalization, Room 757, 119 D Street NE., Washington, DC 20536, written data, views, or arguments, in duplicate, relative to the proposed rules. Such representations may not be presented orally in any manner. All relevant material received within 20 days following the date of publication of this notice will be considered.

PART 214—NONIMMIGRANT CLASSES

1. Paragraph (f) of § 214.2 is amended by adding a new subparagraph (1a) to read as follows:

(1a) *Full course of study.* A student shall be considered to be pursuing a "full course of study" within the meaning of section 101(a)(15)(F)(i) of the Act and this chapter only if (i) he is engaged in postgraduate studies at a college or university, or in undergraduate or postgraduate studies at a seminary, and an authorized official of the institution certifies that the student is engaged in a full course of study, or (ii) he is an undergraduate at a college or university and is carrying no less than 12 semester, trimester, or quarter hours of instruction or a program certified by an authorized official of the institution to be equivalent thereto; or (iii) he is taking courses at an institution other than a college, university or seminary aggregating at least 25 clock hours of school attendance per week if classroom instruction comprises the dominant part of the studies, or at least 30 hours of school attendance per week if shop or laboratory work comprises the dominant part of the studies. For purposes of determining whether the alien is engaged in a full course of study as described in this paragraph, classes scheduled to commence at 6 p.m. or later shall not be included or considered unless the student is regularly enrolled as a day student, the subjects taken are directly related to the course in which he is regularly enrolled, and those subjects are not offered or are not available in earlier classes. A school shall not certify that a student has been accepted for a full course of study and shall not issue a Form I–20 unless the student will be enrolled in a full course of study as defined in this paragraph. An alien seeking admission or extension of stay to pursue less than a full course of study may be admitted to the United States or his stay may be extended under section 101(a)(15)(B) of the Act as a temporary visitor for pleasure, if he is a bona fide nonimmigrant provided that permission to remain in the United States to pursue less than a full course of study shall not exceed 6 months in the aggregate. An alien who desires to attend school in the United States for more than 6 months may be permitted to do so only if he is pursuing a full course of study and is accorded a classification under section 101(a)(15)(F)(i) of the Act. An alien who was issued an F–1 visa or was admitted to the United States under a waiver of such visa or was granted a change to F–1 classification prior to August 1, 1971, notwithstanding that he was not taking a full course of study as defined in this paragraph, may continue to be classified F–1 until he completes his course of study at the school he was

attending prior to that date, provided he continues to carry no less than what was then considered by the school to be a full course of study and otherwise continues to maintain student status.

2. The third and 11th sentences are amended and a new sentence is added between the existing fifth and sixth sentences of subparagraph (3) of paragraph (f) *Students* of § 214.2 *Special requirements for admission, extension, and maintenance of status* to read as follows:

(3) *Employment.* * * * Permission to accept or continue employment because of economic necessity may be granted in increments of not more than 12 months each and while school is in session such employment may not exceed 20 hours per week. * * * However, when the course of study completed by the alien in this country was of less than 18 months' duration, permission may be granted to engage in employment for practical training for an aggregate number of months not exceeding the length of that course of study unless, in the case of a student who was engaged in postgraduate studies at a college, university, or seminary, the district director and the recommending school agree that permission for a greater number of months, not exceeding the permissible maximum of 18 months, is warranted. * * *. A student who is offered this kind of on-campus employment, or any other on-campus employment which will not displace a U.S. resident, does not require Service permission to be engaged in such employment. * * *

3. The second sentence of paragraph (g) *Reporting requirements* of § 214.3 *Petitions for approval of schools* is amended to read as follows: "An immediate report shall also be made in the case of each nonimmigrant who fails to carry a full course of study as defined in § 214.2(f)(1a), fails to attend classes to the extent normally required, or terminates his attendance at the institution."

4. The first sentence of paragraph (j) *Withdrawal of approval* of § 214.3 *Petitions for approval of schools* is amended to read as follows: "The approval of a school shall be withdrawn if it is no longer entitled to approval under section 101(a)(15)(F) of the Act, or under this part, for any reason including, but not limited to, the following: (1) Failure to submit reports required by paragraph (g) of this section; (2) issuance of Certificates of Eligibility, Forms I–20, to students lacking scholastic, financial, or language requirements; (3) issuance of Forms I–20 to aliens who will not be enrolled in or carry a full course of study; (4) failure to operate as a bona fide institution of learning; (5) failure to maintain a sound financial condition; (6) failure to employ qualified professional personnel, or (7) failure to maintain proper facilities for instruction."

5. Paragraph (k) *Issuance of Certificates of Eligibility* of § 214.3 *Petitions for approval of schools* is amended by adding the following sentence between the existing first and second sentences: "The Form I–20 must be issued in the United States by an authorized school official."

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

Dated: June 17, 1971.

RAYMOND F. FARRELL,
Commissioner of Immigration and Naturalization.

[FR Doc.71-8874 Filed 6-23-71;8:48 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19262; FCC 71-633]

FM BROADCAST STATIONS, SPARTA, ELBERTON, CLAXTON, LOUISVILLE, AND WASHINGTON, GA.

Table of Assignments

1. Notice of proposed rule making is hereby given concerning amendment of the FM Table of Assignments (§ 73.202 (b) of the rules) with respect to Sparta (RM–1706) and Elberton, Ga. (RM–1743), and related changes in other communities. The petitioner for Sparta is Hancock Committee for Social and Economic Development (Hancock Committee); and Elberton Broadcasting Co., Inc. (Elberton Broadcasting) is the petitioner for Elberton. As indicated in the report and order adopted this day in Docket No. 19144 (FCC 71–632), both Hancock Committee and Elberton Broadcasting filed counterproposals in that proceeding, but while denying the proposal for Burnettown, S.C. (RM–1452), with which they conflicted, we felt that it would be more appropriate to put these proposals out for separate rule making; see report and order in Docket No. 19144, paragraph 5. All population figures are from the 1970 Census, unless otherwise indicated.

2. By petition filed October 28, 1970, Hancock Committee seeks assignment of an FM channel to Sparta, population 2,172, the seat of Hancock County, population 9,019, the city and county now having no broadcast stations or FM channels assigned. By petition filed February 4, 1971, Elberton Broadcasting, the licensee of Class IV full-time AM Station WSGC at Elberton, filed a petition requesting Channel 221A as a first assignment at Elberton (there are no other broadcast stations and no FM assignments in this county, with respective populations of 6,438 and 17,262). Hancock Committee advanced three plans as alternatives, Plans II and III being consistent with the Elberton proposal and later adopted by that petitioner. The three are:

PLAN I (SPARTA)

City	Channel No.	
	Present	Proposed
Sparta, Ga.		261A
Washington, Ga.	261A	221A
Louisville, Ga.	221A	296A
Claxton, Ga.	296A	280A

PLANS II AND III (ELBERTON AND SPARTA)

City	Channel No.	
	Present	Proposed
Sparta, Ga.		228A
Waynesboro, Ga.	228A	296A or 265A
Elberton, Ga.		221A

Plan I was compatible with the Burnettown proposal (Channel 261A would have been assigned to Burnettown as well as Sparta) and, of course, is still feasible with denial of Burnettown in Docket No. 19144, but it involves the shift of authorized stations at Washington and Louisville, Ga. (WLOV–FM and WPEH–FM, the latter a CP issued in February 1971), and the matter of reimbursement to these stations for the cost of changing channel. See paragraph 3 of the notice of proposed rule making in Docket 19144, adopted February 2, 1971. See also paragraph 9, below. Further, and more importantly, this plan conflicts with RM–1743, since there would be a cochannel mileage spacing shortage between Elberton Broadcasting's proposed allocation of Channel 221A to Elberton and the proposed reallocation of Channel 221A (in lieu of 261A) to Washington, Ga. As to the Plan II and III alternative(s), Channel 228A would have to be sited at least 5 miles east of Sparta to maintain the 105-mile separation to Station WFDR–FM, Channel 227, Manchester, Ga., and either replacement channel for Waynesboro would have to be sited at least 1 mile from the reference point—Channel 296A 1 mile north, and Channel 265A about 1 mile south.

3. Elberton Broadcasting seeks the assignment of Channel 221A on the basis that there is no unoccupied FM channel available for assignment to Elberton or usable under the 10-mile rule (§ 73.203 (b) of the Commission's rules). It is urged that the proposed assignment is consistent with Commission policy for FM assignments as set forth in the first report and order in Docket 14185, 23 R.R. 1801 (1962), as amplified by the third report, memorandum opinion and order in Docket No. 14185, 23 R.R. 1859 (1963). Petitioner discusses the characteristics of Elberton and Elbert County, but detailing these comments is unnecessary. As to aural service, special note is made that petitioner's AM Station WSGC operates at 250 watts power at night, thus serving out only 2 or 3 miles and not providing the bulk of the county's populus with nighttime service.

4. Elberton Broadcasting's proposal raises problems. We already have ad-

verted to the conflict with Sparta Plan I as concerns Washington, Ga. Others either exist or a more adequate explanation is necessary. Firstly, due to the proximity of Station WESC–FM, the transmitter site for Channel 221A at Elberton would have to be located 6.5 miles southwest of Elberton in an area less than 0.2 square mile.[1] Broadcasting Company of the Carolinas, the licensee of WESC–FM, filed a "conditional opposition" contending that Elberton Broadcasting's proposal would restrict future improvements of its facility, more specifically, a plan to utilize Glassy Mountain, about 3 miles closer to Elberton. Elberton Broadcasting advises that it has reached a reciprocal agreement with Station WESC–FM not to oppose any request for waiver of § 73.207 of the rules. Of course, no agreement by the parties of accept short separations would be binding on the Commission.

5. More basic to the Elberton proposal (and to the Sparta Plan I with respect to Washington, Ga.) is the problem of the channel involved—Channel 221A—and its possible impact on use of the channels immediately below in the educational FM band (218, 219, and 220), a problem which has given us concern in the recent past in connection with proposed uses of this channel. This is particularly significant here because Elbert County is an area where the Channel 6 television station at Augusta, Ga. (WJBF), has substantial viewing, and where, therefore, any expansion of educational FM facilities may well have to be in the higher part of the educational FM band rather than in the lower part of it adjacent to Channel 6 in the spectrum.[2] The situation with respect to Washington, Ga.—to which Hancock Committee would reassign Channel 221A under its "Plan I"—is similar, except that it (in Wilkes County) is closer to Augusta and definitely within the basic viewing area of the Channel 6 station. Proponents of either the Elberton proposal or "Plan I" for Sparta (involving Washington, Ga.) should discuss this matter in their comments, and if no satisfactory answers are forthcoming the proposals may be denied on this ground even if otherwise meritorious.

6. It would appear that both Hancock Committee and Elberton Broadcasting have made a sufficient public interest, convenience, and necessity, showing that their proposals should be noticed for proposed rule making.

7. *Showings required.* Comments are invited as to the proposals discussed above. The proponents will be expected to answer whatever questions have been raised. Proponents are expected to file comments, even if nothing more than resubmit or refer to the petitions and other pleadings in this as well as Docket No. 19144. The petitioners, among other things, are expected to state their intention to apply for the channel, if assigned, and, if authorized, to promptly build their stations. Failure to make these showings may result in denial of the petitions.

8. *Cutoff procedure.* As in other recent FM rule making proceedings, the following procedures would govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with any of the proposals in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

9. *The question of reimbursement.* In their comments in Docket 19144, the licensee and permittee of the stations at Washington and Louisville, Ga., respectively, discussed the matter of reimbursement to which they may be entitled if the stations are required to change frequency as a result of this rule making. Since this is not a final decision, and since the result may well not involve shifts in these stations (Plans II or III, above), no lengthy discussion is required. We believe Commission policy in this area is, in general, sufficiently well settled. Parties may comment on this subject if they wish. It is appropriate to note that, in our tentative view, the permittee of Station WPEH–FM, Louisville, Ga., is not entitled to reimbursement, since its permit was granted only on February 24, 1971, well after the notice of proposed rule making in Docket No. 19144 was issued, and any expenses it may have were incurred in light of the proposal to change its channel.

10. In view of the foregoing, and pursuant to authority found in sections 4 (i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) as concerns Sparta and Elberton, Ga., as set forth above in paragraph 2.

11. Pursuant to applicable procedures set out in section 1.415 of the Commission's rules, interested persons may file comments on or before August 3, 1971, and reply comments on or before August 13, 1971. All submissions by parties to this proceeding or by persons acting in behalf of such parties must be made in written comments, reply comments or other appropriate pleadings. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its headquarters in Washington, D.C.

12. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission.

FEDERAL COMMUNICATIONS COMMISSION,[1]
BEN F. WAPLE,
Secretary.

[FR Doc.71–8916 Filed 6–23–71;8:52 am]

[1] We note, of course, that Elberton Broadcasting claims to have an option to purchase a suitable site within the restricted site area (Petition, p. 3).

[2] The Grade B contour of WJBF passes through Elbert County, which is listed in Television Factbook (1970–71) as having 24 to 49 percent net weekly circulation in the county (the county is not in the Augusta "area of dominant influence" (ADI) according to ARB). Washington, Ga., in Wilkes County, is closer to Augusta; the county shows 50 percent or more net weekly circulation and it is in the Augusta ADI.

[47 CFR Part 73]

[Docket No. 19265; FCC 71–642]

TELEVISION BROADCAST STATIONS

Table of Assignments, Los Angeles, Calif.

In the matter of amendment of § 73.606(b) of the Commission's rules, Table of Assignments, Television Broadcast Stations (Los Angeles, Calif.), RM–1788.

1. In this rule making notice, the Commission proposes to add UHF Channel *68 or *69 as a reserved television channel assignment at Los Angeles, Calif., as requested in a petition filed on May 6, 1971, by Viewer Sponsored Television Foundation (VSTV), one of two competing applicants for Channel *58, now reserved there. Los Angeles is presently assigned seven VHF channels, all unreserved and used by commercial stations, and four UHF channels, two used commercially and two reserved for noncommercial educational use.[1a] The latter are Channel *28, on which Station KCET has long operated, and Channel *58, for which VSTV and the Los Angeles Unified School District are competing, their applications having been filed in 1967 and 1968 respectively. There are no other ETV assignments in Los Angeles County, which is the Nation's largest and has a 1970 Census population of 7,032,075. The two competing applications were designated for hearing in November 1970 (along with a third application since dismissed) and the hearing is scheduled to commence June 21.

2. In support of its request that Channel *68 be added, VSTV urges in substance: (1) that Channel 68 or 69 can be assigned and used at the Mount Wilson location specified in both applications (and used by the other Los Angeles stations), in complete conformity with

[1] Commissioners Robert E. Lee and H. Rex Lee absent.

[1a] Three other unreserved UHF channels are assigned in the area and occupied by commercial stations having transmitter locations on Mount Wilson. These include channels assigned at Corona, Fontana, and Guasti. Two of these stations which are operating have recently received authority to move their main studios to Los Angeles.

the mileage separation rules; (2) the desirability of avoiding a long and costly comparative hearing for Channel *58, and the public interest in prompt provision for ETV service which the additional channel would make possible by permitting grant of both applications; (3) the high public interest in the service which VSTV proposes, which will be of particular significance to minority groups in the Los Angeles area (who will be represented on its governing board) and low-income groups; and (4) the essentially different type of service proposed by the School District, which will be chiefly instructional and largely in-school material, so that, assertedly, there is need for both of these operations.

3. It appears that, as VSTV's petition and supporting engineering statement suggest, either Channel 68 or Channel 69 could be assigned in the Los Angeles area, for use at a Mount Wilson location; and it also appears clearly appropriate to consider assigning one of these channels on a reserved basis, in view of the large number of unreserved or "commercial" channels presently assigned.

4. VSTV also urges that the application which is amended to specify the new channel when it is assigned—apparently it is contemplated that it will be the VSTV application—be retained in hearing status so that it will not face further delays in processing (it asserts that it would prefer a hearing to further extended delay). It may be that such a course will ultimately be adopted if the channel is assigned and it appears appropriate. However, we need not and do not decide this question at this point, the present Notice being simply to propose the addition of another UHF channel in Los Angeles. We also point out that on June 9 we denied VSTV's request that the hearing be stayed pending consideration of its request for an additional channel, directing that the hearing proceed. We are still of the same view, and expect the proceeding to go forward as scheduled.

5. In view of the foregoing, pursuant to authority contained in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the Table of Television Assignments, § 73.606(b) of the Commission's rules, to change the entry for Los Angeles, Calif., as follows:

City	Channel No.	
	Present	Proposed
Los Angeles, Calif.	2, 4, 5, 7, 9, 11, 13, 22, *28, 34, *58	2, 4, 5, 7, 9, 11, 13, 22, *28, 34, *58, [1]*68

[1] The Commission's computer analysis indicates that Channel 68 is somewhat to be preferred to Channel 69 from an efficiency standpoint, and therefore it is proposed.

6. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before July 7, 1971, and reply comments on or before July 15, 1971. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments or other appropriate pleadings.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all written comments, replies, pleadings, briefs, or other documents shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket Reference Room at its headquarters in Washington, D.C.

Adopted: June 16, 1971.

Released: June 18, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[3]

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.71-8911 Filed 6-23-71;8:51 am]

[47 CFR Part 73]

[Docket No. 19264; FCC 71-641]

FM BROADCAST STATIONS

Table of Assignments; Certain Stations

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Carson City, Nev., Charleston, S.C., Fort Wayne, Ind., and Seward, Nebr.), RM-1594, RM-1595, RM-1605, RM-1607.

1. Notice of proposed rule making is hereby given concerning amendment of the FM Table of Assignments (§ 73.202 (b) of the rules) with respect to various proposals.

2. The proposals in alphabetical order by States are as follows:

City	Channel No.	
	Present	Proposed
Fort Wayne, Ind.	236, 247, 269A, 288A	236, 247, 269A, 280A, 288A
Seward, Nebr.		245
Carson City, Nev.	234, 247	234, 243
Charleston, S.C.	236, 245, 278	236, 245, 278, 300

3. The 1970 U.S. Census populations of these cities, their respective counties, and populations are as follows:

City	Population	County	Population
Fort Wayne, Ind.	177,671	Allen	280,455
Seward, Nebr.	5,294	Seward	14,460
Carson City, Nev.	15,468		
Charleston, S.C.	66,945	Charleston	247,650

Fort Wayne and Charleston are Standard Metropolitan Statistical Areas (SMSA). The Fort Wayne SMSA consists of only Allen County. The Charleston SMSA consists of Charleston and Berkeley Counties, with a total population of 303,849.

4. *Carson City, Nev.* (*RM-1594*). Family Stations, Inc., licensee of FM Station KEAR, Channel 247, San Francisco, Calif., which is operated as a non-commercial station deriving all income from loans and donations, filed a petition on March 30, 1970, seeking change in the assignment at Carson City from Channel 247 to Channel 243 in order to enable it to relocate its San Francisco transmitter site from Mount Beacon, Sausalito, to a site on Berkeley Hills, at Berkeley, Calif. Petitioner states that, due to a lack of line-of-sight reception over many areas of San Francisco, the multipath signal from Mount Beacon would require extra measures in antenna orientation and quality antennas for stereo reception; that telephone line service to the transmitter has been unsatisfactory; that a microwave STL system also was unsuccessful because of program line limitations; and that the proximity of its antenna site to the ocean has resulted in damage from high winds and salt sprays (and loss of one-half of its radiated signal to sea). Petitioner proposes to move its transmitter to Berkeley Hills. Such change, however, would require the substitution of the cochannel at Carson City, Nev., in order to comply with the minimum mileage separation rules. Family Stations shows that Channel 247 could be used for assignment in another community, e.g., Reno, Nev., approximately 25 miles north of Carson City, and its preclusion study shows that the use of Channel 243 and adjacent channels would be affected only in sparsely populated areas of the Sierra Nevada mountains. No preclusion study was made for areas east of Carson City, which are sparsely populated, because of the availability of other channels. Finally, the petitioner states that it is willing to reimburse Station KRWL-FM, the permittee on Channel 247 at Carson City, for the reasonable expense incurred in modifying its frequency to Channel 243.[1]

5. We believe that the public interest, convenience, and necessity would be served by giving consideration to the proposal of Family Stations to substitute a channel at Carson City, Nev., in these circumstances.

6. *Charleston, S.C.* (*RM-1595*). By a petition filed April 7, 1970, and supplemented April 27, 1970, John H. Pembroke seeks assignment of FM Channel 300 to Charleston, S.C. The city, with a population of 66,945, is the seat of Charleston County, population 247,650, and the center of the Charleston SMSA (see paragraph 3). Charleston has eight aural broadcast stations: Four full-time AM stations, one daytime-only AM station, and three Class C FM stations. The petitioner proposes to add Channel 300 as a fourth assignment (see paragraph 2).

7. Petitioner contends that there is only one daytime AM station which programs exclusively for Negro interests, with no existing or proposed broadcasting of such programing at night. Presumably, Pembroke intends to apply for

[3] Commissioners Robert E. Lee and H. Rex Lee absent.

[1] The Review Board, by memorandum opinion and order, adopted Dec. 11, 1970, FCC 70R-433, extended the term of Station KRWL-FM's construction permit (BPH-6897).

Channel 300 to provide for such nighttime programs. It is stated (without any substantiating data) that 168,000 people would be within the 1 mv/m contour, with an estimated black population of 61,500. Petitioner's preclusion study reveals that the assignment of Channel 300 would affect use of Channels 297, 298, and 299 in limited areas, but the communities in these areas are all relatively small and have FM channel(s) assigned to them (all in South Carolina). The communities involved are as follows:

City	Channel	Population	County	Population
Beaufort	254	9,434	Beaufort	51,136
Georgetown	249A, 292A	10,449	Georgetown	33,500
Monck's Corner	288A	2,314	Berkeley	56,199
St. George	240A	1,806	Dorchester	32,421
Summerville	228A	3,704	Dorchester	32,421
Walterboro	265A	6,259	Colleton	27,622

8. It would appear that the public interest, convenience, and necessity would be served by putting this proposal out for rule making.

9. *Fort Wayne, Ind. (RM–1605).* Burnup and Sims filed a petition on April 22, 1970, seeking assignment of Channel 280A to Fort Wayne, Ind. Fort Wayne has a 1970 population of 177,671 and is the seat of Allen County (population 280,455). The city is designated as a SMSA under the 1970 Census. Broadcast service in Fort Wayne consists of five standard broadcast stations, three television stations, and three FM stations. The fourth channel (288A) is utilized by Station WIFF–FM at Auburn, Ind. (population 7,337), located about 20 miles north of Fort Wayne.

10. Petitioner in support of its petition alleges that Fort Wayne is a rapidly growing community and a focal point for Allen County as indicated by population growth and economic development. Additionally, there have been substantial educational, cultural, and industrial developments. Thus, petitioner contends that another FM station could be easily supported in the community.

11. Preclusion data submitted by petitioner discloses that use of the Channel 280A would preclude assignment to other communities only in a small area around Fort Wayne and the western part of the State of Ohio. There is no preclusion on the six adjacent channels. Only two communities of size in the area are able to use a Class A channel: one is New Haven, with a 1970 population of 5,728, which is contiguous to Fort Wayne and part of the Fort Wayne Urbanized Area; the other is Van Wert, Ohio, with a population of 11,320 (located in Van Wert County, population 29,194); Channel 255 (Class B) is presently assigned to that community. In order for the assignment to comply with mileage separations, a transmitter site would have to be located at least 1 mile north of Fort Wayne in order to avoid being short-spaced to Channel 281 assigned to Muncie, Ind.

12. It would appear that a sufficient showing has been made that the proposal be put out for rule making. We also believe that consideration should be given as to whether Channel 288A should be reassigned from Fort Wayne to Auburn, particularly since this would be more consonant with the present provisions of § 73.203(b) of the rules which limits the use of Class A channels to unlisted communities located within 10 miles of a listed community. Auburn, as already noted, is located farther than that from Fort Wayne. On the other hand, normally a community the size of Auburn is not entitled to other than a Class A channel. For the purposes of this notice, parties should comment on whether the Table of Assignments should be amended.

City	Channel No.	
	Present	Proposed
Auburn, Ind.		288A
Fort Wayne, Ind.	236, 247, 269A, 288A	236, 247, 269, 280A

13. *Seward, Nebr. (RM–1607).* Ray G. Smith, doing business as Central Communications, filed a petition on March 23, 1970, supplemented April 24, 1970, seeking the assignment of Channel 245 to this community (population 5,294), located approximately 25 miles northwest of Lincoln, Nebr. Seward is the seat of Seward County (population 14,460). Class C assignment is needed at Seward, Seward without affecting present assignments in other communities. Seward and its county do not have local aural transmission facilities.

14. Smith in his petition urges that a Class C assignment is needed at Seward, for a station on a Class C channel could provide service to small towns and rural areas not adequately served by other aural stations. Petitioner also contends that Seward is a growing rural agricultural community and the center of a large agricultural area with few manufacturing firms; population growth has been steady for the last 50 years and there are a number of schools, a college, several churches, a library, a hospital, and two medical clinics. Petitioner asserts that, if allowed to build a Class C station, he could reach rural areas and small towns with programs relevant to their needs, e.g., weather information and local programing. In terms of coverage, the use of "reasonable facilities",[2] i.e., 100-kw. E.R.P. and 640-foot antenna height a.a.t., an unserved area of 190 square miles with 6,878 persons would be served while a second service would be provided in another area of 1,070 square miles with 23,506 persons. There is a minor short spacing to Channel 245 at Grand Island, Nebr., on a reference point basis, but extensive areas for a transmitter site at Seward meeting separations is available.

15. It would appear that petitioner has made a sufficient public interest showing that a notice of proposed rule making as to this proposal should be issued. However, since normally a Class A channel would be assigned to a community of this size, we believe that any authorization to operate on Channel 245, if assigned, would require operation at minimum facilities equivalent to those proposed by the petitioner.

16. *Showings required.* In some cases, the Commission has reservations or questions and proponents of the proposed assignments are expected to file comments, even in nothing more than resubmit or refer to their petitions. They are expected, among other things, to express their intention to apply for the channel, if assigned, and if authorized, to promptly build their stations. Failure to make these showings may result in denial of a proposal. See notice of proposed rule making in Docket No. 19161, adopted February 2, 1971 (FCC 71–192).

17. *Cutoff procedures.* As in other more recent FM rule making proceedings, the following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so the parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to any petition for rule making which conflicts with any of the proposals in this notice, it will be considered as comments in the proceeding and Public Notice to this effect will be given, as long as filed before the date for filing initial comments herein. If filed later than that, any such proposal will not be considered in connection with the decision herein.

See notices of proposed rule making in Docket No. 19074, adopted October 28, 1970 (FCC 70–1162), paragraph 17, page 7, and Docket No. 19116, adopted January 6, 1971 (FCC 71–23), paragraph 12, page 8.

18. Authority for the action proposed herein is contained in sections 4(i), 303(g), and 307 (b) and (r) of the Communications Act of 1934, as amended.

19. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before August 3, 1971, and reply comments on or before August 13, 1971. All submissions by parties to this proceeding, or by persons acting in behalf of these parties, must be made in written comments, reply comments, or other appropriate pleadings.

20. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Broadcast and Docket

[2] All Class A's at 3 kw. and 300 feet and all Class C's at 75 kw. and 500 feet. See In the Matter of Goldsboro and Roanoke Rapids, N.C., 9 FCC 2d 672, 677 (1967).

Reference Room at its headquarters in Washington, D.C.

Adopted: June 16, 1971.

Released: June 21, 1971.

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

[FR Doc.71-8912 Filed 6-23-71;8:51 am]

[47 CFR Part 73]

[Docket No. 19263; FCC 71-640]

TELEVISION BROADCAST STATIONS

Table of Assignments; Certain Stations in Mississippi

In the matter of amendment of § 73.606, Table of Assignments, Television Broadcast Stations. (Booneville, Clarksdale, Columbia, Columbus, Hattiesburg, Natchez, Oxford, and Senatobia, Miss.), RM-1684.

1. On September 1, 1970, the Mississippi Authority for Educational Television (Mississippi Authority) filed a petition with this Commission requesting a series of television channel assignments and reassignments in the State of Mississippi in order to establish a comprehensive statewide educational television network. An amendment to the petition was filed on February 11, 1971, which deleted reference to the possible assignment of Channel *12 to Booneville, Miss. In light of the amendment no comments in response to the petition were filed.[1]

2. The Mississippi Authority was created by the Mississippi State Legislature in 1966. It was established as an independent agency in 1969. The Mississippi Authority appears to have a comprehensive responsibility for the administration, operation, control, and supervision of educational television and radio in Mississippi. Petitioner considers that its first major task is to establish a full 8-station statewide educational television network and at the same time provide for the network's expansion in later years. It points out, in its petition, that studies made in Mississippi indicate that the present educational program conducted in schools throughout the State is not meeting the needs of the State for the education of its citizens, that many of the State's citizens have not completed high school, that there is an unusually high level of illiteracy in the State, and that there is a need, not only to provide a more up-to-date and dynamic program for educating children, but in addition that the State's adult citizens would benefit from an on-going program of adult education. It is hoped that these educational problems of the State can be remedied economically via a flexible, imaginative, full, and systematic presentation of educational material on a statewide educational television network. Through television, the Mississippi Authority hopes to bring the State's youths and adults a program of education which will enrich their lives and prepare them for successful employment in the newly developing industrial economy of Mississippi.

3. The pleadings indicate that the Mississippi Authority has already taken significant steps toward the implementation of its program for bringing the citizens of Mississippi a revitalized program of education, through educational television. Petitioner states that the flag station of its proposed statewide educational network is presently licensed to the Mississippi Authority, WMAA-TV, Channel *29, Jackson, Miss., and that it is the permittee of WMAB-TV, Channel *2, State College, Miss. The petition indicates that a production center has been established to serve the network through its flag station, WMAA-TV.

4. The Mississippi Authority has made concrete plans with respect to the programing it expects to air through the proposed Mississippi statewide educational network. The programing is to include: elementary school instruction, in-service training for teachers, professional credit instruction for teachers, secondary school instruction, adult literacy training, high school equivalency instruction, business, industrial and professional training, and other programing areas which are expected to cover matters which are best understood through informal education—the wide horizons of man's development and participation in society.

5. In order to establish the statewide educational television network, use its production center effectively, and distribute the proposed programing described in the previous paragraph, petitioner has proposed the assignments and reassignments of television channels set out in the following table. In some instances the Commission's computer analysis of the allocations in Mississippi indicates that assignments other than those proposed by the Mississippi Authority may be preferable from an efficiency standpoint; therefore, we are setting out the Mississippi Authority's and the Commission's proposed allocations, both for consideration in this proceeding. Population statistics cited are from the 1970 U.S. Census. All channel reallocations are limited to assignments within the State of Mississippi.

Community and population	Existing assignments	Mississippi authority's proposed assignments	Commission's proposed assignments
Booneville (5,895)	*18	*20	*20
Clarksdale (21,673)		*22	*42
Columbia (7,587)	*34	*45	*45
Columbus (25,795)	4, 27	4, 27, *43	4, 27, *43
Hattiesburg (38,277)	22, *28	22, *47	22, *47
Natchez (19,704)		*42	*43
Oxford (13,846)		*18	*22
Senatobia (4,247)	*22	*34	*34

6. The above-proposed locations for assignments have been chosen by petitioner not solely because of the size of the communities involved but in some instances because of the geographical location of the community in the State. It is petitioner's intention to bring all of Mississippi's 2,216,912 citizens at least one educational television signal as early as possible. It will be noted that under the proposal existing ETV assignments at Booneville (Channel *18), Columbia (Channel *34), Hattiesburg (Channel *28), and Senatobia (Channel *22) would be deleted and replaced with other assignments. Each of these channels is unlicensed and unapplied for, except for Channel *18 at Booneville, which has an application pending for its use by the Mississippi Authority (BPET-371) and Channel *22 at Senatobia, for which a construction permit has been granted to the same party. Since petitioner is the applicant and permittee for Channel *18 at Booneville and Channel *22 at Senatobia, respectively, it is our understanding that the application for Channel *18 will be amended, as will the construction permit for Channel *22, to specify the replacement channels, on any adoption by the Commission of the proposals set out in this proceeding.

7. After a careful analysis of: The responsibility, powers, and goal of the Mississippi Authority; the real need for strengthening educational television in Mississippi; the concrete steps petitioner has already taken; and the steps petitioner and the State of Mississippi have planned to meet the needs for education of the citizens of Mississippi; we have come to the judgment that it is in the public interest to set out petitioner's and the Commission's alternate proposals for examination and comment in this proceeding. See paragraph 5 above.

8. Authority for the action proposed herein, is contained in sections 4(i), 303, 307(b), and 316 of the Communications Act of 1934, as amended.

9. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations interested parties may file comments on or before August 3, 1971, and reply comments on or before August 13, 1971. All submissions by parties to this proceeding, or persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

[1] A series of petitions for extensions of time to file comments were filed by Capitol Broadcasting Co., licensee of television Channel 12, WJTV, at Jackson, Miss. Apparently Capitol Broadcasting Co. was contemplating filing objecting comments to the portion of the petition which proposed the assignment of Channel *12 to Booneville, Miss. The Mississippi Authority has decided to deal with the possible assignment of Channel *12 to Booneville in a separate rule making proceeding so as to expedite the instant proceeding and the development of the overall educational network. See RM-1746.

10. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 14 copies of all written comments, reply comments, pleadings, briefs, or other documents, shall be furnished the Commission.

11. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Broadcast and Docket Reference Room at its Headquarters in Washington, D.C. (1919 M Street NW.).

Adopted: June 16, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS COMMISSION [2]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.71-8913 Filed 6-23-71;8:51 am]

[47 CFR Part 73]

[Docket No. 19046; FCC 71-636]

TELEVISION BROADCAST STATIONS

Table of Assignments, Gastonia and Monroe, N.C.; Report and Order Terminating Proceeding

In the matter of amendment of § 73.606(b) of the Commission's rules, Table of Assignments, Television Broadcast Stations (Gastonia and Monroe, N.C.).

1. This proceeding, begun by notice of proposed rule making issued October 12, 1970 (FCC 70-1102) concerns two possible UHF additions to the Television Table of Assignments (§ 73.606(b) of the rules), Channels 53 at Gastonia, N.C., and 66 at Monroe, N.C., both of which communities are within 25 miles of Charlotte. These would be the first channels assigned to these cities.

2. These assignments were sought in petitions filed in the mid-1960's by parties who are AM licensees at Belmont, N.C. (near Gastonia), and Monroe, respectively. They were proposed in a further notice issued in Docket 14229, the overall UHF allocation proceeding, in February 1966, and were supported by the petitioners and opposed by Charlotte Telecasters, Inc., then the permittee and later the licensee of Station WCTU-TV (now WRET-TV), the Charlotte independent UHF station. No action was taken until 1970, because it appeared that if the use of the upper UHF channels (70-83) for low-power "community" stations was decided on in Docket 14229, this might be a suitable approach to these situations, instead of regular TV assignments. However, in the "land-mobile" decision of May 1970 (Docket 18262), it was decided to use the upper UHF channels for land mobile operations, and accordingly further consideration of these two proposed regular assignments was required. It was decided to issue a notice of proposed rule making to permit more current submissions, and to do it in a new proceeding so that Docket 14229 could be terminated (all other matters at issue therein having been resolved). Accordingly the notice herein was issued. The notice herein stated that the Commission has reservations about whether these assignments should be made, chiefly with respect to whether—considering the small size of these places and their proximity to Charlotte—stations using the assignments could realistically be expected to be true local outlets for these cities, or would instead be simply additional Charlotte stations. However, it was also stated that even as really additional Charlotte assignments they did not appear to be out of the question, in view of that market's substantial size.

The comments filed. 3. Brief comments were filed by the original petitioners, both expressing lack of interest in the proposed assignments at least for the present, and mentioning such matters as intervening developments including CATV (with encouraged or required local program origination which can meet local needs), the present less than encouraging prospects for UHF, the somewhat slow state of the economy which makes financing difficult to get at present, and (for the Belmont petitioner) certain personal factors.

4. Three Charlotte licensees filed comments opposing the proposed assignments or either of them; these were the licensees of WSOC-TV (VHF) and WCCB-TV and WRET-TV (UHF). It was urged that the new stations could not realistically be expected to be entirely or primarily Gastonia or Monroe stations, these cities being simply too small to support a television operation primarily based on them, but would necessarily be additional stations competing in the Charlotte market. It was asserted that—located well within the Charlotte Grade A contours—they would compete for the same nonnetwork program material, thereby driving the price of such material (already boosted by the increased demand following the "prime time access rule") still higher, to the detriment of all; and that they would necessarily have to compete for the same national spot advertising dollar. It is asserted that the precarious history of UHF development in recent years in Charlotte—with WCCB-TV just beginning to establish a substantial position, and WRET-TV going through bankruptcy and a change in ownership even though continuing on the air—demonstrates that the additional competition from two new stations largely or entirely Charlotte station could well be ruinous to all UHF. Attention is called to CATV developments, with Gastonia having a large system now required to originate programing which can meet local needs, and systems there, at Charlotte (two) and elsewhere providing additional competition for the advertising revenues available. The existence of numerous radio stations in Gastonia and Monroe capable of meeting local programing needs (three AM and one FM in Gastonia, two AM in Monroe) is also said to remove the need for a local TV outlet, along with the coverage which the Charlotte TV stations are said to give to matters of particular interest in these and other outlying places around Charlotte. The VHF licensees urges, also, that we should follow past Commission decisions (including one pertaining to Charlotte) in which we have declined to add channels until all of the presently assigned channels in an area are occupied; and that here there is an unused channel at South Hill, S.C. (sometimes included in the Charlotte market), as well as one at Kannapolis.

Conclusions. 5. We conclude that, in the absence of any present demand, and taking into account the other matters mentioned above, the making of the additional assignments at this time is not in the public interest. While we must, here as generally in decisions involving broadcasting, view with some skepticism contentions that a given city, market or area "cannot support" another station, nevertheless the combination of factors mentioned above must give us pause, particularly in the absence of any present demand for the assignments. We do not wish to take actions which might make more difficult situations which already have more than sufficient problems. Therefore, also taking into account that there are unused channels already assigned in the area (which, as mentioned, has been grounds for not assigning additional ones), we conclude that the assignments should not be made, at least at this time. If in the future there are other proposals which would affect the availability of these channels, we will again consider this matter, or, of course, if it is again raised by petition.

6. In view of the foregoing: *It is ordered,* That this proceeding, Docket No. 19046, is terminated.

Adopted: June 16, 1971.

Released: June 21, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] BEN F. WAPLE, *Secretary.*

[FR Doc.71-8914 Filed 6-23-71;8:51 am]

[47 CFR Part 74]

[Docket No. 19246]

CATV OPERATORS AND LICENSEES

Nondiscrimination in Employment Practices; Extension of Time for Filing Comments

Order. In the matter of amendment of the Commission's rules to require operators of community antenna television

[2] Commissioners Robert E. Lee and H. Rex Lee absent.

[1] Commissioners Robert E. Lee and H. Rex Lee absent.

systems and community antenna relay station licensees to show nondiscrimination in their employment practices.

1. On June 10, 1971, the National Cable Television Association, Inc., requested that it be granted an extension of time to and including June 25, 1971, in which to file its comments in response to the Commission's notice of proposed rule making in Docket No. 19246. The Commission had previously specified June 11 and 21, 1971, respectively as the final dates for filing comments and reply comments regarding that notice.

2. In support of the requested extension, NCTA states that the additional time is needed for completion of NCTA committee studies of: (1) The proposed reporting forms, with a view to simplification of them, and (2) the overall impact on CATV systems of the proposed requirement that reports be filed by systems with five or more employees. It appears that the public interest would be served by granting the requested extension of time.

3. *Accordingly, it is ordered,* pursuant to § 0.289(c)(4) of the Commission's rules and regulations, That the National Cable Television Association, Inc.'s request for an extension of time to and including June 25, 1971, for it to file comments in response to the notice of proposed rule making in Docket 19246, is granted: *And it is further ordered,* That the period for filing reply comments responsive to the National Cable Television Association, Inc.'s comments is extended to and including July 7, 1971: *And it is further ordered,* That in all other respects the dates previously specified for filing of comments and reply comments with respect to the notice of proposed rule making in Docket No. 19246 shall remain unchanged.

Adopted: June 11, 1971.

Released: June 18, 1971.

[SEAL] SOL SCHILDHAUSE,
Chief, Cable Television Bureau.

[FR Doc.71-8910 Filed 6-23-71;8:51 am]

FEDERAL HOME LOAN BANK BOARD

[No. 71-592]

[12 CFR Part 545]

FEDERAL SAVINGS AND LOAN SYSTEM

Proposed Amendment Relating to Loans in Excess of 90 Percent of Value

JUNE 17, 1971.

Resolved that the Federal Home Loan Bank considers it advisable to amend § 545.6-1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.6-1) for the purpose of permitting Federal savings and loan associations to make loans on the security of homes in amounts in excess of 90 percent of the value thereof. Accordingly, the Federal Home Loan Bank Board proposes to amend said § 545.6-1 by adding, immediately after subparagraph (4), a new subparagraph (5) to paragraph (a) thereof, to read as follows:

§ 545.6-1 Lending powers under sections 13 and 14 of Charter K.

(a) *Homes or combination of homes and business property.* * * *

(5) *Loans in excess of 90 percent of value.* The limitation of 80 percent set forth in subdivision (i) of subparagraph (1) of this paragraph shall be 90 percent in the case of any loan with respect to which the requirements set forth in subdivisions (i), (iii), (iv), (v), (vi), and (viii) of subparagraph (4) of this paragraph are met and with respect to which the following additional requirements are met:

(i) The amount of the loan does not exceed the lesser of: (*a*) $28,500, (*b*) 95 percent of the value of the real estate securing the loan, or (*c*) 95 percent of the purchase price of the security property;

(ii) The aggregate of the principal amount of such loan and of the association's investment in the principal amount of all other loans made under this subparagraph (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 90 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exceed 10 percent of the association's assets;

(iii) The aggregate of the principal amount of such loan and of the association's investment in the principal amount of all other loans under this subparagraph and subparagraph (4) of this paragraph (exclusive of loans with respect to which the unpaid principal balance has been reduced to an amount not in excess of 80 percent of the value or purchase price of the real estate, whichever is less, determined at the time the loans were made) does not exeed 30 percent of the association's assets; and

(iv) Either—

(*a*) That portion of the unpaid balance of such loan which is in excess of an amount equal to 80 percent of the value of the real estate is guaranteed or insured by a mortgage insurance company which has been determined to be a "qualified private insurer" by the Federal Home Loan Mortgage Corporation; or

(*b*) The association establishes and maintains a specific reserve with respect to such loan in an amount not less than 40 percent of the amount by which the unpaid principal balance of such loan exceeds an amount equal to 90 percent of the purchase price or the value of the real estate, whichever is less, determined at the time the loan was made.

* * * * *

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071)

Resolved further that interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, DC, 20552, by July 26, 1971, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

By the Federal Home Loan Bank Board.

[SEAL] JACK CARTER,
Secretary.

[FR Doc.71-8917 Filed 6-23-71;8:52 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

OREGON

Redelegation of Authority

JUNE 15, 1971.

1. Pursuant to the provisions of sections 1.1(a) and 1.1(a)(1) of Bureau Order No. 701 of July 23, 1964, as amended, authority is hereby redelegated to the following persons to take action in matters listed in sections 2.2(c), 2.4 (a)(4), 2.6, and 2.9 of Part II of Bureau Order No. 701:

Chief, Branch of Records and Data Management.
Charles C. Brittain, Supervisory Record Specialist.
Mrs. Shirley Vessella, Legal Clerk, Land Law.

The Chief, Branch of Records and Data Management may also designate any qualified employee in his branch to certify as to the authenticity of copies of official records. The authority to take action on matters listed in sections 2.6 and 2.9 is limited to actions required to return unacceptable filings.

2. The authority delegated may not be redelegated except as provided in paragraph 1.

3. This redelegation of authority supersedes all previous redelegations.

ARCHIE D. CRAFT,
State Director.

[FR Doc.71-8930 Filed 6-23-71;8:53 am]

ALASKA

Notice of Filing of Plat of Survey

1. Plat of survey of the lands described below will be officially filed in the Anchorage Land Office, Anchorage, Alaska, effective at 10 a.m. July 15, 1971.

COPPER RIVER MERIDIAN, ALASKA

T. 1 S., R. 2 E.,
Sec. 2, lot 1;
Sec. 3, lots 1, 2, 3, 4;
Sec. 4, lots 1 through 5, S½S½;
Sec. 5, lots 1, 2, 3, 4, SW¼NE¼, S½NW¼, S½;
Sec. 6, lots 1 through 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 7, lots 1, 2, 3, 4, E½W½, E½;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 11, lots 1 through 5, NW¼SW¼, S½SW¼;
Sec. 12, lot 1;
Sec. 13, lots 1, 2, 3, 4, SW¼NW¼, SW¼;
Sec. 14, all;
Sec. 15, all;
Sec. 16, all;
Sec. 17, all;
Sec. 18, lots 1, 2, 3, 4, E½W½, E½;
Sec. 19, lots 1, 2, 3, 4, E½W½, E½;
Sec. 20, all;
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, lots 1 and 2, E½NE¼, W½, SE¼;
Sec. 27, all;
Sec. 28, all;
Sec. 29, all;
Sec. 30, lots 1, 2, 3, 4, E½W½, E½;
Sec. 31, lots 1, 2, 3, 4, E½W½, E½;
Sec. 32, all;
Sec. 33, all.
Containing 16,136.31 acres.

T. 1 S., R. 3 E.,
Sec. 19, lots, 1 through 6, E½SW¼, SE¼;
Sec. 20, lots 1, 2, 3, 4, S½;
Sec. 21, lots 1, 2, 3, SW¼SW¼;
Sec. 26, lot 1;
Sec. 27, lots 1 through 5, SW¼SW¼;
Sec. 28, lots 1, 2, 3, 4, W½, NW¼SE¼, S½SE¼;
Sec. 29, all;
Sec. 30, lots 1, 2, 3, 4, E½W½, E½;
Sec. 31, lots 1, 2, 3, 4, N½NE¼;
Sec. 32, lots 1, 2, 3, N½, NE¼SW¼, SE¼;
Sec. 33, all;
Sec. 34, all;
Sec. 35, lots 1, 2, 3, 4, S½NW¼, SW¼, NW¼SE¼, S½SE¼;
Sec. 36, lots 1, 2, 3.
Containing 5,603.42 acres.

2. The lands are situated along the right bank of the Copper River, approximately 20 miles southeast of Copper Center, Alaska. With the elevation ranging from 800 feet to 1,800 feet above sea level, the land is gently rolling with the approach to the Copper River marked by high bluffs and generally eroded slopes. Soil is generally sandy loam with growth of aspen, cottonwood, and spruce timber interspersed with alder, rose, and willow brush. There are numerous lakes and swamps with Willow Creek flowing southeasterly through the western portion of T. 1 S., R. 2 E.

3. Two land withdrawals by the Federal Power Commission, Power Projects 2138 and 2215, reserved under the provisions of section 24 of the Federal Power Act of June 10, 1920, as amended, embrace, in part, the following described lands:

COPPER RIVER MERIDIAN, ALASKA

T. 1 S., R. 2 E.,
Sec. 2, lot 1;
Sec. 3, lots 1, 2, 3, 4;
Sec. 4, lots 1 through 5;
Sec. 5, lots 1, 2, 3, 4;
Sec. 6, lots 1 and 2;
Sec. 10, N½, E½SE¼, NW¼SE¼;
Sec. 11, lots 1 through 5, S½SW¼, NW¼SW¼;
Sec. 12, lot 1;
Sec. 13; lots 1, 2, 3, 4, SW¼, SW¼NW¼;
Sec. 14, NE¼, NE¼SE¼;
Sec. 24, lots 1 and 2, W½NE¼, NE¼NW¼, NE¼SE¼.

T. 1 S., R. 3 E.,
Sec. 19, lots 1 through 6, SE¼, E½SW¼;
Sec. 20, lots 1, 2, 3, 4, S½;
Sec. 21, lots 1, 2, 3, SW¼SW¼;
Sec. 26, lot 1;
Sec. 27, lots 1 through 5;
Sec. 28, lots 1, 2, 3, 4, N½NW¼, SE¼NW¼, NW¼SE¼;
Sec. 29, N½NE¼, NW¼NW¼;
Sec. 30, N½NE¼, NE¼NW¼, SE¼NE¼;
Sec. 34, NE¼NE¼;
Sec. 35, lots 1, 2, 3, 4, SE¼NW¼, NW¼SE¼, SE¼SE¼;
Sec. 36, lots 1, 2, 3.

4. The public lands affected by this order are hereby restored to the operation of the public land laws, subject to any valid existing rights, the provisions of existing withdrawals, including Public Land Order 4582 dated January 17, 1969, as modified and amended by Public Land Order 4962 dated December 11, 1970, and the requirements of applicable law, rules, and regulations.

5. Inquiries concerning the lands should be addressed to the Manager, Anchorage Land Office, 555 Cordova Street, Anchorage, Alaska 99501.

CLARK R. NOBLE,
Land Office Manager.

[FR Doc.71-8883 Filed 6-23-71;8:48 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

USE OF TERM "ALL MEAT" OR "ALL (SPECIES)" ON FEDERALLY INSPECTED SAUSAGE PRODUCTS

Notice Concerning Court Decision and Order

By a complaint filed July 9, 1970, the Federation of Homemakers, brought an action against the Secretary of Agriculture and other officials of the Department of Agriculture in the U.S. District Court for the District of Columbia (C.A., No. 2057-70), seeking a declaratory judgment and injunctive relief against the Department's regulation permitting the use of the term "All meat" or "All (Species)" on frankfurter products under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

After a hearing, the court issued a memorandum opinion, filed on April 21, 1971, which held that the use of such terms as applied to frankfurters is misleading and that the defendants should be enjoined from permitting any frankfurter products to be so labeled.

On May 5, 1971, the District Court entered a judgment enjoining the Secretary of Agriculture and the other defendants from permitting the term "All Meat" or "All (Species)" to be included on labels affixed to sausage products within the meaning of the standard in 9 CFR 319.180 under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.).

In addition, the order required the defendants to take all practicable steps necessary to stop the continued use of the "All Meat" or "All (Species)" labels by any official establishment as soon as

possible and provided that the defendants may not, in any event, permit the movement from any official establishment of any sausage product so labeled beyond 6 months after the date of the court order or the final disposition of an appeal should an appeal be taken.

The question as to whether an appeal will be taken is now under consideration.

The court's order further instructed the defendants to advise the industry of the order so as to facilitate its implementation. This notice is issued for the purpose of so advising the affected industry.

Done at Washington, D.C., on June 18, 1971.

CLAYTON YEUTTER,
Administrator,
Consumer and Marketing Service.

[FR Doc.71-8876 Filed 6-23-71;8:48 am]

Foreign Economic Development Service

ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Pursuant to the authority delegated to the Foreign Economic Development Service in section 194 of the Statement of Organization and Delegations appearing at 36 F.R. 6765, the Administrator, Foreign Economic Development Service, makes the following Statement of Organization, Functions, and Delegations of Authority of the Foreign Economic Development Service.

ORGANIZATION AND FUNCTIONS

SECTION 1. *General.* The Foreign Economic Development Service, hereinafter referred to as "FEDS", was created by the Secretary of Agriculture on December 1, 1969, pursuant to his authority under Reorganization Plan No. 2 of 1953 (18 F.R. 3219; 67 Stat. 633). The offices of FEDS are located in Washington, D.C.

SEC. 2. *The Office of the Administrator*—(a) *The Administrator.* The Administrator is responsible for general direction and supervision of the U.S. Department of Agriculture's (USDA) program responsibilities and activities in foreign development assistance and training programs, and development of effective relationships with international and U.S. organizations in carrying out such programs under sections 301 and 302 of the U.S. Information and Educational Exchange Act of 1948 (22 U.S.C. 1451–1452); the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2161–2169, 2171–2178, 2211–2213, 2241–42, 2357, 2387, 2388); the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451–2458); and section 109 of the Agricultural Trade and Development Assistance Act of 1954, as amended (7 U.S.C. 1709). These programs are carried out through three regional development programs (African Region, Asian Region, and Latin American Region), one training division (Foreign Training Division), and three functional groups (Nutrition and Agribusiness, Program Development and Analysis, and Program Support), located in Washington, D.C.

(b) *Deputy Administrator.* The Deputy Administrator is responsible for participating with the Administrator in the overall planning and formulation of all policies, programs, and activities of FEDS.

SEC. 3. *Foreign Economic Development Service Programs.* The Regional Development Program Offices, the Foreign Training Division, Nutrition and Agribusiness Group, Program Development and Analysis Group, and Program Support Group, under the administrative direction of the Administrator and Deputy Administrator, are responsible as follows:

(a) Regional Development Program Offices (African Region, Asian Region, Latin American Region). The Regional Development Program Directors are responsible for:

1. Arranging for, coordinating and directing the resources of the USDA in the planning, development, implementation, and evaluation of country and regional agricultural technical assistance and development programs.

2. Preparation of Participating Agency Service Agreements (PASA's), recruitment, orientation, backstopping, program support and servicing of technicians for long- and short-term assignments for AID, Peace Corps, and international organizations.

3. Coordinating recruitment and assignment, and direction of USDA personnel on detail or loan to other Government agencies or international organizations.

(b) *Foreign Training Division.* The Foreign Training Division is responsible for:

1. Coordinating and directing the development, implementation, and supervision of training, study, consultation, and observation programs in agriculture, home economics, and related subjects for foreign officials, leaders, scientists, technicians, and other nationals sponsored by agencies of the U.S. Government, international organizations, other public or private groups and foreign governments.

2. Arranging for and directing utilization of resources made available by agencies of the USDA, land-grant institutions, other departments of Government, other public institutions or agencies, and international and private institutions for meeting the objective of training in the United States of foreign nationals.

3. Directing the orientation of foreign participants on the objectives and operations of their training program, and the agricultural customs, life and situations, agricultural institutions, agencies and organizations in the United States.

4. Directing the analysis and evaluation of training processes employed, of training program results, and the work of participants.

5. Planning and administering the records and controls required for participant maintenance while in the United States.

(c) *Nutrition and Agribusiness Group.* The Nutrition and Agribusiness Group is responsible for:

1. Planning and administering programs to increase the protein content of diets and protein-poor countries by increasing the contribution of cereal grains and other nonanimal sources to the protein economy and by developing new protein foods based on low-cost protein sources.

2. Exploring the immediate potential for improving the protein quality of vegetable resources by supplementing them and/or their products with amino acids, protein concentrates, and other nutrients.

3. Developing food products and developing means for manufacturing them in host countries.

(d) *Program Development and Analysis Group.* The Program Development and Analysis Group is responsible for:

1. Planning and developing new areas of cooperation with AID in foreign assistance including USDA's technical assistance, training and self-help activities and evaluation of current or completed programs.

2. Improving the USDA's agricultural development competence through seminars, orientation of personnel and analyses of economic development in the less developed countries.

3. Providing staff support for the Office of the Administrator on program policies, liaison with international organizations, analyses of U.S. legislation, foundation programs and other activities affecting U.S. foreign assistance programs.

(e) *Program Support Group.* The Program Support Group is responsible for:

1. Planning and coordinating Departmental staff functions necessary for more effective USDA agricultural development programs.

2. Developing overall Departmental operating policies and procedures for development assistance programs.

3. Providing technical information services to U.S. employees overseas, other Government agencies, international and private organizations, foreign nationals, and others interested in agricultural development of less developed countries.

4. Providing communication training to foreign nationals and assisting USDA technicians overseas on production and use of audio-visual aids, and on education/communication problems.

SEC. 4. *Management Services.* The responsibility for administering the administrative management functions, including budget, fiscal, personnel, and administrative services activities of FEDS is in the Office of Management Services, an agency of the USDA.

DELEGATIONS OF AUTHORITY

SEC. 5. *Deputy Administrator.* The Deputy Administrator is hereby delegated the authority to perform all the

duties and to exercise all the functions and powers which are now, or which may hereafter be vested in the Administrator (including the power of redelegation except when prohibited), except such authority as is, or may be, reserved to the Administrator.

SEC. 6. *Foreign Economic Development Service Regional Development Programs, Divisions, and Groups.* The Directors of the African Region, Asian Region, and Latin American Region Development Programs, the Foreign Training Division, the Nutrition and Agribusiness Group, the Program Development and Analysis Group, and the Program Support Group are hereby delegated authority in connection with the respective functions herein assigned to each of them, to perform all the duties and to exercise all functions and powers which are now, or which may hereafter be, vested in the Administrator (including the power of redelegation except when prohibited), except such authority as is, or may be reserved to the Administrator or Deputy Administrator.

SEC. 7. *Concurrent Authority and Responsibility.* No delegation or authorization prescribed herein shall preclude the Administrator or Deputy Administrator from exercising any of the powers of functions or from performing any of the duties conferred herein. Any such delegation or authorization is subject at all times to withdrawal or amendment by the Administrator and by the Deputy Administrator. The officers to whom authority is delegated herein shall (a) maintain close working relationships with the officers to whom they report, (b) keep them advised with respect to major problems and developments, and (c) discuss with them proposed actions involving major policy questions or other important considerations or questions, including matters involving relationships with federal agencies, other agencies of the Department, other divisions or offices of FEDS or other governmental or private organizations or groups.

SEC. 8. *Prior Authorizations and Delegations.* Nothing herein shall affect the validity of any action heretofore taken under prior delegations or redelegations of authority or assignments of functions.

AVAILABILITY OF INFORMATION AND RECORDS

SEC. 9. *Availability of Information and Reports.* The availability of information and records of FEDS is governed by the Code of Federal Regulations, Title 7, Chapter XXI.

Issued at Washington, D.C. this 15th day of June 1971.

QUENTIN M. WEST,
Administrator.

[FR Doc.71-8894 Filed 6-23-71;8:50 am]

Packers and Stockyards Administration

B AND H SALES STABLE 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
B and H Sales Stable, Keedysville, Md., June 28, 1965.
William M. Dye Stockyards, Asheboro, N.C., July 22, 1964.
Chocowinity Stockyard, Chocowinity, N.C., July 9, 1959.
Elizabethtown Livestock Market, Elizabethtown, N.C., May 22, 1959.
Avery County Livestock Co., Spruce Pine, N.C., Sept. 26, 1962.
A. B. Jackson Livestock Barn, Tabor City, N.C., Apr. 28, 1961.
Bristol Horse & Mule Commission Co., Bristol, Va., Jan. 25, 1963.
Southwest Horse Auction Company, Inc., Christiansburg, Va., June 26, 1964.
Bluegrass Market, Inc., Ronceverte, W. Va., Nov. 3, 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 (6-24-71).

(42 Stat. 159, as amended and supplemented; 7 U.S.C. 181 et seq.)

Done at Washington, D.C., this 21st day of June 1971.

G. H. HOPPER,
Chief, Registrations, Bonds, and Reports Branch, Livestock Marketing Division.

[FR Doc.71-8895; Filed 6-23-71;8:50 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[File No. 23 (67)-14]

ERWIN BRANDENSTEIN AND WILHELM ROTH G.m.b.H.

Order Terminating Indefinite Denial Order

In the matter of Erwin Brandenstein and Wilhelm Roth G.m.b.H., Ebersbergerstrasse 12, 8 Munich 80, West Germany.

On January 26, 1970, effective on February 3, 1970, 35 F.R. 2461, an order was entered against the above respondents and related parties named on said order denying them, for an indefinite period, all privileges of participating in transactions involving commodities or technical data exported or to be exported from the United States because the respondents failed to answer interrogatories duly served in accordance with section 388.15 of the Export Control Regulations without showing good cause for such failure.

The respondents have now furnished responsive answers to the interrogatories and pursuant to section 388.15 are entitled to have the indefinite denial order terminated.

Accordingly, the above mentioned indefinite denial order of January 26, 1970, is hereby terminated against respondents and the following related parties:

Interelektrik G.m.b.H. & Co. KG, Bad Aibling, West Germany.
Panther Elektrik G.m.b.H., and Panther Elektrik G.m.b.H. & Co. KG, Munich, West Germany.
Marcus-Electronik G.m.b.H., Munich, West Germany.

Dated: June 18, 1971.

RAUER H. MEYER,
Director, Office of Export Control.

[FR Doc.71-8882 Filed 6-23-71;8:48 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

FREEPORT KAOLIN CO.

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 1B2689) has been filed by Freeport Kaolin Co., Gordon, Ga. 31031, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of kaolin modified by reaction with fatty acid titanates as a component of articles for food-contact use.

Dated: June 18, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-8858 Filed 6-23-71;8:46 am]

PROCTER & GAMBLE CO.

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 1B2687) has been filed by the Procter & Gamble Co., Ivorydale Technical Center, Cincinnati, Ohio 45217, proposing that § 121.2520 *Adhesives* (21 CFR 121.2520) be amended to provide for the safe use of triglycidyl ether of *n*-propoxylated glycerine in adhesives intended for use in food-contact articles.

Dated: June 16, 1971.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.71-8859 Filed 6-23-71;8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-268]

GENERAL ELECTRIC CO.

Order Extending Provisional Construction Permit Completion Date

By application dated May 27, 1971, General Electric Co. requested an extension of the latest completion date specified in Provisional Construction Permit No. CPCSF-3. The permit authorizes General Electric Co. to construct an irradiated fuel reprocessing plant, known as the Midwest Fuel Recovery Plant, at the company's site in Grundy County, Ill.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered*, That the latest completion date specified in Provisional Construction Permit No. CPCSF-3 is extended from July 1, 1971, to April 1, 1972.

Dated at Bethesda, Md., this 17th day of June, 1971.

For the Atomic Energy Commission.

RICHARD E. CUNNINGHAM,
Acting Director,
Division of Materials Licensing.

[FR Doc.71-8847 Filed 6-23-71;8:45 am]

CIVIL AERONAUTICS BOARD

[Dockets Nos. 22686, 22687; Order 71-6-103]

AIR WEST, INC.

Order Regarding Certificate of Public Convenience and Necessity

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of June 1971.

Application of Air West, Inc., for amendment of its certificate of public convenience and necessity for route 76, Docket 22686. Application of Air West, Inc., for an exemption pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended, Docket 22687.

Hughes Air Corp. doing business as Air West (Air West) has filed an application in Docket 22686 requesting an amendment of its certificate of public convenience and necessity for route 76 to authorize nonstop service between Los Angeles-Ontario and Eureka-Arcata, Calif.[1] Contemporaneously, the carrier has filed an application in Docket 22687 seeking the same authority by exemption.

Air West states that there is now sufficient traffic to support a nonstop Eureka-Los Angeles service on an economic basis, and that grant of the requested authority would permit significantly improved Eureka-Los Angeles and Eugene, Oreg.-Los Angeles service bypassing the congested San Francisco area.[2] The carrier asserts that the nonstop authority would result in a lower level of expenses for it without producing any measurable amount of diversion from any other carrier.[3]

No answers in opposition to Air West's applications have been filed.

Upon consideration of the foregoing, and all the relevant facts, the Board has decided to issue an order to show cause proposing to amend Air West's certificate as requested. In addition, we will grant Air West an exemption on a pendente lite basis to permit nonstop service between Los Angeles and Eureka-Arcata.

We tentatively find and conclude that the public convenience and necessity require amendment of Air West's certificate for route 76 so as to authorize nonstop service between Los Angeles-Ontario and Eureka-Arcata, and that the carrier is fit, willing, and able properly to perform the air transportation proposed herein and to conform to the provisions of the Federal Aviation Act and the rules, regulations, and requirements of the Board thereunder. The authority will be ineligible for subsidy. In support of our ultimate findings, we tentatively find that the required stop at San Francisco serves no useful purpose and that its elimination will permit Air West to provide expedited service for a substantial number of Eureka/Eugene-Los Angeles passengers.[4] The proposed authorization will enable the carrier to achieve greater operating flexibility and realize cost savings and we find that no other air carrier will be significantly affected by grant of this award.

Interested persons will be given 20 days from the service date of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to direct their objections, if any, to specific markets and to support such objections with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be supported by legal precedent and detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing. General, vague, or unsupported objections will not be entertained.[5]

We also find that grant of exemption authority pendente lite is warranted. The relief granted is limited and temporary and involves no new stations for Air West.[6] Air West is authorized in the markets in question and the effect of our exemption would be to afford the carrier increased operating flexibility and cost savings without causing any significant adverse impact on any other air carrier. There is no opposition to the exemption. We find that it would be an undue burden, under the circumstances here presented, to deprive the carrier of the operational efficiencies and cost savings that will inure to it under the exemption authorized herein during the pendency of its application for an amendment of its certificate.

Accordingly, we find that enforcement of section 401 with respect to the service described above would be an undue burden on the carrier by reason of the limited extent of, and the unusual circumstances affecting, its operations, and is not in the public interest.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein and amending Hughes Air Corp.'s certificate of public convenience and necessity for route 76 so as to authorize nonstop service between Los Angeles-Ontario, Calif., and Eureka-Arcata, Calif., on a subsidy-ineligible basis;

2. Any interested person having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 20 days after service of a copy of this order, file with the Board and serve upon all persons made parties to this proceeding a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections;

3. If timely and properly supported objections are filed, full consideration

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[1] Air West has existing one-stop authority between these points via San Francisco, the junction point of segments 1 and 3 of the carrier's route 76.

[2] The carrier indicates that bypassing San Francisco would permit an average time saving of approximately 1½ hours in each direction for Eureka passengers and approximately 1 hour for Eugene passengers over the presently available service.

[3] Air West asserts that it would continue to provide service in the San Francisco-Eureka/Eugene markets sufficient to meet the needs of the local traffic.

[4] Air West would provide first nonstop service for Eureka passengers and first northbound single-plane service for Eugene passengers. United currently operates a single southbound two-stop flight, leaving Eugene at 3 p.m. O.A.G., June 1, 1971.

[5] We appreciate that Air West's applications fall within the class of cases which subpart M of the Board's Rules of Practice was designed to accommodate and that, for reasons set forth in Order 70-10-127, Oct. 28, 1970, should have been filed under subpart M procedures. We note, however, that the carrier's applications were filed prior to the date of our order reaffirming the utility of our subpart M procedures. Under these unusual circumstances, we do not believe it desirable to require the carrier to refile under subpart M. We are in no way abrogating our policy of requiring applications, such as those presented here, to be filed under the appropriate subpart M procedures, however, and, in the event a hearing should prove warranted in this case, we intend to proceed under subpart M.

[6] The initial service would involve a Los Angeles-Eureka-Eugene-Portland-Pasco round trip operated with DC-9-30 equipment.

will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein;

5. Hughes Air Corp., Inc., be and it hereby is temporarily exempted from the provisions of section 401 of the Act, and the terms, conditions, and limitations of its certificate of public convenience and necessity for route 76, to the extent that they would otherwise prevent the carrier from operating nonstop service between Los Angeles-Ontario and Eureka-Arcata, Calif.;

6. The exemption authority granted herein shall be effective until 60 days following final Board decision in Docket 22686;

7. The exemption authority granted herein may be amended or revoked at any time in the discretion of the Board without hearing; and

8. A copy of this order shall be served upon the following: Air California, American Airlines, Braniff Airways, Continental Air Lines, Eastern Air Lines, Delta Air Lines, National Airlines, Northeast Airlines, Northwest Airlines, Pacific Southwest Airlines, Trans World Airlines, United Air Lines, Western Air Lines, the Governors of the States of California and Oregon, the mayors of the cities of Los Angeles, San Francisco, Eureka, Eugene, and Portland, Oreg., the California Public Utilities Commission, the chambers of commerce of Los Angeles, San Francisco, Eureka, Eugene, and Portland, and the Postmaster General (Attention: Assistant Postmaster General, Bureau of Transportation).

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.71-8896 Filed 6-23-71;8:50 am]

[Dockets Nos. 21604, 21695]

ALOHA AIRLINES, INC., AND HAWAIIAN AIRLINES, INC.

Notice of Further Postponement of Hearing

Aloha Airlines, Inc. v. Hawaiian Airlines, Inc., Docket 21604; Hawaiian Airlines, Inc. v. Aloha Airlines, Inc., Docket 21695; enforcement proceeding.

Upon consideration of the request of Hawaiian Airlines, Inc., dated June 16, 1971, and the responses thereto of Aloha Airlines, Inc., and the Bureau of Enforcement, notice is hereby given that the hearing in the above-entitled matters is further postponed to be held on July 20, 1971, at 10 a.m., e.d.s.t., in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned Examiner.

Dated at Washington, D.C., June 18, 1971.

[SEAL] MILTON H. SHAPIRO,
Hearing Examiner.

[FR Doc.71-8897 Filed 6-23-71;8:50 am]

[Docket No. 23517; Order 71-6-101]

AMERICAN AIRLINES, INC., ET AL.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of June 1971.

American Airlines, Inc. (American), Braniff Airways, Inc. (Braniff), Delta Air Lines, Inc. (Delta), and National Airlines, Inc. (National), propose[1] that after August 31, 1971, tickets for military fares will be issued only on presentation of a Department of Defense Form No. 1580. Presently, these carriers will issue such tickets upon presentation of a Form 1580 or a copy of the passenger's official orders or other proof of authorized military leave or discharge. These same carriers also propose that in instances where the military passenger on emergency leave pays a higher fare due to the nonavailability of a Form 1580 at the time of ticket purchase, the carrier will later make an appropriate refund upon subsequent presentation of that form.

In support of their proposals, the carriers allege that they are being made to comply with an ATC resolution.

An untimely complaint was filed by the Department of Defense. No reason for its late filing accompanied the complaint and it will not be considered herein. No other complaints were filed.

Upon consideration of all relevant matters, the Board finds that the proposals may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful and should be investigated. The Board further concludes that the tariffs should be suspended pending investigation.

The carriers' justifications contain no explanation or discussion of the merits of their proposals nor is the ATC resolution, which has not yet been acted upon by the Board, accompanied by such a discussion.

It would appear that the proposal may result in some hardship to military personnel, particularly those on emergency leave, and we believe it should not be permitted in the absence of any apparent or stated need for the revision.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the symbol "#" and its explanation shown in connection with provisions in Rule 160(C)(8) on eighth and ninth Revised Pages 66 of Airline Tariff Publishers, Inc., Agent's CAB No. 142, and rules, regulations, or practices affecting such provisions are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, the symbol "#" and its explanation shown in connection with provisions in Rule 160(C)(8) on eighth and ninth Revised Pages 66 of Airline Tariff Publishers, Inc., Agent's CAB No. 142 are suspended (except from and to points in Canada) and their use deferred to and including September 17, 1971, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The complaint of the Department of Defense in Docket 23474 is hereby dismissed;

4. The proceeding ordered herein be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

5. Copies of this order be filed with the aforesaid tariffs and be served upon American Airlines, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., and National Airlines, Inc., which are hereby made parties to this proceeding, and upon the Department of Defense.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.71-8898 Filed 6-23-71;8:50 am]

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 142.

[Docket No. 23291; Order 71-6-95]

CASCADE AIRWAYS, INC.

Order To Show Cause Regarding Establishment of Service Mail Rate

Issued under delegated authority June 17, 1971.

The Postmaster General filed a notice of intent April 16, 1971, pursuant to 14 CFR Part 298, petitioning the Board to establish for the above-captioned air taxi operator, a final service mail rate of 44 cents per great circle aircraft mile for the transportation of mail by aircraft between Spokane, Wash., and Portland, Oreg., via Pasco, Wash., based on five round trips per week.

Northwest Airlines, Inc., filed an objection stating that it provides regular scheduled service between Spokane and Portland, its mail rates are lower than those proposed for Cascade, the Postal Service has failed to establish a cost/need relationship and it is concerned with the possible loss of mail during a decline in traffic and generally poor economic conditions.

The Postmaster General in its answer to the Northwest objection states that the

proposed air taxi service includes Pasco, Wash., which is not served by Northwest. Also, that the air taxi service is supplemented to that provided by the certificated carriers since their schedules do not always permit the necessary connections for the delivery of mail. In addition, a cost/need relationship is determined by certain service standards maintained in the public interest which are not affected by fluctuations in the volume of mail.

The Board finds it in the public interest to fix and determine the fair and reasonable rate of compensation to be paid by the Postmaster General for the transportation of mail by aircraft between the aforesaid points. It is noted that the air taxi service appears to supplement the schedules provided by the certificated carriers and allow the Postal Service through better connections to improve its delivery of mail to the public. Furthermore, the diversion of mail from Northwest should be minimal since this carrier does not serve Pasco, Wash. Therefore, upon consideration of the notice of intent and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

The fair and reasonable final service mail rate to be paid to Cascade Airways, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be 44 cents per great circle aircraft mile between Spokane, Wash., and Portland, Oreg., via Pasco, Wash., based on five round trips per week.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR Part 302, 14 CFR Part 298, and 14 CFR 385.16(f),

It is ordered, That:

1. Cascade Airways, Inc., the Postmaster General, Hughes Air Corp., doing business as Air West, Northwest Airlines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rate specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Cascade Airways, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within 10 days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within 10 days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This order shall be served on Cascade Airways, Inc., the Postmaster General, Hughes Air Corp., doing business as Air West, Northwest Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.71-8899 Filed 6-23-71;8:50 am]

[1] As this order to show cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).

[Dockets Nos. 21866-9, 23460; Order 71-6-104]

DELTA AIR LINES, INC., AND EASTERN AIR LINES, INC.

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of June 1971.

By tariff revisions[1] marked to become effective July 1, 1971, Delta Air Lines, Inc. (Delta),[2] and Eastern Air Lines, Inc. (Eastern), propose to revise the application of their night-coach fares to permit these fares to apply on eastbound flights originating at Dallas/Fort Worth and Houston between the hours of 9 p.m. and 4 a.m. Presently these fares apply between the standard night-coach hours of 10 p.m. and 4 a.m.

Braniff Airways, Inc. (Braniff), has filed a complaint requesting suspension and investigation of the proposal. Braniff alleges that night-coach fares are basically for the purpose of improving aircraft utilization and that no such justification is present for operations earlier than 10 p.m.; that Eastern alleges no competitive justification for its 9 p.m. departure from Dallas; and that if Eastern's proposal is permitted other carriers may have to do likewise for competitive reasons. Braniff also points out that Eastern erred in its justification when alleging that the 9 p.m. departure time at Houston is to meet a competitive night-coach service of Delta, which Eastern acknowledges in its answer to the complaint.

In support of its proposal and in answer to the complaint, Eastern alleges that the 9 p.m. departures at Dallas and Houston are necessary to permit through night-coach service beyond Atlanta, since with a later departure time connections with numerous night-coach flights out of Atlanta would not be possible. Eastern asserts that, while establishment of night-coach service out of Dallas at 9 p.m. is not required by the existence of competitive service, such a departure is offpeak and will improve equipment utilization. Eastern has submitted load-factor data indicating that flights after 8 p.m. in the Dallas market have very poor load factors in relation to earlier departures. Regarding the 9 p.m. Houston departure, Eastern points out that Delta presently has in effect an exception to the standard night coach hours which permits a Houston departure to Atlanta via New Orleans as early as 8:40 p.m.

Upon consideration of all relevant matters, the Board finds that the complaint does not set forth facts sufficient to warrant suspension, and consequently the request therefor will be denied. This matter is already under investigation in Phase 9 of the Domestic Passenger-Fare Investigation.

Data submitted by Eastern indicates that in July of 1970 load factors on flights departing as early as 8 p.m. in the Dallas-Atlanta market were considerably lower than those which departed earlier in the day. While Eastern has not provided any load-factor data for Houston departures, we note that of the 12 flights in that market in June 1971, only two departed later than 4:35 p.m. This would appear to support the contention that a 9 p.m. departure is in fact offpeak in this market.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. The complaint of Braniff Airways, Inc., in Docket 23460 is hereby dismissed; and

2. A copy of this order be served upon Braniff Airways, Inc., Delta Air Lines, Inc., and Eastern Air Lines, Inc.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.71-8900 Filed 6-23-71;8:50 am]

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 136.

[2] Delta states that its proposal is solely for defensive reasons.

[Docket No. 23333; Order 71-6-92]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Cargo Rate Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of June 1971.

Agreements have been filed with the Board pursuant to section 412(a) of the

Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Traffic Conference 1 and Joint Conference 3-1 of the International Air Transport Association (IATA). The agreements, which were adopted for early effectiveness at the Worldwide Cargo Conference beginning May 11, 1971, in Singapore, have been assigned the above-designated CAB agreement numbers.

The subject agreements, insofar as they apply in air transportation as defined by the Act, would amend the currently existing specific commodity rate structures within the Western Hemisphere and on transpacific routes by the naming of rates in additional markets under existing commodity descriptions, as set forth in the attachment hereto.[1]

While we are herein approving the additional specific commodity rates agreed upon for early effectiveness on July 1 and July 15, 1971, we will limit such approval so as to expire with the present worldwide cargo rate structure, i.e., September 30, 1971, in order that the instant revisions, which are intended to be effective through September of 1973, may be considered in relation to the overall Western Hemisphere and transpacific rate structures which may emanate from the Singapore Conference. On the other hand, we will herein disapprove rates agreed for September 1, 1971, effectiveness under Item 2420 (Shoes and Slippers) inasmuch as they are at higher rate levels than currently existing general cargo rates for the agreed markets, i.e., Buenos Aires/Montevideo/Porto Alegre to Los Angeles/Miami/New York, and no basis has been submitted for the premiums involved.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is found that the following resolution, incorporated in Agreement CAB 22460, as indicated, is adverse to the public interest and in violation of the Act:

Agreement CAB	IATA No.	Title	Application
22460:			
R-2	590i	Traffic Conference 1 Specific Commodity Rates (EXPEDITED)— insofar as it relates to IATA Commodity Item 2420.	1.

2. It is not found that the following resolutions, incorporated in Agreement CAB 22460, as indicated, are adverse to the public interest or in violation of the Act: *Provided*, That approval thereof is conditioned as hereinafter ordered:

Agreement CAB	IATA No.	Title	Application
22460:			
R-1	590j	Traffic Conference 1 Specific Commodity Rates (EXPEDITED)	1.
R-2	590l	Traffic Conference 1 Specific Commodity Rates (EXPEDITED)— insofar as it relates to IATA Commodity Item 0801.	1.
R-3	590m	JT 3/1 Specific Commodity Rates (EXPEDITED)	3/1.

Accordingly, it is ordered, That:

1. That portion of Agreement CAB 22460 described in finding paragraph 1 above be and hereby is disapproved; and

2. Those portions of Agreement CAB 22460 described in finding paragraph 2 above be and hereby are approved; *Provided*, That, insofar as air transportation as defined by the Act is concerned, approval shall not extend beyond September 30, 1971: *Provided further*, That approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication and that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.71-8901 Filed 6-23-71;8:50 am]

[1] Attachment filed as part of the original document.

[Docket No. 23437]

LOFTLEIDIR, H.F., AND SEABOARD WORLD AIRLINES, INC.

Notice of Proposed Approval

Application of Loftleidir, H.F. and Seaboard World Airlines, Inc., for approval pursuant to section 408(b) of the Federal Aviation Act of 1958, as amended, Docket 23437.

Notice is hereby given, pursuant to the statutory requirements of section 408(b) of the Federal Aviation Act of 1958, as amended, that the undersigned intends to issue the attached order under delegated authority. Interested persons are hereby afforded a period of 5 days from the date of this notice within which to file comments or request a hearing with respect to the action proposed in the order.

Dated at Washington, D.C., June 21, 1971.

[SEAL] A. M. ANDREWS,
Director,
Bureau of Operating Rights.

[FR Doc. 71- Filed - -71; am]

ORDER OF APPROVAL

Issued under delegated authority.

Applications of Loftleidir, H.F. and Seaboard World Airlines, Inc., for approval pursuant to section 408(b) of the Federal Aviation Act of 1958, as amended, Docket 23437.

Loftleidir, H.F. and Seaboard World Airlines, Inc. (Seaboard), have jointly requested approval, pursuant to section 408(b) of the Federal Aviation Act of 1958, as amended (the Act), of the lease of one Douglas DC 8-63F aircraft for the period June 22, 1971, through September 30, 1971, on essentially the same terms and conditions as a previous lease from Seaboard to Loftleidir which was approved by the Board.[1]

In support of the request, Seaboard states that the aircraft is one of nine aircraft which constitute its operating fleet but is not presently required either to meet its certificated obligations or military requirements. Seaboard states that this is the slow season for transatlantic cargo traffic and further that the Military Airlift Command has reduced its civil airlift requirements further than was earlier estimated. Seaboard maintains, in view of the substantial operating losses it has been experiencing, that the revenue from the leased aircraft is vitally needed at this time.[2] Because of the limitations of its operations to cargo and mail plus the limited access it has even in these markets, Seaboard contends that it has no opportunity to offset its losses in these areas with profits from other operations. Applicants submit that the aircraft will be operated in accordance with arrangements for the operation of air services between the governments of Iceland and the United States; that the lease was entered into after arm's length bargaining and is fair to all parties and consistent with the public interest; that it does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not create a monopoly and thereby restrain competition or jeopardize another air carrier. Seaboard maintains that its needs and interests dictated the transaction and that the Board has never interfered in such cases. Under these circumstances Seaboard believes that approval without hearing under the third proviso of section 408 is warranted.

No comments relative to the application have been received.

Seaboard is an air carrier and Loftleidir is a foreign air carrier; thus the lease of the aircraft, which is considered a substantial part of Seaboard's property, requires approval under section 408(a)(2) of the Act. However, it is further concluded that the lease transaction does not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, does not create a monopoly and thereby restrain competition, and does not jeopardize another air carrier. Furthermore, no person disclosing a substantial interest in this proceeding is currently requesting a hearing and it is concluded that the public interest does not require a hearing. The Board has previously considered and approved similar transactions between the parties[3] and the additional transaction described herein does not raise any new issues. Therefore it is not found that this transaction will be inconsistent with the public interest or that the conditions of section 408 will be unfulfilled.

[1] Orders 70-5-29 and 70-5-111, May 7 and 21, 1970.

[2] Seaboard's losses before taxes in the first quarter of 1971 were $400,000.

[3] Order 70-5-111, supra.

Notice of intent to dispose of the application without hearing has been published in the FEDERAL REGISTER and a copy of such notice has been furnished by the Board to the Attorney General not later than the day following the date of such publication, both in accordance with the provisions of section 408(b) of the Act.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.13, it is found that the foregoing transaction should be approved under section 408(b) of the Act without a hearing.[4]

Accordingly, it is ordered, That:

1. The leases of the aircraft, as described herein, by Seaboard to Loftleidir be and it hereby is approved; and

2. Jurisdiction in this proceeding is retained for the purpose of taking such further action as may be required by the public interest.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of this order.

This order shall become effective upon date of issuance and the filing of such petitions shall not stay its effectiveness.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-8902 Filed 6-23-71;8:50 am]

[Docket No. 23167]

TEXAS-MEXICO SERVICE INVESTIGATION

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on July 20, 1971, at 10 a.m., e.d.s.t., in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

For information concerning the issues and other details involved in this proceeding, interested persons are referred to Order 71-3-48, dated March 8, 1971, Order 71-4-150, dated April 23, 1971, and Order 71-5-79, dated May 17, 1971; the prehearing conference report, served May 24, 1971; and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 18, 1971.

[SEAL] ROBERT L. PARK,
Hearing Examiner.

[FR Doc.71-8903 Filed 6-23-71;8:50 am]

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[4] It is further found, pursuant to 14 CFR 385.6 that the actions taken herein are governed by prior Board precedent and policy, and that immediate action is required to enable effectuation of the transaction; therefore, it is determined that the filing of petitions for review of this order will not preclude this order from becoming effective immediately.

DELAWARE RIVER BASIN COMMISSION

COMPREHENSIVE PLAN

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Tuesday, June 22, 1971. The hearing will take place in the South Auditorium of the ASTM Building, 1916 Race Street in Philadelphia, beginning at 2 p.m. The hearing will be on proposals to amend the Comprehensive Plan so as to include the following projects:

1. *Upper Merion Township Authority.* A project to construct sanitary sewers and an interceptor along Gulph Creek to serve Upper Merion Township, Montgomery County, Pa. The interceptor, composed of 8- and 10-inch-diameter pipe, will connect with the Authority's existing Matsunk sewage treatment plant. Ultimate discharge will be to the Schuylkill River.

2. *New Castle County.* A sewage interceptor construction program to relieve the entire North Delaware Interceptor System and a portion of the city of Wilmington sewerage system. The program consists of the Edgemoor interceptor located northeast of Wilmington and the Governor Printz Upper located just south of the Delaware-Pennsylvania State line. Ranging in size from 24- to 66-inch diameter, the interceptors will convey sewage to the Wilmington sewage treatment plant.

3. *New Castle County (Port Penn Sanitary District).* A project to construct sanitary sewers and a package treatment plant in St. Georges Hundred, New Castle County, Del. The package plant will serve approximately 500 persons in the unincorporated town of Port Penn and will provide high level secondary treatment. Treated effluent will discharge to the Delaware River.

4. *Borough of Downingtown.* An interceptor sewer project to serve Downingtown Borough and several adjacent townships in Chester County, Pa. Designated as Sections IV and V, the new interceptor will parallel Park Run and East Branch of Brandywine Creek and is designed to serve an ultimate population of 42,000 people. Sewage will be conveyed to the Borough treatment plant for ultimate discharge into Brandywine Creek.

5. *Valley Forge Sewer Authority.* An interim package type treatment plant to serve approximately 1,300 persons in a portion of Schuylkill Township, Chester County, Pa. About 95 percent of BOD_5 and suspended solids will be removed from the waste water prior to discharge into a tributary of French Creek, The plant will be abandoned when a regional system becomes available.

6. *Borough of Bristol.* Expansion of the Borough of Bristol sewage treatment plant in Bucks County, Pa. Capacity will be increased from 1 to 4 million gallons per day and will provide removal of 95 percent of BOD_5. Treated effluent will discharge into the Delaware River.

7. *City of Bethlehem.* Expansion of the city's existing sewage treatment plant in Northampton County, Pa. Expansion will increase the capacity to 15.5 million gallons per day. About 90 percent of BOD_5 will be removed from waste prior to discharge to the Lehigh River.

Documents relating to the above items may be examined at the Commission's offices. All persons wishing to testify are requested to register in advance with the Secretary to the Commission. (609) 883-9500.

W. BRINTON WHITALL,
Secretary.

JUNE 9, 1971.

[FR Doc.71-8848 Filed 6-23-71;8:45 am]

FEDERAL MARITIME COMMISSION

CITY OF LONG BEACH AND TRANSOCEAN GATEWAY CORP.

Notice of Agreement Filed

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

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

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

Notice of agreement filed by:

Mr. Leonard Putnam, City Attorney, City of Long Beach, Suite 600 City Hall, Long Beach, Calif. 90802.

Agreement No. T-2214-2, between the city of Long Beach and Transocean Gate-

way Corp., modifies the basic agreement, as amended, which provides for the nonexclusive preferential assignment of certain terminal facilities at Long Beach, Calif. The purpose of the modification is to add to the assigned premises (1) the wharf and wharf premises at Berth 245, Pier J, (2) a new Parcel III, and (3) provide for the necessary increases in compensation, which are set forth in detail in the modification. The modification further provides for the construction of an addition to the existing container freight station located upon the premises, subject to an increase in the minimum and maximum compensation.

Dated: June 18, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-8878 Filed 6-23-71;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. CP71-284]

EL PASO NATURAL GAS CO.

Notice of Application

JUNE 15, 1971.

Take notice that on June 1, 1971, El Paso Natural Gas Co. (applicant), Post Office Box 1492, El Paso, TX 79999, filed in Docket No. CP71-284 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain compressor facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant seeks permission and approval to abandon, by removal and salvage, four 2,000 horsepower reciprocal compressor units and appurtenant facilities at its Driver Compressor Station located in Midland County, Tex. Applicant states that these units, among others, were installed pursuant to Commission authorization in Docket No. G-2106 and that the continued decline in the availability of casinghead gas from the Spraberry Field in Midland and Glasscock Counties, Tex., has made these units surplus. Applicant also states that there will be no reduction or termination of service to any of its customers as a result of the proposed abandonment of these compressor units because the remaining units will be adequate for any gas which may be available at this location. The estimated cost of the abandonment proposed herein is $99,450.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 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.71-8850 Filed 6-23-71;8:45 am]

[Docket No. RP71-128]

FLORIDA GAS TRANSMISSION CO.

Notice of Existing Curtailment Procedures

JUNE 15, 1971.

Take notice that on May 17, 1971, Florida Gas Transmission Co. (Florida Gas) filed a written report, pursuant to paragraph (A)(2) of the Commission's Order No. 431, issued April 15, 1971, in Docket No. R-418, stating that it "* * * anticipates no operating conditions or gas supply shortages that will require curtailment of deliveries to meet the firm obligations to its wholesale customers or its direct sale and transportation customers during the 1971-72 heating season."

While Florida Gas does not anticipate making curtailments below contract demand, it states that section 9 of its FPC Gas Tariff presently on file with the Commission specifies an ascending order of interruption to protect firm service. Section 9, priority of service: *Provides*, That during the periods when operating conditions require curtailments or interruptions in interruptible service, Florida Gas shall curtail or interrupt deliveries of gas to direct-sale industrial consumers and to Buyers under its Rate Schedule I in the following order: (1) Direct-sale "Primary Interruptible" Consumers, (2) Direct-sale "Intermediate Interruptible" Consumers, (3) Direct-sale "Preferred Interruptible" Consumers, and (4) Resale "Preferred Interruptible" Consumers. Service categories (1), (2), and (3) are comprised of direct-sale industrial customers purchasing directly from Florida Gas, and category (4) is comprised of customers purchasing gas under Rate Schedule I of Florida Gas' FPC Gas Tariff. Each category of service is subject to complete curtailment or interruption, in the order of priorities listed above, before the next category is affected.

With respect to curtailment of firm service, section 9 provides as follows:

> If, due to any cause whatsoever, the capacity for deliveries from Seller's transmission line or any part thereof is physically impaired through force majeure or operating conditions beyond the control of Seller and the affected parties, which in effect actually reduces the ability of Seller to deliver its authorized maximum daily delivery capacity, each then effective contracted firm service obligation of Seller will be entitled to such proportionate part of the total impaired deliveries as such contracted firm service obligation bears to Seller's then effective total contracted firm service obligations.

Although Florida Gas' existing curtailment policy is on file with the Commission and is not expected to be implemented within the foreseeable future, any person desiring to be heard or to make any protest with respect to Florida Gas' existing tariff provisions governing curtailments of service should on or before July 6, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. Florida Gas' report, submitted pursuant to Order No. 431, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8851 Filed 6-23-71;8:45 am]

[Docket No. E-7521]

INDIANAPOLIS POWER & LIGHT CO.

Notice of Application for Supplemental Order

JUNE 15, 1971.

Notice is hereby given that on June 4, 1971, Indianapolis Power & Light Co. (applicant) filed a Supplemental Application seeking authority, pursuant to section 204 of the Federal Power Act, to increase the amount of short term unsecured promissory notes (Notes) which it was authorized to issue by order of the Commission entered in the above captioned Docket on March 2, 1970. By such order of March 2, 1970, applicant was authorized to issue up to twenty-seven million dollars ($27,000,000) principal amount of such notes outstanding at any

time, of which not more than twenty-four million dollars ($24,000,000) principal amount outstanding at any time may be in the form of commercial paper, with final maturities of all such notes not later than December 31, 1971. By its supplemental application, applicant seeks authority to issue up to thirty-two million dollars ($32,000,000) principal amount of such notes outstanding at any time, of which not more than twenty-six million dollars ($26,000,000) principal amount may be in the form of commercial paper, with final maturity of all such notes not later than December 31, 1972.

Applicant is an operating public utility incorporated under the laws of the State of Indiana, with its principal office in the city of Indianapolis, Ind., and is doing business in such State pursuant to the laws thereof.

The interstate rate applicable to such notes issued and sold to commercial paper dealers will be the prevailing market rate (discount rate) for commercial paper of comparable quality and similar maturity in effect at the time of sale. The interest rate on notes issued to commercial banks will be the prevailing prime commercial rate in effect during the period each such note is outstanding. Applicant contemplates the issuance from time to time, without further order of the Commission, of notes up to the aforesaid maximum outstanding at any time, including the issue and "roll over" of notes in the form of commercial paper not to exceed the aforesaid maximum for notes issued in such form.

The proceeds of the notes will be used to finance in part applicant's construction program. Applicant states in its supplemental application that the increased authorization which it now seeks will allow it more freedom in selecting the appropriate times and market conditions to fund its short term debt.

Any person desiring to be heard or to make any protest with reference to the application should, on or before July 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition or protest in accordance with the Commission's rules of practice and procedure (18 CFR or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8852 Filed 6-23-71;8:46 am]

[Docket No. CP71-291]

PANHANDLE EASTERN PIPE LINE CO.

Notice of Application

JUNE 15, 1971.

Take notice that on June 9, 1971, Panhandle Eastern Pipe Line Co. (applicant), Post Office Box 1642, Houston, TX 77001, filed in Docket No. CP71-291 an application pursuant to section 7(c) of the Natural Gas Act as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing on the date of Commission authorization, and operation of certain natural gas facilities to enable applicant to take into its pipeline system supplies of natural gas which will be purchased from producers in the general area of its existing pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the facilities proposed herein is not to exceed $7 million, with no single project costing in excess of $1 million. Applicant states that these costs will be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 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.71-8853 Filed 6-23-71;8:46 am]

[Project No. 2174]

SOUTHERN CALIFORNIA EDISON CO.

Notice of Application for Amendment of License

JUNE 15, 1971.

Public notice is hereby give that application has been filed for amendment of license under the Federal Power Act (16 U.S.C. 791a-825r) by Southern California Edison Co. (correspondence to: Robert N. Coe, Vice President, Post Office Box 351, Los Angeles, CA 90053 for its constructed Portal Powerhouse Project No. 2174, located on Ward (Florence Lake) Tunnel which connects Florence Lake Reservoir with Huntington Lake Reservoir in the San Joaquin River basin, in the vicinity of Fresno, Calif. The project affects lands of the United States within the Sierra National Forest.

Applicant requests authorization to move a portion of the Portal 33 kv. transmission line about 100 feet to a new location to accommodate construction of an improvement to Edison Lake Road (Forest Service Road No. 4S01) in section 5, T. 8 S., R. 26 E., M.D.B. & M.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Acting Secretary.

[FR Doc.71-8854 Filed 6-23-71;8:46 am]

[Docket No. CP71-292]

TRUNKLINE GAS CO.

Notice of Application

JUNE 15, 1971.

Take notice that on June 9, 1971, Trunkline Gas Co. (applicant), Post Office Box 1642, Houston, TX 77001, filed in Docket No. CP71-292 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas gathering facilities, 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 has contracted to purchase natural gas from Rio Mines and Minerals, Inc., and other producers in the Northwest Ragland Field Area of Jim Wells County, Tex., and that ap-

proximately 2,000 Mcf of natural gas per day will be available therefrom. In order to connect these volumes to its 100–1 Pipeline in Jim Wells County, applicant proposes to construct and operate approximately 2 miles of 3½-inch pipeline and the necessary metering and regulating equipment. The estimated cost of the facilities proposed herein is $39,000, which cost applicant states will be financed from general funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 6, 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.71-8858 Filed 6-23-71;8:46 am]

[Docket No. CP69-63]

NORTHERN NATURAL GAS CO.

Notice of Petition To Amend

JUNE 17, 1971.

Take notice that on May 11, 1971, Northern Natural Gas Co. (petitioner), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP69-63 a petition to amend the order of the Commission issuing a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act in said docket to permit Lake Superior District Power Co. (Lake Superior) to utilize the contract demand assigned to its steam and electric generating plant at Park Falls, Wis., to meet the peak winter requirements of residential and small volume commercial customers, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of November 12, 1968 (40 FPC 1291), in said docket, authorized the construction and operation of facilities for the sale and delivery of up to 6,995 Mcf of natural gas per day to Lake Superior for use in its steam and electric generating plant located in Park Falls, Wis. Petitioner states that because of the present shortage of natural gas, Lake Superior proposes to install oil burning standby equipment in the Park Falls generating plant for peak shaving thereby making available part of the contract demand of 6,995 Mcf to supply the winter requirements of residential and commercial customers in the city of Park Falls and environs. Accordingly, petitioner requests that the order of the Commission, heretofore issued in said docket, be amended to authorize the sale for resale of natural gas to Lake Superior of a portion of the 6,995 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 7, 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-8915 Filed 6-23-71;8:52 am]

[Docket No. RP71-127]

CONSOLIDATED GAS SUPPLY CORP.

Notice of Existing Curtailment Procedures

JUNE 17, 1971.

Take notice that on May 17, 1971, Consolidated Gas Supply Corp. (Consolidated) filed a written report, pursuant to paragraph (A)(2) of the Commission's Order No. 431, issued April 15, 1971, in Docket No. R-418, stating that it "* * * is making every reasonable effort to fill all of its storage fields substantially to their full developed capacity by November 1 of this year and presently anticipates that these efforts will be successful."

Consolidated states that its forecasts are based upon the assumption that its pipeline suppliers will continue delivering all of the gas, without curtailment, which Consolidated is entitled to receive under its contracts with them.

While Consolidated does not anticipate making curtailments below contract demand, it states that its FPC Gas Tariff, First Revised Volume No. 1, provides in section 10 of the general terms and conditions thereof the method of apportioning gas among its customers in the event of a gas shortage on its system. Consolidated in its report points to the following provision of section 10:

During periods of gas shortage, gas sold by Seller to Buyer for resale to domestic and commercial customers shall take priority over gas sold by Seller to Buyer for resale to industrial customers of Buyer, and Seller and Buyer shall operate their systems so as to provide protection to domestic and commercial customers; and so far as operating conditions will permit, available supplies of gas shall be dispatched in as equitable a manner as possible.

Although Consolidated's existing curtailment policy is on file with the Commission and is not expected to be implemented within the foreseeable future, any person desiring to be heard or to make any protest with respect to Consolidated's existing tariff provisions governing curtailments of service should on or before July 15, 1971, file with the Federal Power Commission, 441 G Street NW., Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. Consolidated's report, submitted pursuant to Order No. 431, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-8929 Filed 6-23-71;8:52 am]

[Projects Nos. 2243, 2273]

PACIFIC NORTHWEST POWER CO., ET AL.

Notice of Staff Draft Environmental Impact Statement

JUNE 17, 1971.

Take notice that the Staff of the Federal Power Commission has pursuant to the requirements of section 192(2)(C) of the National Environmental Policy Act of 1969, transmitted to the Council on Environmental Quality a draft Environmental Impact Statement, dated June 8, 1971. The transmitted statement pertains to the application for a major project license, High Mountain Sheep Projects Nos. 2243 and 2273.

All Federal agencies having jurisdiction by law or special expertise with respect to environmental impact and all State and local agencies authorized to

develop and enforce environmental standards are invited to comment on the Draft Environmental Statement by sending their comments to the Federal Power Commission, Washington, D.C. 20426 within 45 days of the date of the statement. Copies of the statement can be obtained from the Federal Power Commission, Office of Public Information.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-8925 Filed 6-23-71;8:52 am]

[Docket No. E-7638]

PUBLIC SERVICE COMPANY OF INDIANA, INC., AND SOUTHERN INDIANA GAS AND ELECTRIC CO.

Notice of Application

JUNE 17, 1971.

Take notice that on June 8, 1971, Public Service Company of Indiana, Inc., of Plainfield, Ind., and Southern Indiana Gas and Electric Company of Evansville, Ind., (applicants), filed an application pursuant to section 203 of the Federal Power Act seeking an order authorizing each of them to sell certain electrical facilities to Indiana Statewide Rural Electric Cooperative, Inc. (Statewide). The facilities proposed to be transferred by applicants to Statewide consist of real estate together with electric equipment located at 34 distribution substations now owned or leased by applicants.

The electrical facilities proposed to be sold are now used to deliver electric power and energy to certain rural electric distribution cooperatives in Indiana (REMCs), and after the consummation of the sale will be used by Statewide to deliver or cause to be delivered electric power and energy to the same REMCs. These REMCs will become customers of Statewide upon consummation of the proposed sale and purchase.

Any person desiring to be heard or to make any protest with reference to said application should, on or before July 9, 1971, file with the Federal Power Commission, Washington, D.C., 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-8926 Filed 6-23-71;8:52 am]

[Docket No. RP71-126]

CONSOLIDATED GAS SUPPLY CORP.

Notice of Proposed Changes in Rates and Charges

JUNE 17, 1971.

Take notice that on June 4, 1971, Consolidated Gas Supply Corp. (Consolidated) tendered for filing a motion by which it seeks Commission approval of a specific method of "tracking supplier rate changes".

Consolidated states it is seeking approval of its "tracking" method in order to enable it to recoup substantial and frequent purchased gas cost increases.

Consolidated states that in general the proposed method of computation, as more fully set out in the Motion and Exhibit I attached thereto, provides that Consolidated can file from time to time during a period ending July 1, 1972, as part of Revised Volume No. 1 of its FPC Gas Tariff, Revised Sheet No. 8 necessary to reflect increases or decreases in the rates thereunder, based upon increases or decreases in the cost of Consolidated's purchased and transported gas.

No change in rates would be made until the unit change in the increase or decrease in Consolidated's cost of gas purchased and transported equals or exceeds one tenth of a cent (0.1¢).

Copies of the filing were served on all customers of Consolidated Gas Supply Corp. and State commissions that would be affected by the filing.

Any person desiring to be heard or to make any protest with reference to this filing should on or before July 1, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The motion is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-8927 Filed 6-23-71;8:53 am]

FEDERAL RESERVE SYSTEM

SECURITY NEW YORK STATE CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by Security New York State Corporation, which is a bank holding company located in Rochester, N.Y., for prior approval by the Board of Governors of the acquisition by Applicant of 100 percent of the voting shares of First Bank and Trust Company of Corning, Corning, N.Y.

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 New York.

By order of the Board of Governors, June 18, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8856 Filed 6-23-71; 8:46 am]

FIRST NATIONAL BANCORPORATION, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of The First National Bancorporation, Inc., Denver, Colo., for approval of acquisition of 80 percent or more of the voting shares of The National State Bank of Boulder, Boulder, Colo.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), and section 222.3(a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by

The First National Bancorporation, Inc., Denver, Colo., a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of The National State Bank of Boulder, Boulder, Colo.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency, and requested his views and recommendation. The Comptroller recommended approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on February 5, 1971 (36 F.R. 2538), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired, and all those received have been considered by the Board.

It is hereby ordered, For the reasons set forth in the Board's Statement[1] of this date, that said application be and hereby is approved: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order, or (b) later than 3 months after the date of this order, unless such time shall be extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[2]

June 17, 1971.

[SEAL] KENNETH A. KENYON,
Deputy Secretary.

[FR Doc.71-8857 Filed 6-23-71;8:46 am]

FEDERAL TRADE COMMISSION

SPECIAL REPORTS RELATING TO ADVERTISING CLAIMS

Requirement for Submission and Disclosure Thereof by the Commission

Notice is hereby given that the Federal Trade Commission has approved, adopted and entered of record the following resolution:

RESOLUTION REQUIRING SUBMISSION OF SPECIAL REPORTS RELATING TO ADVERTISING CLAIMS AND DISCLOSURE THEREOF BY THE COMMISSION

Production of documentation. The claims made in advertising consumer products often lead the consuming public to believe that such claims are substantiated by adequate and well-controlled scientific tests, studies, and other fully documented proof.

If the public and the Commission knew whether substantiation actually exists and the adequacy of substantiation, they would be aided in evaluating competing claims for products, and in distinguishing between the seller who is advertising truthfully and one who is unfairly treating both consumers and competitors by representing, directly or by implication, that it has proof when in fact there is none or the proof is inadequate.

Considering the importance of these questions to consumers and businessmen, the Commission, in fulfilling its statutory responsibility under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) with respect to false and deceptive advertising, and unfair methods of competition, resolves that advertisers shall be required, on demand by the Commission, to submit with respect to any advertisement such tests, studies, or other data (including testimonials or endorsements) as they had in their possession prior to the time claims, statements, or representations made in the advertisement regarding the safety, performance, efficacy, quality, or comparative price of the product advertised.

The claims, statements, or representations subject to the above requirement will be identified in orders to file special reports which will be issued to such advertisers as may be selected from time to time by the Commission. If the advertiser had no data to substantiate these claims before they were made, he shall notify the Commission of this fact before the return date of the order to file special reports.

The Commission will compel the production of said tests, studies, or other data (including testimonials or endorsements) in the exercise of the powers vested in it by sections 6, 9, and 10 of the Federal Trade Commission Act (15 U.S.C. 46, 49, and 50), and with the aid of any and all powers conferred upon it by law and any and all compulsory processes available to it.

Publication of documentation submitted. Except for trade secrets, customer lists or other financial information which may be privileged or confidential, pursuant to section 6(f) of the Federal Trade Commission Act, the material obtained by the Commission pursuant to this resolution will be made available to the public under such terms and conditions as the Commission may from time to time determine. In addition, the Commission may release summaries, reports, indices, or such other publications which will inform the public about material delivered or not delivered to it hereunder.

In deciding to make this material available to the public, and to publish summary reports, the Commission is persuaded by the following policy considerations:

1. Public disclosure can assist consumers in making a rational choice among competing claims which purport to be based on objective evidence and in evaluating the weight to be accorded to such claims.

2. The public's need for this information is not being met voluntarily by advertisers.

3. Public disclosure can enhance competition by encouraging competitors to challenge advertising claims which have no basis in fact.

4. The knowledge that documentation or the lack thereof will be made public will encourage advertisers to have on hand adequate substantiation before claims are made.

5. The Commission has limited resources for detecting claims which are not substantiated by adequate proof. By making documentation submitted in response to this resolution available to the public, the Commission can be alerted by consumers, businessmen, and public interest groups to possible violations of section 5 of the Federal Trade Commission Act.

By direction of the Commission dated June 9, 1971.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc.71-8879 Filed 6-23-71;8:48 am]

SECURITIES AND EXCHANGE COMMISSION

[811-1438]

COMPUTER DIRECTIONS FUND, INC.

Notice of Proposal To Terminate Registration

JUNE 18, 1971.

Notice is hereby given that the Commission proposes, pursuant to section 8(f) of the Investment Company Act of 1940 (Act) to declare by order upon its own motion that Computer Directions Fund, Inc. (Fund), 8720 Georgia Avenue, Silver Spring, Md., a corporation organized under the laws of the State of Maryland, and registered under the Act as an open-end, nondiversified management investment company, has ceased to be an investment company.

Fund was organized in Maryland on December 22, 1965, and filed a Notification of Registration on Form N-8A with the Commission on November 4, 1966. On April 20, 1967, a meeting of shareholders was held and a Plan of Complete Liquidation (the Plan) was adopted by unanimous vote. Fund has not effected any transactions in securities subsequent to the adoption of the Plan except for the purposes of effecting the Plan pursuant to an Offer of Settlement accepted by the Commission on May 23, 1967 (Securities Exchange Act Release No. 8083. By October 1, 1967, Fund had completely liquidated and distributed all of its assets to its sole stockholder, The Fund of Funds, Ltd., which also assumed all of Fund's existing or future liabilities.

Section 8(f) of the Act provides in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and that upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that an interested person may, not later than July 15, 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 reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications 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

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[1] Filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Kansas City. Concurring Statement of Governor Maisel and Dissenting Statement of Governors Robertson and Brimmer filed as part of the original document and available upon request.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Deane, Maisel, and Sherill. Voting against this action: Governors Robertson and Brimmer.

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 after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission'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.71-8862 Filed 6-23-71;8:46 am]

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

JUNE 18, 1971.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period June 20, 1971, through June 29, 1971.

By the Commission.

[SEAL] THEODORE L. HUMES,
Associate Secretary.

[FR Doc.71-8863 Filed 6-23-71;8:47 am]

[70-4998]

JERSEY CENTRAL POWER & LIGHT CO.

Notice of Proposed Issue and Sale of Debentures at Competitive Bidding

JUNE 18, 1971.

Notice is hereby given that Jersey Central Power & Light Co. (Jersey Central) Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960, an electric utility subsidiary company of General Public Utilities Corp., 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 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Jersey Central proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $25 million principal amount of debentures, due August 1, 1966. The interest rate (which will be a multiple of one-eighth of 1 percent) and the price (which will be not less than 100 percent nor more than 102.75 percent of the principal amount thereof plus accrued interest from August 1, 1971, to the date of delivery) will be determined by the competitive bidding. The debentures will be issued under an indenture, dated as of October 1, 1963, of Jersey Central to Irving Trust Co., Trustee, as heretofore supplemented and as to be further supplemented by a Fourth Supplemental Indenture to be dated as of August 1, 1971, and which includes, subject to certain exceptions, a prohibition until August 1, 1976, against refunding the issue with proceeds of funds borrowed at a lower interest cost.

A portion of the proceeds from the sale of the debentures will be used to pay Jersey Central's short-term bank notes outstanding at the date of sale of the bonds (estimated at $24 million). The proceeds from the sale of such notes have been or will be used for construction purposes. The balance of the proceeds from the sale of the debentures will be used to pay a portion of Jersey Central's 1971 construction program (estimated to cost $147,600,000). Any premium realized from the sale of the debentures will be applied to the financing of the business of Jersey Central, including the payment of expenses of this financing.

It is stated that the fees and expenses to be paid by Jersey Central in connection with the issue and sale of the debentures and the fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment.

It is further stated that the Board of Public Utility Commissioners of New Jersey has jurisdiction over the proposed issue and sale of debentures by Jersey Central and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than July 22, 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.71-8864 Filed 6-23-71;8:47 am]

[812-2954—812-2956]

VIRGINIA CAPITAL CORP., ET AL.

Consolidated Notice of the Filing of Applications for an Order

JUNE 18, 1971.

In the matter of Virginia Capital Corp., Arthur S. Brinkley, Jr. and Robert H. Pratt, Directors and Officers, Eugene B. Sydor, Jr. and H. Dunlop Dawbarn, Directors, 808-A State Planters Bank Building, Richmond, Va. 23219; Pandick Press, Inc., Edward G. Green and Lawrence L. Roberts, Jr., Directors and Officers, 345 Hudson Street, New York, NY 10014; Massachusetts Mutual Life Insurance Co., Springfield, Mass. 01101; Capital Southwest Corp., 150 Hartford Building, Dallas, Tex. 75221; Allied Capital Corp., 1625 Eye Street NW., Washington, DC 20006, 812-2964, 812-2965, 812-2966.

Notice is hereby given that the following persons (collectively referred to herein as (Applicants) has filed applications pursuant to section 17(d) of the Investment Company Act of 1940 (Act) and Rule 17d-1 thereunder, for an order permitting them and certain other holders of Common Stock, $0.10 par value (Stock), of Pandick Press, Inc. (Pandick) to sell shares of stock in a public offering (Public Offering) in the amounts indicated: Virginia Capital Corp. (Virginia Capital), 50,000 presently outstanding shares of stock; Arthur S. Brinkley, Jr., Senior Vice President and Treasurer of Virginia Capital, Robert H. Pratt, President of Virginia Capital, Eugene B. Sydnor, Jr. and H. Dunlop Dawbarn (all of whom are directors of Virginia Capital and collectively referred to herein as the "Virginia Capital Directors"), in the aggregate 11,340 presently outstanding shares of stock; Pandick, 150,000 authorized but unissued shares of stock; Edward G. Green and Lawrence L. Roberts, Jr. (both of whom are directors and officers of Pandick and referred to collectively

herein as the "Pandick Officers"), in the aggregate 110,327 presently outstanding shares of stock; Massachusetts Mutual Life Insurance Co. (Mass Mutual), 70,000 presently outstanding shares of stock; Capital Southwest Corp. (Capital Southwest), 30,000 presently outstanding shares of stock; and Allied Capital Corp. (Allied Capital), 28,000 presently outstanding shares of stock. All of the holders of stock who will be selling shares of stock in the Public Offering hereinafter referred to as the "Selling Shareholders". Applicants also seek an order approving the execution and delivery to Pandick of a letter agreement (Letter Agreement) by certain of the Selling Shareholders. All interested persons are referred to the applications on file with the Commission, for a statement of the representations therein, which are summarized below.

Virginia Capital, incorporated under the laws of the State of Virginia, is registered under the Act as a closed-end, nondiversified investment company, and is licensed as a small business investment company (SBIC) under the Small Business Investment Act of 1958 (1958 Act). Pandick, a New York corporation which renders printing services to the financial community, has outstanding 1,334,000 shares of stock. There is no public market for the stock at present since to date there has been no public offering of the stock. Virginia Capital and Virginia Capital directors acquired their shares of the stock in transactions which were the subject of Investment Company Act Releases Nos. 3154, 3167, 4116, and 4140. Virginia Capital owns 326,934 shares (or approximately 24.5 percent) of the presently outstanding stock. Virginia Capital directors own an aggregate of 34,280 shares (or approximately 2.6 percent) of the presently outstanding stock. Edward G. Green (Green) and Lawrence L. Roberts, Jr. (Roberts) acquired their stock upon the merger in 1965 of James F. Newcomb Co., Inc., a commercial printing firm, all of the stock of which was owned by them, into Pandick. Green and Roberts own 239,000 and 251,900 shares (or approximately 18.1 percent and 18.9 percent) of the presently outstanding stock, respectively. Mass Mutual acquired its shares of stock in connection with a loan of $500,000 to Pandick. Mass Mutual owns 70,000 shares (or approximately 5.2 percent) of presently outstanding stock.

Capital Southwest, a Texas corporation, is registered under the Act as a closed-end, nondiversified investment company, and is licensed as an SBIC under the 1958 Act. Capital Southwest acquired its stock in connection with a loan of $200,000 to Pandick. Capital Southwest owns 130,000 shares (or approximately 9.7 percent) of presently outstanding stock. Allied Capital, a District of Columbia corporation, is also registered under the Act as a closed-end, nondiversified investment company, and licensed as an SBIC, under the 1958 Act. Allied Capital owns 133,600 shares (or approximately 10.01 percent) of presently outstanding stock.

Section 2(a)(3) includes within the definition of "affiliated person" any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person; any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; and any director or officer of such other person. Virginia Capital, Mass Mutual, Pandick Officers, Capital Southwest, and Allied Capital are each an affiliate of Pandick and Pandick is an affiliate of each of them. Virginia Capital Directors are affiliated persons of Virginia Capital.

Pandick has filed a registration statement with the Commission under the Securities Act of 1933 with respect to the Public Offering. In the Public Offering, various underwriters, acting through Eastman Dillon, Union Securities & Co. Inc., and Wheat & Co., Inc., as their representatives, propose to purchase from Pandick and the selling shareholders approximately 475,000 shares of stock in the aggregate. The quantities of shares to be purchased from each of the Applicants are as indicated in the first paragraph hereof.

Pursuant to the Letter Agreement, effective upon Pandick's initial registration statement on Form S–1 being declared effective by the Securities and Exchange Commission, selling shareholders (1) have agreed to certain amendments and waivers with respect to: (i) Rights of registration of stock held by all Applicants (except Pandick and Pandick Officers) and certain other selling shareholders, which rights were obtained in connection with certain note and warrant agreements; (ii) covenants in such note and warrant agreements providing for the application of proceeds from insurance policies maintained on the lives of Green and Roberts to the payment of the notes (the Notes) issued by Pandick under such note and warrant agreements; and (iii) rights granted in Pandick's restated certificate of incorporation, as amended, to certain debtholders, including holders of the notes, to prohibit the use of certain funds for various payments relating to Pandick's 4 percent Nonnegotiable Junior Subordinated Notes and its $4 Participating Preferred Stock, and (2) have confirmed and approved certain consents, waivers and amendments previously obtained by Pandick under such note and warrant agreements.

Applicants state that the number of shares of stock included in the Public Offering was determined by the underwriters. Pandick and each of its shareholders (except Green) were given an unrestricted opportunity by the underwriters to offer stock. The underwriters felt it undesirable for Green, as President and Chief Executive Officer of Pandick, to offer more than 25,000 shares of stock, because of the possible implication of the diminution of interest of top management in Pandick's future business prospects. The participation of Pandick or any of its shareholders is not contingent upon that of any one or more of them. No participation by any particular holder of stock was required in the public offering and the extent of participation of Allied Capital, Capital Southwest, or Virginia Capital has not been restricted because of shares offered by affiliated persons.

Applicants state that each of the selling shareholders and Pandick are paying underwriting discounts at the same rate, and all expenses of registration are being paid by Pandick for itself and all the selling shareholders, except that each selling shareholder is paying his or its own underwriting discounts and stock transfer taxes. Payment of expenses on this basis has been submitted to all Pandick shareholders and unanimously approved.

Applicants state that Pandick has agreed to hold the selling shareholders harmless on account of any indemnification by them of the underwriters and to defend any actions brought against selling shareholders in that connection (except indemnification by such shareholders with respect to loss or liability resulting from information supplied by them of any underwriter for use in the registration statement relating to the public offering). Further, Pandick proposes to indemnify the selling shareholders, the underwriters and the controlling persons of each against all claims, losses, damages, liabilities, and expenses arising out of or based upon any information contained in documents incidental to the registration and from any omission or alleged omission to state a material fact required to be stated therein or necessary to make the statements made not misleading in the light of the circumstances in which they are made, except as the same may be based upon information furnished in writing by such persons.

Applicants state that additional indemnification may be provided the underwriters by the selling shareholders. The liability of each selling shareholder will be limited to the proportion of the total liability which the shares sold by such selling shareholder bears to be the total shares sold, and will be further limited to the amount of proceeds from the public offering to such selling shareholder.

Applicants represent that the participation of Allied Capital, Capital Southwest, and Virginia Capital in the public offering is not on a basis different from or less advantageous to them than to Pandick or to any of the other selling shareholders.

Section 17(d) of the Act and Rule 17d–1 thereunder, taken together, provide, among other things, that it shall be unlawful for an affiliated person of a registered investment company or any affiliated person of such a person, acting as principal, to participate in, or effect any

transactions in connection with any joint enterprise or arrangement in which any such registered company, or a company controlled by such registered company, is a participant unless prior thereto, an application regarding such arrangement has been filed with and granted by the Commission, and that, in passing upon such an application, the Commission will consider whether the participation of such arrangement is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

Notice is further given that any interested person may, no later than July 8, 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 reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications 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 Applicants at the addresses set forth above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the applications herein may be issued by the Commission upon the basis of the information stated in said applications, unless an order for hearing upon said applications 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.71-8865 Filed 6-23-71;8:47 am]

INTERSTATE COMMERCE COMMISSION

[Notice 50]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

JUNE 18, 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 19227 (Sub-No. 154), filed May 27, 1971. Applicant: LEONARD BROS. TRUCKING CO., INC., 2595 Northwest 20th Street, Miami, FL 33152. Applicant's representative: J. F. Dewhurst (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Missiles and missile parts, and supplies, materials, parts and components* used in the maintenance, servicing, repairs, and operation of missiles, between points in Orange County, Fla., Caddo and Bossier Counties, La., on the one hand, and, on the other, points in Montana and North Dakota. 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 Miami, Fla., or Washington, D.C.

No. MC 28551 (Sub-No. 1), filed May 24, 1971. Applicant: GENERAL CARTAGE CO., a corporation, 1511 Pearl Street, Waukesha, WI. Applicant's representative: Robert M. Kaske, 2017 Wisteria Road, Rockford, IL 61107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those commodities which by themselves require the use of special equipment) in containers and trailers having a prior or subsequent transportation by air, rail, and water, between points in Calumet, Columbia, Dane, Dodge, Fond du Lac, Green Lake, Jefferson, Kenosha, Manitowac, Milwaukee, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha, and Winnebago Counties, Wis. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Milwaukee or Madison, Wis.

No. MC 34227 (Sub-No. 6) (Correction), filed May 14, 1971, published in the FEDERAL REGISTER issue of June 10, 1971, and republished as corrected, this issue. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, a corporation, 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 as defined 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; between points in New Mexico and Colorado, under contract with Associated Grocers of Colorado, Inc. NOTE: The purpose of this republication is (1) to

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

include the territorial description in the authority sought, which description was inadvertently omitted in the previous publication, and (2) reflect a correction in applicant's name. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Albuquerque, N. Mex.

No. MC 35286 (Sub-No. 2) (Amendment), filed April 14, 1971, published in the FEDERAL REGISTER issue of May 20, 1971, and republished as amended this issue. Applicant: TRUCK LINE DISTRIBUTION SYSTEMS, INC., 1905 South Belmont, Indianapolis, IN 46221. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carrier of Household Goods*, 17 M.C.C. 467, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Shelbyville, Ind., and Indianapolis, Ind., from Shelbyville over Indian Highway 9 to junction Interstate Highway 74, thence over Interstate Highway 74 (also U.S. Highway 421) to Indianapolis, and return over the same route, serving the intermediate or off-route points of Five Points, New Bethel, Pleasant View, Acton, and Fairland, Ind. NOTE: The purpose of this republication is to redescribe the scope of the authority sought. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 41404 (Sub-No. 96) (Amendment), filed April 12, 1971, published in the FEDERAL REGISTER issue of May 6, 1971, and republished as amended 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 applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats*, cooked, cured, or preserved, with or without vegetable, milk, egg, or fruit ingredients, other than frozen fro mthe plantsite or warehouse facilities of Armour-Dial, Inc., located at or near Fort Madison, Iowa, to points in Florida, Georgia, North Carolina, and Tennessee, and (2) *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of the appendix I to the report in *Description of Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from points in Illinois, Indiana, Kansas, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin, to Fort Madison, Iowa. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to redescribe the authority sought. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 77202 (Sub-No. 4), filed May 27, 1971. Applicant: CAPITOL TRANSIT & STORAGE CO., INC., 420 Ledyard Street, Hartford, CT 06114. Applicant's representative: Reubin Kaminsky, Post Office Box 17-067, 342 North Main Street, West Hartford, CT 06117. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tabulating machines*, including such auxiliary machines or component parts as are necessary to performance of a complete tabulating process, including punches, sorters, computers, verifiers, collators, reproducers, interpreters, multipliers, wiring units, and control panels and spare parts therefor, between the terminal and warehouse facilities of Capitol Transit & Storage Co., Inc., at Hartford, Conn., on the one hand, and, on the other, points in Connecticut. Restriction: Restricted to movements having an immediate prior or subsequent movement by air, rail, or motor carrier. 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 Hartford, Conn.; or New York, N.Y.

No. MC 83217 (Sub-No. 55), filed May 25, 1971. Applicant: DAKOTA EXPRESS, INC., 1217 West Cherokee, Post Office Box 1252, Sioux Falls, SD 57101. Applicant's representative: Henry J. Schuette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in section A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite of Banner Beef Co., at or near Hospers, Iowa, to points in South Dakota, Minnesota, Wisconsin, Illinois, Michigan, restricted to traffic originating at and destined to the named destinations. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 83217 (Sub-No. 54), filed May 19, 1971. Applicant: DAKOTA EXPRESS, INC., 1217 West Cherokee, Post Office Box 1252, Sioux Falls, SD 57101. Applicant's representative: Henry J. Schuette (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 I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite or storage facilities of Illini Beef Packers, Inc., located at or near Joslin, Ill., to points in Connecticut, Delaware, Indiana, Iowa, Maine, New York, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 86913 (Sub-No. 33), filed May 28, 1971. Applicant: EASTERN MOTOR LINES, INC., Post Office Box 649, Warrenton, NC 27589. Applicant's representative: C. M. Bullock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Board, board faced or finished with decorative or protective material* and (2) *Accessories, materials, and supplies* used in the sale, manufacture, installation and distribution thereof (except commodities in bulk), between Murfreesboro, N.C., and points in Minnesota, Wisconsin, Illinois, Kentucky, Tennessee, Mississippi, and all States east thereof. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 95743 (Sub-No. 25), filed May 20, 1971. Applicant: DORIS G. MEHRING, Personal Representative of the Estate of WILLIAM FREDERICK MEHRING, doing business as WILLIAM F. MEHRING, Keymar, Md. 21757. Applicant's representative: Theodore Polydoroff, 1140 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Bituminous asphalt hot mix and stone*, in dump vehicles, from points in Frederick, Washington, Montgomery, and Prince Georges Counties, Md., to points in Pennsylvania, Virginia, West Virginia, Delaware, 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.

No. MC 97699 (Sub-No. 32), filed May 28, 1971. Applicant: BARBER TRANSPORTATION CO., Deadwood Avenue, Rapid City, S. Dak. 57701. Applicant's representative: Leslie R. Kehl, Suite 420, Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities*, except classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment, serving the site of the Earth Resources Observation System Data Collection Center located in Minnehaha County, S. Dak., approximately 12 miles north and 4 miles east of Sioux Falls, S. Dak.,

as an off-route point in connection with the applicant's regular route authority to and from Sioux Falls, S. Dak. NOTE: Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Rapid City, S. Dak.

No. MC 99214 (Sub-No. 5), filed May 28, 1971. Applicant: PATTERSON TRUCK LINE, INC., 600 Roosevelt Street, Houma, LA 70360. Applicant's representative: Morgan Nesbitt, Post Office Box 275, Austin, TX 78767. 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 system equipment and parts; environmental control and protective systems equipment and parts* and (b) *equipment, materials, and supplies* used in the construction or installation of antipollution and environmental control and protective systems, (1) between points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas and (2) between points in (1) and points in the continental United States (including Alaska). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 100666 (Sub-No. 190), filed May 28, 1971. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, LA 71107. Applicant's representatives: Wilburn L. Williamson, Suite 280, National Foundation, Life Center, 3535 Northwest 58th, Oklahoma City, OK 73112, and Paul Caplinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from Diboll, Tex., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and 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 Dallas, Tex.

No. MC 106398 (Sub-No. 547), filed May 26, 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., Suite 501, 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 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. Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Albany or Schenectady, N.Y.

No. MC 106644 (Sub-No. 119), filed May 18, 1971. Applicant: SUPERIOR TRUCKING CO., INC., Post Office Box 916, Atlanta, GA 30301. Applicant's representative: K. Edward Wolcott, Suite 1600 First Federal Building, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Metal containers, container ends, closures, and accessories;* and (b) *materials and supplies* used in connection with the manufacturer and distribution of metal containers and container ends and closures; (1) between the plants and warehouse sites of Crown, Cork & Seal Co., Inc., at Philadelphia, Pa.; Lawrence, Mass.; North Bergen, N.J.; Baltimore and Fruitland, Md.; Winchester, Va.; Spartanburg, S.C.; Birmingham, Ala.; Atlanta, Ga.; Orlando and Bartow, Fla.; New Orleans, La.; St. Louis, Mo.; Cleveland, Ohio, Bradley and Chicago, Ill.; and (2) from the plantsites of Crown, Cork & Seal Co., Inc., as described in (1) above to points in New York, Pennsylvania, Maryland, New Jersey, Delaware, Virginia, West Virginia, North Carolina, South Carolina, Kentucky, Tennessee, Georgia, Massachusetts, Alabama, Florida, Louisiana, Mississippi, Rhode Island, Connecticut, Illinois, Indiana, Ohio, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 104724 and Subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 106644 (Sub-No. 120), filed May 28, 1971. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., Post Office Box 916, Atlanta, GA 30301. Applicant's representative: Darrell D. Hodges (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric controllers and instruments* requiring special equipment or special handling by reason of size or weight, and *parts and attachments* therefor when moving therewith, from points in Roanoke County, Va., to points in the United States (except Alaska and Hawaii). NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Richmond, Va., or Washington, D.C.

No. MC 107544 (Sub-No. 102), filed May 24, 1971. Applicant: LEMMON TRANSPORT COMPANY, INCORPORATED, Post Office Box 580, Marion, VA 24354. Applicant's representatives: Daryl J. Henry (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: *Carbon, dry and spent carbon*, in bulk, between Covington, Va., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant now holds contract carrier authority under its No. MC 113959, therefore dual operations may be involved. Applicant states that the requested authority can be tacked with its existing authority but it has no present intention of doing so. 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 Washington, D.C., or Richmond, Va.

No. MC 108119 (Sub-No. 30) (Clarification), filed May 14, 1971, published in the FEDERAL REGISTER issue of June 10, 1971, and republished, as clarified, this issue. 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, for the purpose of joinder only. NOTE: The purpose of this republication is to clarify that the purpose of this application is to obtain alternate interline points in Idaho to the existing interline point of Montana. Common control may be involved. Applicant states that joinder would occur at the State of Minnesota with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 108119 (Sub-No. 32), filed May 27, 1971. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, 3033 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: *Lumber and lumber products*, between points in Idaho, Montana, Oregon, South Dakota, Washington, and Wyoming on the one hand, and, points in Iowa, Illinois, Indiana, Ohio, Michigan, Minnesota, Missouri, and Wisconsin on the other. NOTE: Common control may be involved. Applicant states that joinder is possible on those commodities which can be transported as size and weight items at the State of Minnesota. If a hearing is deemed necessary, applicants requests it be held at Minneapolis, Minn., and Coeur d'Alene, Idaho.

No. MC 109435 (Sub-No. 66), filed May 24, 1971. Applicant: ELLSWORTH BROS. TRUCK LINE, INC., 1200 Simons Building, Dallas, Tex. 75201. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dalas, Tex. 75201. 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: Common control may be involved. Applicant states that it intends to tack its entire operating authority with that sought in this application, but does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 109994 (Sub-No. 44), filed June 1, 1971. Applicant: SIZER TRUCKING, INC., Post Office Box 97, Rochester, MI 55901. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, MN 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Cleaning, scouring, or washing compounds; buffing and polishing compounds; carbon gum or sludge removing compounds; rust preventitive lube oils and greases; paints, stains, and varnishes* (except commodities in bulk, in tank vehicles); (1) between Woodbridge, N.J.; Chicago, Joliet, South Beloit, Ill.; San Jose and Vernon, Calif.; Garland, Tex.; Minneapolis and St. Paul, Minn.; Atlanta, Ga.; Cleveland, Ohio; and Detroit, Mich.; (2) from Woodbridge, N.J., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; (3) from San Jose and Vernon, Calif., to points in Arizona, Idaho, Nevada, Oregon, Utah, and Washington; (4) from Minneapolis and St. Paul, Minn., to points in Iowa, Nebraska, North Dakota, and South Dakota; (5) from Chicago, Joliet, and South Beloit, Ill.; to points in Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming; (6) From Atlanta, Ga., to points in Oklahoma, New Mexico, Arizona, Arkansas, and Louisiana; (7) from Garland, Tex., to points in Oklahoma, New Mexico, Arizona, Arkansas, and Louisiana; and (B) *materials and supplies* used in the manufacturing and packaging of cleaning, scouring, or washing compounds; buffing and polishing compounds; carbon gum or sludge removing compounds; rust preventitive lube oils and greases; paints, stains, and varnishes (except commodities in bulk, in tank vehicles), from points in Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming to Chicago, Joliet, and South Beloit, Ill.; Garland, Tex.; San Jose, Calif.; Woodbridge, N.J.; Minneapolis and St. Paul, Minn. 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 110988 (Sub-No. 269), filed May 25, 1971. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, WI 54956. 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: *Encapsulated dye*, liquid, in bulk, in tank vehicles, from Hartford City, Ind., to Nekoosa and Stevens Point, Wis. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 111729 (Sub-No. 319), filed May 27, 1971. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representatives: John M. Delany (same address as applicant), and Russell S. Bernhard, 1625 K Street NW., Washington, DC 20006. 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, between points in Alabama, Arkansas, California, 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, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin, restricted to traffic with an immediately prior or subsequet movement by air; (2) *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 theater and television exhibition); (a) between points in Arkansas, California, Connecticut, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, New York, North Carolina, Ohio, Tennessee, Texas, Virginia, and Wisconsin, restricted to traffic having an immediately prior or subsequent movement by air; (b) between Kansas City, Mo., on the one hand, and, on the other, points on and east of U.S. Highway 77 in Kansas, restricted to traffic having an immediately prior or subsequnt movement by air; (c) between points in Waukesha and Milwaukee Counties, Wis., and points in Iowa and Nebraska, restricted to traffic having an immediately prior or subsequent movement by air;

(3) *Medical instruments and replacement parts*, between points in Alabama, Arkansas, California, 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, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin, restricted to traffic having an immediately prior or subsequent movement by air; and (4) *proofs, cuts, copy, advertising poster material, and material related thereto*, between points in Georgia, Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, and West Virginia, restricted to traffic having an immediately prior or subsequent movement by air. NOTE: Applicant holds contract carrier authority under MC 112750 and subs thereunder, therefore dual operations and common control may be involved. Applicant states that a portion of the requested authority could be tacked with certain existing authorities, but indicated 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 Washington, D.C., or New York, N.Y.

No. MC 112520 (Sub-No. 242), filed May 26, 1971. Applicant: McKENZIE TANK LINES, INC., New Quincy Road, Post Office Box 1200, Tallahassee, FL 32302. Applicant's representative: Sol H.

Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrofluorsilic acid*, in bulk, in tank vehicles, from points in Crisp and Effingham Counties, Ga., to points in North Carolina, South Carolina, Virginia, and Tennessee east of U.S. Highway 27. 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 Atlanta, Ga., Jacksonville, Fla., or Washington, D.C.

No. MC 113651 (Sub-No. 143), filed June 1, 1971. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, IN 47303. Applicant's representative: Henry A. Dillon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Eaton, Ind., to points in Oklahoma, Texas, Louisiana, Arkansas, Mississippi, Alabama, Georgia, Florida, South Carolina, and North Carolina, rejected or damaged material on return, restricted to traffic originating at the plantsite and/or storage facilities of Cleveland Partition Corp. located at or near Eaton, Ind. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 114106 (Sub-No. 85), filed May 28, 1971. Applicant: MAYBELLE TRANSPORT COMPANY, a corporation, Post Office Box 849, Lexington, NC 27292. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry plastic materials*, in bulk, from Greer, S.C., to points in Georgia, North Carolina, South Carolina, and Tennessee, restricted to the transportation of shipments having a prior movement by rail. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 115176 and Subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114273 (Sub-No. 92), filed June 1, 1971. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, IA 52406. Applicant's representatives: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402, and Gene R. Prokuski (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, from the plantsite of North Star Steel at New Port, Minn., to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, 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 Minneapolis, Minn.

No. MC 114789 (Sub-No. 35), filed May 26, 1971. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by retail department stores*, from Secaucus, New Brunswick, and Wayne, N.J.; Yonkers and New York City, N.Y.; Bridgeport, Conn.; Philadelphia, Pa.; and Beltsville, Md., to points in Illinois, Indiana, Kentucky, Ohio, Wisconsin, Iowa, and Michigan; and to Baltimore and Beltsville, Md.; Buffalo and Rochester, N.Y.; and Williamsport, Glenolden, and Levittown, Pa. Restriction: (1) All service limited to a transportation service to be conducted under a continuing contract with Interstate Department Stores Payment Corp.; and (2) limited to a traffic destined to retail department stores owned or operated by Interstate Stores Payment Corp. NOTE: Applicant holds common carrier authority under MC 117940 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115311 (Sub-No. 120), filed May 26, 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: *Particleboard*, from the plant and warehouse site of Georgia Pacific Corp. at Vienna, Ga., to points in Alabama, Florida, Kentucky, 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 115331 (Sub-No. 312), filed May 28, 1971. Applicant: TRUCK TRANSPORT, INCORPORATED, 1931 North Geyer Road, St. Louis, MO 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Salt*, from Pekin, Ill., to points in Illinois, Iowa, and Missouri; and (2) *agricultural chemicals*, in containers, from Muscatine, Iowa, to points in Arkansas, Delaware, Kentucky, Maryland, New Jersey, New York, Ohio, Pennsylvania, Tennessee, and Virginia. NOTE: Common control may be involved. Applicant states that tacking possibilities do exist with the authority sought in Part (2); however, there is no tacking intended to be performed. 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 St. Louis, Mo.

No. MC 115331 (Sub-No. 314), filed May 28, 1971. Applicant: TRUCK TRANSPORT, INCORPORATED, 1931 North Geyer Road, St. Louis, MO 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone, and limestone products*, from points in Shelby County, Ala., to points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, 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 Atlanta, Ga., Birmingham, Ala., or Washington, D.C.

No. MC 115826 (Sub-No. 218), filed May 26, 1971. Applicant: W. J. DIGBY, INC., Post Office Box 5088TA, 1960 31st Street, Denver, CO 80217. Applicant's representative: Robert R. Digby, 217 Luhrs Tower, Phoenix, Ariz. 85003. 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 Dakota City and West Point, Nebr.; Denison, Fort Dodge, Lemars, and Mason City, Iowa; Luverne, Minn.; and Emporia, Kans.; to points in Arizona, California, Nevada, Oregon, Washington, Idaho, and Colorado, restricted to traffic originating at the plantsites and storage facilities of the Iowa Beef Processors. NOTE: Applicant states that this application is also for the purpose of eliminating interlining on traffic presently handled in joint line service. Applicant further 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.

No. MC 115826 (Sub-No. 219), filed May 26, 1971. Applicant: W. J. DIGBY, INC., Post Office Box 5088 TA, 1960 31st Street, Denver, CO 80217. Applicant's representative: Robert R. Digby, 217 Luhrs Tower, Phoenix, AZ 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, food products, foodstuffs, and beverages*, from points in California to points in Arizona, Colorado, Wyoming, New Mexico, Texas and points in Cheyenne, Banner, Kimball, Scottsbluff, Sioux, Morrill, Box Butte, and Dawes Counties, Nebr. 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., Los Angeles and San Francisco, Calif.

No. MC 115917 (Sub-No. 23) (Correction), filed May 17, 1971, published in the FEDERAL REGISTER issue of June 10, 1971, and republished as corercted, this issue. 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: (A) *Salt and salt products* (except in bulk), and (B) *pepper*, ground, in packages, in mixed loads with salt and salt products; (1) 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) 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. The purpose of this republication is to redescribe the authority sought. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 116077 (Sub-No. 309) (Correction), filed May 27, 1971, published in the FEDERAL REGISTER issue of June 4, 1971, and republished in part as corrected this issue. Applicant: ROBERTSON TANK LINES, INC., 2000 West Loop South, Suite 1800, Houston, TX 77001. Applicant's representative: Pat H. Robertson, Suite 401, First National Life Building, Austin, Tex. 78701. NOTE: The sole purpose of this partial republication is to reflect applicant's correct name as ROBERTSON TANK LINES, INC., in lieu of ROBERT TANK LINES, INC., as was erroneously shown in the previous publication. The rest of the application remains as previously published.

No. MC 116763 (Sub-No. 193), filed May 27, 1971. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Clay tile, and commodities* used in the manufacturing, installation and distribution of clay tile (except in bulk); (1) from Lawrenceburg, Ky., to points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; (2) from points in Arizona, California, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, to Lawrenceburg, Ky.; (B) *clay tile*, from points in Alabama, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, 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, and the District of Columbia, to Lawrenceburg, Ky.; (C) *clay tile, and commodities* used in the manufacturing, installation, and distribution of clay tile (except in bulk); (1) from Lakeland, Fla., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming;

(2) From points in Alabama, Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, Wyoming, and points in that part of New York west of Interstate Highway 81, to Lakeland, Fla.; (D) *carpet, and commodities* used in the manufacturing, installation, and distribution of carpet (except in bulk); (1) from Lakeland, Fla., to points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming; (2) from points in Arizona, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, to Lakeland, Fla. Restriction: Parts (A), (B), (C), and (D) above are restricted to traffic originating at, or destined to, the facilities of Florida Tile Industries, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla.

No. MC 117565 (Sub-No. 40), filed May 27, 1971. Applicant: MOTOR SERVICE COMPANY, INC., 237 South Fifth Street, Coshocton, OH 43812. Applicant's representative: John R. Hafner, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Buildings*, in sections; (2) *materials and special devices* used in the unloading of building sections, from points in Hopkins County, Ky., to points in the United States (except Hawaii); and (3) *materials, special devices, and special purpose carriers*, used in the transportation and unloading of building sections from points in the United States (except Hawaii), to points in Hopkins County, Ky. NOTE: Applicant states that it has authority pending in MC 117565 Sub 28, which could be joined, but it has no present intention to join authorities if both are granted. 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 Nashville, Tenn., or Louisville, Ky.

No. MC 117823 (Sub-No. 42), filed May 24, 1971. Applicant: DUNKLEY REFRIGERATED TRANSPORT, INC., 240 West California Avenue, Salt Lake City, UT 84115. Applicant's representative: Lon Rodney Kump, 720 Newhouse Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in mechanically refrigerated vehicles; (1) from the plantsite and warehouse facilities or Avoset Food Corp. in Gustine, Calif., to points in Nevada, Utah, Idaho, and Montana; and (2) from Salt Lake City, Utah, to points in Idaho, Montana, Wyoming, Colorado, and Arizona. 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 Salt Lake City, Utah, or San Francisco, Calif.

No. MC 117940 (Sub-No. 49), filed May 25, 1971. Applicant: NATIONWIDE CARRIERS, INC., Post Office Box 104, Maple Plain, MN 55359. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, fresh, canned, and frozen, from Kennett Square, Pa., to points in Colorado, Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin. NOTE: Applicant now holds contract carrier authority under its No. MC 114789 Sub-1 and other subs, therefore 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 Washington, D.C.

No. MC 118039 (Sub-No. 15), filed May 24, 1971. Applicant: MUSTANG TRANSPORTATION INC., 833 Warner Street SW., Atlanta, GA 30310. Applicant's representative: Virgil H. Smith, 431 Title Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets, carpeting, carpeting remnants and rugs*, from the plantsite and warehouse of Vernon Carpet Mills, Inc., at Randolph County, Ala., 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 may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 119493 (Sub-No. 71), filed May 24, 1971. Applicant: MONKEM COMPANY, INC., West 20th Street Road, Post Office Box 1196, Joplin, MO 64801. Applicant's representative: Ray F. Kempt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material, mineral wood products, cement, asbestos,*

mineral wool or roofing, from Joplin, Mo., to points in Arizona, California, Nevada, and Utah. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 119741 (Sub-No. 38), filed May 17, 1971. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., Post Office Box 1235, Fort Dodge, IA 50501. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. 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 Missouri, Illinois, Ohio, West Virginia, New York, Pennsylvania, and Connecticut. 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., or Sioux City, Iowa.

No. MC 119741 (Sub-No. 39), filed May 25, 1971. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., Post Office Box 1235, Fort Dodge, IA 50501. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 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 of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from points in Kansas, Missouri, Nebraska, Minnesota, Illinois, and Indiana to the plantsite and storage facilities of 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 Omaha, Nebr., or Sioux City, Iowa.

No. MC 119880 (Sub-No. 47), filed May 25, 1971. Applicant: DRUM TRANSPORT, INC., Post Office Box 2056, East Peoria, IL 61611. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic liquors*, in bulk, in tank vehicles, between points in Illinois, Indiana, Kentucky, Tennessee, and Pennsylvania, on the one hand, and, on the other, points in California; and (2) *ground grapes, crushed grapes, grape pulp, and grape juice*, in bulk, in tank vehicles, from Di Giorgio and Lamont, Calif., to Silverton and Sandusky, Ohio. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 120737 (Sub-No. 17), filed May 19, 1971. Applicant: STAR DELIVERY & TRANSFER, INC., Rural Route No. 5, Post Office Box 39, Canton, IL 61520. Applicant's representative: Chester J. Claudon, 121 West Elm Street, Canton, IL 61520. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Livestock feeder tanks, fuel tanks, stalls, grain boxes, and electric fence posts*, between points in McDonough County, Ill., on the one hand, and, on the other, points in Nebraska, Iowa, Minnesota, Wisconsin, Michigan, Indiana, Missouri, Illinois, Ohio, Kentucky, and Kansas; and (2) *parts, materials, and supplies* used to conduct business at plantsite of Bushnell Illinois Tank Co., from points in the United States (except Alaska and Hawaii) to the plantsite of the Bushnell Illinois Tank Co., at Bushnell, Ill. 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 Chicago, Ill., or Washington, D.C.

No. MC 120737 (Sub-No. 18), filed May 24, 1971. Applicant: STAR DELIVERY & TRANSFER, INC., Post Office Box 39, Canton, IL 61520. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicle parts*, from points in Mason County, Ill., to points in Ohio and Kentucky, and *materials and supplies used in the manufacture of motor vehicle parts*, from points in the United States (except Alaska and Hawaii), to points in Mason County, 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 Chicago, Ill.

No. MC 120737 (Sub-No. 19), filed May 24, 1971. Applicant: STAR DELIVERY & TRANSFER, INC., Post Office Box 39, Canton, IL 61520. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel forgings, bar steel and dies, and tools*, from points in Mason County, Ill., to points in Michigan; and (2) *materials and supplies* used in the manufacture of iron and steel forgings, bar steel and dies, and tools, from points in the United States (except Alaska and Hawaii) to points in Mason County, 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 Chicago, Ill.

No. MC 123115 (Sub-No. 4), filed June 1, 1971. Applicant: BEN PACKER, doing business as PACKER TRANSPORTATION CO., 465 South Rock Boulevard, Sparks, Nev. 89431. Applicant's representative: Royal A. Stewart, 100 North Arlington, Suite 300 Reno, NE 89505. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, timber, wooden mouldings, shelving, jambs and casings, wooden columns, wooden doors and frames, door sills, flooring, wooden window frames, mouldings, composition wooden boards, wooden fence pickets, props or timbers, wood piling, poles, wooden posts, wooden rafters, wooden roof trusses, railroad ties, veneer, and wooden pallets*, from points in Oregon to points in California and Nevada. 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 Reno, Nev., Carson City, Nev., or San Francisco, Calif.

No. MC 123233 (Sub-No. 36), filed May 26, 1971. Applicant: PROVOST CARTAGE INC., 7887 Second Avenue, Ville d'Anjou 437, PQ Canada. Applicant's representative: J. P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in hopper type trailers, from the ports of entry on the international boundary line between the United States and Canada located at or near Trout River, Champlain, N.Y.; Highgate Springs, Derby Line, and Norton, Vt.; and Jackman, Van Buren, Houlton, Vanceboro, and Calais, Maine, to points in New York, New Hampshire, Vermont, Maine, Massachusetts, and Connecticut. 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., or Washington, D.C.

No. MC 123325 (Sub-No. 8), filed May 19, 1971. Applicant: WRIGHT MOTOR LINES, INC., 24 Pisgah View Avenue, Asheville, NC 28803. Applicant's representative: Boyce A. Whitmire, Post Office Box 908, Hendersonville, NC 28739. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Asheville and Old Fort, N.C., to points in Virginia, the District of Columbia, Delaware, New York, New Jersey, Pennsylvania, and Maryland. NOTE: Applicant now holds contract carrier authority under its MC 32486, therefore dual operations may be involved. The application is accompanied by a motion to dismiss. 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 Asheville, N.C.

No. MC 123372 (Sub-No. 20), filed May 28, 1971. Applicant: CARTAGE SERVICES, INC., 26380 Van Born Road, Dearborn Heights, MI 48123. Applicant's

representative: Martin J. Leavitt, 1800 Buhl Building, Detroit, Mich. 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages*, from South Bend, Ind., to points in Iowa and Wisconsin, with return of empty containers, rejected or damaged merchandise, under contract with Drewry's Ltd., U.S.A. Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., or Washington, D.C.

No. MC 123383 (Sub-No. 58), filed May 25, 1971. Applicant: BOYLE BROTHERS, INC., 941 South Second Street, Camden, NJ 08103. Applicant's representative: Thomas E. Kiley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Decorative pictures, furniture and furniture parts, wooden shelves* (except commodities in bulk) when moving in mixed shipments with plywood, restricted to commodities of Evans Products Co. when such commodities have had prior ocean transportation, from Norfolk, Va., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, North Carolina, 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., Camden, N.J., or Philadelphia, Pa.

No. MC 123639 (Sub-No. 136), filed May 24, 1971. Applicant: J. B. MONTGOMERY, INC., 5150 Brighton Boulevard, Denver, CO 80216. Applicant's representative: John F. DeCock (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 I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except commodities in bulk, in tank vehicles, from the plantsite and storage facilities of Monfort Packing Co. at or near Greeley, Colo., to points in Connecticut, Delaware, Illinois, Indiana (except points in Illinois and Indiana in the Chicago, Ill., commercial zone), Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, 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 plantsite and/or storage facilities of Monfort Packing Co., at or near Greeley, Colo., and destined to the named territory. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 123639 (Sub-No. 137), filed May 26, 1971. Applicant: J. B. MONTGOMERY, INC., 5150 Brighton Boulevard, Denver, CO 80216. Applicant's representative: John F. DeCock (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 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 plantsite or storage facilities of Illini Beef Packers at or near Joslin, Ill., to points in Colorado (except points in the Denver, Colo., commercial zone), Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. Restriction: Restricted to traffic originating at the named origins and destined to the named territory. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 123640 (Sub-No. 5), filed May 27, 1971. Applicant: SUMMIT CITY ENTERPRISES, INC., 3200 Maunee Avenue, Fort Wayne, IN 46803. Applicant's representative: Irving Klein, 280 Broadway, New York. NY 10007. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* sold and dealt in by wholesale hardware houses, between Cape Girardeau, Mo., on the one hand, and, on the other, points in Tennessee, Illinois, Indiana, Kentucky, Alabama, Mississippi, Arkansas, Missouri, Kansas, and Iowa, under contract with Hardware Wholesalers, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123690 (Sub-No. 1), filed May 24, 1971. Applicant: ROBERT N. SMITH, doing business as BOB SMITH'S WRECKER SERVICE, Post Office Box 514, 4740 Industrial Road, Fort Wayne, IN 46801. Applicant's representative: Harry J. Harman, One Indiana Square, Suite 2425, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Used tractors*, in secondary movements, by the truckaway method, to be used as replacements for wrecked or disabled tractors, and used trailers or used semitrailers to be used as replacements for wrecked, damaged, or disabled trailers or semitrailers; (2) *wrecked or disabled motor vehicles, including wrecked or* disabled trailers or semitrailers; and (3) *motor vehicles parts, accessories, supplies, and materials*, moving in wrecker equipment for use in connection with the repairing and reconditioning of damaged, disabled, or wrecked motor vehicles, trailers and semitrailers, between points in Allen County, Ind., on the one hand, and, on the other, points in Wisconsin, Iowa, Missouri, Kentucky, Tennessee, and Pennsylvania, and the traversal of States necessary to perform said service. Restriction: The authority sought herein is restricted to the transportation of traffic by wrecker equipment only. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Fort Wayne or Indianapolis, Ind.

No. MC 124078 (Sub-No. 488), filed May 28, 1971. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Corn products and blends*, in bulk, from Cedar Rapids, Clinton, Keokuk, and Muscatine, Iowa, to points in the United States (except Alaska and Hawaii); and (b) *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. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124328 (Sub-No. 48), filed May 27, 1971. Applicant: BRINK'S, INCORPORATED, 234 East 24th Street, Chicago, IL 60616. Applicant's representative: Francis D. Partlan (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food coupons*, from Washington, D.C., to points in the United States (except Alaska and Hawaii), under contract with United States of America, General Services Administration. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 125254 (Sub-No. 9), filed May 19, 1971. Applicant: DONALD L. MORGAN, doing business as MORGAN TRUCKING CO., Post Office Box 714, Muscatine, IA 52761. Applicant's representative: Larry D. Knox, 4044 Southeast 14th Street, Des Moines, IA 50320. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Iowa City, Iowa, to points in Minnesota (except St. Paul and Minneapolis), South Dakota, North Dakota, Missouri (except Kansas City and St. Louis), Kansas (except Kansas City), Iowa, Rock Island, Ill., and Superior, Wis. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Omaha, Nebr.

No. MC 126040 (Sub-No. 1), filed May 18, 1971. Applicant: CONERTY-HENIFF TRANSPORT, INC., 4220 West 122d Street, Alsip, IL 60658. Applicant's representative: E. W. Heniff (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products* in bulk in tank trucks, from Peoria, Ill., to points in Iowa and Missouri, under contract

with American Oil Company. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 126196 (Sub-No. 6), filed May 17, 1971. Applicant: LUVERNE S. CHRISTENSEN, doing business as CHRISTENSEN TRUCK LINE, 206 West 11th Street, Redwood Falls, MN 56283. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and feed ingredients* (except in tank vehicles); (1) from points in Minnesota to points in North Dakota, South Dakota, Iowa, and Wisconsin; (2) from points in Wisconsin to points in Minnesota; and (3) from points in Hardin County, Iowa, to points in Minnesota, North Dakota, South Dakota, and Wisconsin, with duplications of MC 126196 Subs 1 and 3 eliminated. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 127274 (Sub-No. 25), filed June 1, 1971. Applicant: SHERWOOD TRUCKING, INC., 1517 Hoyt Avenue, Muncie, IN 47302. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46202 Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from Eaton, Ind., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas; and (2) *returned shipments of paper and paper products*, from points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, and Texas, to Eaton, Ind. 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 Indianapolis, Ind.

No. MC 127505 (Sub-No. 42), filed May 18, 1971. Applicant: RALPH H. BOELK, doing business as R. H. BOELK TRUCK LINES, Route 2, Mendota, Ill. 61342. Applicant's representative: Walter J. Kobos, 1016 Kehoe Drive, St. Charles, IL 60175. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum and aluminum articles* (except commodities in bulk), from the plansite of Amax Aluminum Mill Products, Inc., in Grundy County, Ill., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, and (2) *Return of damaged or rejected shipments* (except commodities in bulk), from the destination States listed in (1) above to the plantsite of Amax Aluminum Mill Products, Inc., in Grundy County, Ill., restricted to traffic originating at the named origins and destined to the named destinations. NOTE: Applicant seeks no duplicating authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128237 (Sub-No. 13), filed June 1, 1971. Applicant: BURSAL TRANSPORT, INC., Rural Route 1, Bunder Hill, Ind. 46914. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay*, from points in Bibb County, Ga., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia, under contract with Lowes, Inc., and its subsidiaries, Pike Peak Clay, Inc., and Southern Clay, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 128273 (Sub-No. 97), filed June 1, 1971. Applicant: MIDWESTERN EXPRESS, INC., Box 189, Fort Scott, KS 66701. Applicant's representative: Danny Ellis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Toys and recreational equipment*, from Bossier City, La., 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 Kansas City, Mo., or Washington, D.C.

No. MC 128471 (Sub-No. 1) (Correction), filed May 14, 1971, published in the FEDERAL REGISTER issue of June 4, 1971, and republished in part as corrected this issue. Applicant: LAHMANN FILM SERVICE, INC., 5657 Green Acres Court, Cincinnati, OH 45211. Applicant's representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, Ohio 45202. NOTE: The sole purpose of this partial republication is to reflect Greater Cincinnati Airport in Boone County, Ky., in lieu of Greater Cleveland Airport as erroneously shown in the previous publication. The rest of the application remains as previously published.

No. MC 128878 (Sub-No. 24), filed May 25, 1971. Applicant: SERVICE TRUCK LINE, INC., Post Office Box 3904, Shreveport, LA 71103. Applicant's representative: Ewell H. Muse, Jr., 415 Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glue, glue stock, synthetic resin*, from Andalusia, Ala., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Texas; (2) *formaldehyde*, in bulk in tank vehicles, from Malvern, Ark., to Winnfield, La.; (3) *glue, glue stock*, from Lufkin, Tex., to points in Arkansas, Louisiana, Kentucky, and Tennessee (except Kingsport); (4) *carbon black*, other than in bulk, from the plantsites and storage facilities of the Thermatomic Carbon Co., located in Ouachita Parish, La., to Vicksburg, Miss.; (5) *fertilizer, fertilizer ingredients, feed, feed ingredients* in bulk and in containers, from Caddo, Bossier, and De Soto Parishes, La., to points in Arkansas on and south of Arkansas State Highway 4 beginning at Arkansas City, Ark., thence westerly on Arkansas State Highway 4 to the Arkansas-Oklahoma State line and points in Louisiana and Texas (except bulk to points in Chambers, Montgomery, Harris, Fort Bend, Galveston, Liberty, and Brazoria Counties, Tex.); and (6) *sawdust, woodchips*, between points and places in Arkansas, Louisiana, Mississippi, Tennessee, 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 Shreveport, La.; Baton Rouge, La.; or Houston, Tex.

No. MC 129449 (Sub-No. 7), filed May 19, 1971. Applicant: LUMBER TRANSPORT, INC., Post Office Box 5, 306 Northwest Fifth Street, John Day, OR. Applicant's representative: Kenneth G. Thomas, 900 Failing Building, 618 Southeast Fifth Avenue, Portland, OR 97204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wood chips, sawdust, wood shavings, veneer, and box shook*, from points in Grant, Wheeler, and Morrow Counties, Oreg., to points in Oregon, Washington, Idaho, and California. 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 Portland, Oreg.

No. MC 129645 (Sub-No. 35), filed May 24, 1971. Applicant: BASIL J. SMEESTER AND JOSEPH G. SMEESTER, a partnership, doing business as SMEESTER BROTHERS TRUCKING, 1330 South Jackson Street, Iron Mountain, MI 49801. Applicant's representative: Louis J. Amato, Post Office Box E, Bowling Green, KY 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane, urethane products, roofing and roofing materials, insulating materials, composition board, and gypsum products, and materials* used in the installation thereof (except commodities in bulk), from the plantsite and warehouse facilities of the Celotex Corp. at Charleston, Ill., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Nebraska, Louisiana,

Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Vermont, Tennessee, 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 Jacksonville, Fla., or Birmingham, Ala.

No. MC 133035 (Sub-No. 15), filed May 25, 1971. Applicant: DILTS TRUCKING, INC., Route 1, Crescent, IA 51526. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, from Blair, Nebr., to points in 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 Omaha, Nebr.

No. MC 133265 (Sub-No. 3), filed May 25, 1971. Applicant: CONSOLIDATED CARRIERS CORP., 141 West 35th Street, New York, NY 10038. Applicant's representative: Herbert Burstein, 30 Church Street, New York, NY 10007. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials, supplies, and machinery* used in the manufacture thereof, and accessories between New York, N.Y., on the one hand, and, on the other, all points in Nassau and Suffolk Counties, N.Y. 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.

No. MC 133631 (Sub-No. 3), filed May 26, 1971. Applicant: AAA DELIVERY SYSTEMS, INC., Post Office Box 1148, Flint, MI 48501. Applicant's representative: William B. Elmer, 23801 Gratiot Avenue, East Detroit, MI 48021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are usually dealt in, or used by retail department stores, between points in Michigan and Ohio, restricted to shipments moving from, to, or between wholesale or retail department stores, their warehouses or other facilities of the J. L. Hudson Co., under contract with J. L. Hudson Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich.; or Detroit, Mich.

No. MC 133631 (Sub-No. 4), filed May 26, 1971. Applicant: AAA DELIVERY SYSTEMS, INC., Post Office Box 1148, Flint, MI 48501. Applicant's representative: William B. Elmer, 23801 Gratiot Avenue, East Detroit, MI 48021. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are usually dealt in, or used by, retail department stores, between Detroit, Mich., on the one hand, and, on the other, points in Michigan located on and south of Michigan Highway 21, under contract with L. S. Good Co., J. W. Knapp Co., Lansing; Smith-Bridgman & Co., Flint; D. M. Christian Co., Owosso, Mich. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lansing, Mich.; or Detroit, Mich.

No. MC 133676 (Sub-No. 7), filed March 1, 1971. Applicant: COMET DISTRIBUTION SERVICES, INC., 2125 Sorrell Avenue, Post Office Box 3175, Baton Rouge, LA 70821. Applicant's representatives: Norman LaBorde (same address as applicant), and Clint L. Pierson, 947 Gardere Lane, Route 3, Baton Rouge, LA 70808. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woodpulp*, in bales, from Port Hudson, La., to New Orleans, La., on traffic having subsequent out-of-State movement 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 Baton Rouge, La.

No. MC 134134 (Sub-No. 10), filed May 24, 1971. Applicant: MAINLINER MOTOR EXPRESS, INC., 2002 Madison Street, Omaha, NE 68107. Applicant's representative: Robert V. Dwyer, Jr., 1601 Woodmen Tower, Omaha, NE 68102. 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 commodities in bulk, in tank vehicles, and hides), from the plantsite and storage facilities utilized by Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restriction: Restricted to traffic originating at the named plantsite and storage facilities and destined to the named destination States. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 134219 (Sub-No. 4), filed May 20, 1971. Applicant: GEORGE V. D'AGOSTINO, doing business as AIRLIN TRUCKING CO., 213–217 Poinier Street, Newark, NJ 07104. 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: *Chalk* (except in bulk, in tank vehicles), from piers and warehouses in New York, N.Y., harbor, as defined by the Commission, and Newark, N.J., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, and the District of Columbia, under contract with Pluess-Staufer (North American), Inc. NOTE: Applicant now holds common carrier authority under its No. MC 134743, therefore dual operations 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 134387 (Sub-No. 4), filed May 27, 1971. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, CA 90280. Applicant's representative: David P. Christianson, 825 City National Bank Building, 606 South Olive Street, Los Angeles, CA 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal cans and can ends on pallets*, from points in Orange County, Calif., to points in Clark County, Nev.; and (2) *empty glass containers on pallets*, from points in Orange County, Calif., to points in Maricopa County and Pima County, Ariz. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant now holds contract carrier authority under its No. MC 127952 Sub-2 and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 134494 (Sub-No. 2), filed May 26, 1971. Applicant: WAYNE DANIEL, doing business as WAYNE DANIEL TRUCK, Post Office Box 303, Mount Vernon, MO 65712. Applicant's representative: Harry Ross, 848 Warner Building, Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectioneries, sandboxes, blackboards, chalkboards and furniture*, from points in the St. Louis, Mo., commercial zone to points in California, Oregon, Washington, Idaho, Utah, Colorado, Arizona, New Mexico, and Nevada, under contract with Beatrice Foods Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo.

No. MC 135080 (Sub-No. 1), filed May 26, 1971. Applicant: BEAULIEU TRANSPORT LIMITEE, 10, 272 Des Hetres Boulevard, Shawinigan, PQ Canada. Applicant's representative: Adrien R. Paquette, 200 St. James Street West, Montreal, PQ Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles* from ports of entry on the international boundary line between the United States and Canada, located in New York, Minnesota, and Michigan, to points in New York, Michigan, Minnesota, and Wisconsin, under contract with Les Industries Dauphin Ltee. NOTE: If a hearing is deemed necessary, applicant requests it

be held at Montpelier, Vt., Albany or Plattsburg, N.Y.

No. MC 135085 (Sub-No. 1), filed May 26, 1971. Applicant: BENTON BROTHERS DRAYAGE AND STORAGE COMPANY, a corporation 4111 Montgomery Street, Savannah, GA 31405. Applicant's representative: Monty Schumacher, Suite 310, 2045 Peachtree Road NE., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* as defined by the Commission, and *unaccompanied baggage and personal effects*, between points in Georgia and points in Aiken, Allendale, Edgefield, Hampton, McCormick, Barnwell, Jasper, and Beaufort Counties, S.C. Restriction: The operations requested herein are restricted to the transportation of traffic having a prior or subsequent movement, in containers (except as to unaccompanied baggage and personal effects), beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, containerization or unpacking, uncrating, and decontainerization of such traffic. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta or Savannah, Ga.

No. MC 135144 (Sub-No. 1), filed May 26, 1971. Applicant: GENERAL WAREHOUSE COMPANY, a corporation, Jean Ribaut Road, Port Royal, S.C. 29935. Applicant's representative: Monty Schumacher, Suite 310, 2045 Peachtree Road NE., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* as defined by the Commission, and unaccompanied baggage and personal effects, between points in South Carolina. Restriction: The operations sought herein are subject to the following conditions: (1) Said operations are restricted to the transportation of traffic having a prior or subsequent movement, in containers, except as to unaccompanied baggage and personal effects, beyond the points authorized. (2) Said operations are restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta or Savannah, Ga.

No. MC 135342 (Sub-No. 1), filed May 27, 1971. Applicant: BLAINE L. PARK AND REED N. PARK, a partnership, doing business as PARK BROS. TRUCKING, Post Office Box 112, Terreton, ID 83450. Applicant's representative. J. F. Meglen, Post Office Box 1581, Billings, MT 59103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Milk supplement*, in bags, from Rogers, Minn., to points in California, Idaho, Montana, Oregon, Utah, Washington, and Wyoming, under contract with K & K Manufacturing, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 135349 (Sub-No. 1), filed April 29, 1971. Applicant: R T S DELIVERY SERVICE, INC., 325 Jelliff Avenue, Newark, NJ 07108. Applicant's representative: Robert B. Pepper, 174 Brower Avenue, Edison, NJ 08817. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *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), from New York, N.Y., to points in Connecticut, New Jersey, and points in Pennsylvania east of the Susquehanna River. Restricted: (a) 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; and (b) in leased vehicles with drivers under continuing contracts with A. I. Freidman, Inc., Arrow Photo Service, Inc., Arthur Brown & Bros., Inc., Managistics, Inc., and Meco Press, Inc.; (2) *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), over irregular routes, from Newark, N.J., to points in New York, Connecticut, and points in Pennsylvania east of the Susquehanna River. Restricted: (a) against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor to one consignee on any other day; and (b) in leased vehicles with drivers under continuing contract with Ever-Last Floor Supply Co.; and (3) *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), over irregular routes, from Philadelphia, Pa., to points in Delaware, and points in New Jersey south of New Jersey Highway 33. Restricted: (a) 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; and (b) in leased vehicles with drivers under continuing contract with Charles Bruning Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 135640 (Sub-No. 2), filed June 1, 1971. Applicant: STALEY EXPRESS, INC., 765 East Pythian, Decatur, IL 62525. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated steel and materials, equipment, and supplies* used in the installation and erection thereof, from Dectaur, Ill., to points in Indiana, Iowa, Missouri, 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 Springfield, Ill., or St. Louis, Mo.

No. MC 135655, filed May 24, 1971. Applicant: STIDHAM TRUCKING, INC., 645 West Lennox Street, Yreka, CA 96097. Applicant's representative: John Paul Fischer, 140 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Light weight aggregates*, viz: *ash, volcanic, cinder pumice*, from the B.S.B. Cinder Co. pit and screening plant located on County Road A–12 in Siskiyou to points in Jackson and Josephine Counties, Oreg., under contract with B.S.B. Cinder Co., Montague, Calif. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 135656, filed May 24, 1971. Applicant: ALL POINTS MOVING & STORAGE, 3712 Franklin, Waco, TX. Applicant's representative: Bill Kinder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, as defined by the Commission, between Waco, Tex., on the one hand, and, on the other, points in Bell, Williamson, Milan, Limestone, Hill, Bosque, Coryall, Lampasas, Robertson, and Navarro County, Tex. Restriction: The service herein sought is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points named, and further restricted to the performance of pickup or delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant requests it be held at (1) Austin, (2) Waco, (3) Fort Worth, Tex.

No. MC 82007 (Sub-No. 3), filed May 26, 1971. Applicant: SAMUEL COOPER GREGG, Yorklyn, Del. 19736. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, from points in Chester County, Pa., to points in New Jersey, Delaware, Maryland, Virginia, New York, and Washington, D.C., and return. NOTE: Applicant states that the requested authority can be tacked or joined with its existing authority in MC 82007 wherein it holds authority to operate in charter service from Wilmington, Del., and points within 10 miles of Wilmington to points in Maryland, Pennsylvania, New Jersey, Virginia, and the District of Columbia, and return. If a hearing is deemed necessary, applicant requests it be held at Wilmington, Del., or West Chester, Pa.

No. MC 106207 (Sub-No. 12) (Amendment), filed March 11, 1971, published in the FEDERAL REGISTER issue of April 8, 1971, and republished as amended, this issue. Applicant: NEW YORK-KEANSBURG-LONG BRANCH BUS CO., INC.,

602 Broadway, Bayonne, NJ 07002. Applicant's representative: Edward F. Bowes, 744 Broad Street, Newark, NJ 07102. 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 between Sea Bright, N.J., and Middletown, N.J. From junction Ocean Avenue and Rumson Bridge in Sea Bright, over Rumson Bridge and Rumson Road to junction Avenue of Two Rivers, then over Avenue of Two Rivers to junction Ridge Road, then over Ridge Road to junction River Avenue, then over River Avenue to junction Washington Street and the Oceanic Bridge, then over the Oceanic Bridge to junction Locust Point Road, then over Locust Point Road (1) to junction Navesink Avenue, then over Navesink Avenue to junction Grand Avenue, then over Grand Avenue to junction New Jersey Highway 36 (Memorial Parkway); or (2) to junction Lakeside Avenue, then over Lakeside Avenue to junction Monmouth Road, then over Monmouth Road to junction Sears Avenue, then over Sears Avenue to junction New Jersey Highway 36 (Memorial Parkway) and return over the same routes, serving all intermediate points. The applicant proposes to join the above routes to its existing routes between Middletown and Sea Bright, N.J., on the one hand, and, on the other, New York, N.Y., in order to provide regular route service over the proposed routes and its existing routes between New York, N.Y., on the one hand, and, on the other, points on its existing routes and the proposed routes. The purpose of this republication is to change the territorial scope of the application. If a hearing is deemed necessary, applicant requests it be held at Long Branch or Newark, N.J.

No. MC 135392, filed March 2, 1971. Applicant: IRON RANGE BUS LINES LIMITED, 329 John Street, Thunder Bay "P", ON, Canada. Applicant's representative: John W. Erickson, 17A South Cumberland Street, Thunder Bay "P", ON Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over iregular routes, transporting: *Passengers and their baggage*, in charter operations, in round-trip sightseeing and pleasure tours, from ports of entry on the international boundary line between the United States and Canada, to points in Wisconsin and Minnesota. NOTE: Applicant states that purpose of this application is to connect the physical operation of the applicant which commences in the city of Thunder Bay in the Province of Ontario, to points in the States of Wisconsin and Minnesota in order to complete the applicant's charter service. If a hearing is deemed necessary, applicant requests it be held at Duluth or Minneapolis, Minn.

APPLICATION FOR FREIGHT FORWARDER

No. FF-267 (Sub-No. 5) (HONOLULU FREIGHT SERVICE, Extension—Calif.), filed June 8, 1971. Applicant: HONOLULU FREIGHT SERVICE, a corporation, 2425 Porter Street, Los Angeles, CA 90021. Applicant's representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Authority sought under section 410, part IV of the Interstate Commerce Act, for a permit to extend operation as a freight forwarder, in interstate or foreign commerce, through the use of the facilities of common carriers by water, motor common carrier, and rail common carrier in the transportation of *general commodities*, except household goods as defined by the Commission, unaccompanied baggage and used automobiles, between points in Hawaii, on the one hand, and, on the other, points in Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma Counties, Calif.

No. FF-406 (WEST-WAY FWD., INC., Freight Forwarder Application), filed June 10, 1971. Applicant: WEST-WAY FWD., INC., 722 North Main Street, Post Office Box 15295, Las Vegas, NV 89114. Applicant's representative: Rulon A. Earl, El Portal Building, 310 East Fremont Street, Las Vegas, NV 89101. Authority sought under section 410, part IV of the Interstate Commerce Act for a permit authorizing applicant to institute operations as a freight forwarder in interstate or foreign commerce in the forwarding of *general commodities*, between all points in the continental United States (except Alaska), on the one hand, and, on the other, Hawaii.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED.

No. MC 29061 (Sub-No. 12), filed May 19, 1971. Applicant: MIDWEST COACHES, INC., 216 North Second Street, Mankato, MN 56001. Applicant's representative: William E. Fox, 860 Northwestern Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (1) *Passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, over regular routes: Between Mankato, Minn., and Sioux City, Iowa, from Mankato over U.S. Highway 14 to junction U.S. Highway 59, thence over U.S. Highway 59 to Slayton, Minn., thence over Minnesota Highway 30 to Pipestone, Minn., and thence over U.S. Highway 75 to Sioux City, and return over the same route, serving all intermediate points; and (2) *passengers and their baggage*, in the same vehicle with passengers, in charter operations, over irregular routes: Beginning and ending at points on the route described in (1) above, and extending to points in the United States.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.71-8720 Filed 6-23-71;8:45 am]

[Notice 317]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 18, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 730 (Sub-No. 329 TA), filed June 14, 1971. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., Post Office Box 958, 1417 Clay Street, Oakland, CA 94612. Applicant's representative: R. N. Cooledge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chloral*, in bulk, in tank vehicles, from Henderson, Nev., to Newark, N.J., for 150 days. Supporting shipper: Montrose Chemical Corp. of California, Post Office Box 147, Torrance, CA 90507. Send protests to: District Supervisor Wm. E. Murphy, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

No. MC 30383 (Sub-No. 7 TA), filed June 14, 1971. Applicant: JOSEPH F. WHELAN COMPANY, INC., 439 West 54th Street, New York, NY 10019. Applicant's representative: M. Burstein, 30 Church Street, New York, NY 10007. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soap products, stearic acid, vegetable stearine, glycerine, oils, cooking fats, soap, soap powder, cleaning and washing compounds, lard substitutes, toilet preparations, empty containers, kegs and drums, advertising matter and premiums and groceries*, from East Brunswick, N.J., to points in Nassau, Suffolk, Westchester, and Rockland Counties, N.Y., under continuing contract with Proctor & Gamble Manufacturing Co., and Proctor & Gamble Distributing Co., for 180 days. Supporting shipper: The Procter & Gamble Co., Post Office Box No. 599, Cincinnati, OH 45201. Send

protests to: Stephen P. Tomany, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, Room 1807, New York, N.Y. 10007.

No. MC 31600 (Sub-No. 652 TA), filed June 11, 1971. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, MA 02154. Applicant's representative: Frank Hand (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silica*, in bulk, in tank vehicles, from Alloy and Graham, W. Va., to North Haven, Conn., for 180 days. Supporting shipper: The Upjohn Co., North Haven, Conn. Send protests to: James F. Martin, Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Building Government Center, Boston, Mass. 02203.

No. MC 107295 (Sub-No. 530 TA), filed June 14, 1971. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cabinets*, from Winchester, Va., to Hammond, Ind., and Franklin Park, Ill., for 180 days. Supporting shipper: John Leffler, President, Plywood Minnesota Mid-Western, Inc., 1925 26th Avenue North, Franklin Park, IL 60131. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 107403 (Sub-No. 813 TA), filed June 13, 1971. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, from Plaquemine, La., to points in Arkansas, Alabama, Florida, Georgia, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, and Texas, for 180 days. Supporting shipper: Georgia-Pacific Corp., Post Office Box 629, Plaquemine, LA 70764. Send protests to: Ross A. Davis, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 111729 (Sub-No. 320 TA), filed June 14, 1971. Applicant: AMERICAN COURIER CORPORATION, 2 Nevada Drive, Lake Success, NY 11040. Applicant's representative: John M. Delany (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, and audit and accounting media of all kinds, and advertising material moving therewith*, (a) between Milwaukee, Wis., on the one hand, and, on the other, Paris and Stering, Ill., and Des Moines, Iowa; (b) between Pottstown, Pa., and Richmond, Va.; (c) between Cincinnati, Ohio, on the one hand, and, on the other, Baldwin, St. Charles, and St. Louis, Mo., and Edwardsville, Ill.; (d) between Grand Rapids, Mich., on the one hand, and, on the other, Marion, Ind.; (e) between Rolling Meadows, Ill., on the one hand, and, on the other, Clinton, Iowa; (2) *ophthalmic goods, business papers and records*, between Whitewater, Wis., on the one hand, and, on the other, Chicago, Decatur, Joliet, Peoria, and Rockford, Ill.; Evansville, Fort Wayne, Gary, Hammond, Indianapolis, and South Bend, Ind; Burlington, Cedar Rapids, Davenport, and Dubuque, Iowa; Minneapolis, and St. Paul, Minn.; (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 theater and television exhibition), between Cincinnati, Ohio, on the one hand, and, on the other, Edwardsville, Ill., and Baldwin, St. Charles, and St. Louis, Mo.; (4) *cut flowers, decorative greens, and florist supplies*, on traffic having an immediately prior or subsequent movement by air or motor vehicle; (a) between points in Alabama, Georgia, Florida, Minnesota, Texas, and Wisconsin; (b) between Chicago, Ill., on the one hand, and, on the other, points in Wisconsin, for 180 days. Supporting shippers: Loewi & Co., 225 East Mason Street, Milwaukee, WI 53202; Bell Fibre Products Corp., 2000 Beverly SW., Grand Rapids, MI 49509; Baker Equipment Engineering Co., Summit and Norfolk Streets, Richmond, VA 23211; Chemplex Co., Rolling Meadows, Ill. 60008; American Optical Co., Southbridge, Mass. 01550; Photo Service, Inc., 933 Meadow Gold Lane, Cincinnati, OH 45203; Norman Cox & Co., Fort Myers, Fla.; Gulf Coast Farms, Inc., Fort Myers, Fla.; Davis Brothers Florists Inc., Post Office Box 1106, Denver, CO 80201. Send protests to: Anthony Chiusano, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y.

No. MC 113974 (Sub-No. 46 TA) (Correction), filed May 3, 1971, published FEDERAL REGISTER issue May 15, 1971, corrected and republished as corrected this issue. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., 211 Washington Avenue, Post Office Box 67, Dravosburg, PA 15034. Applicant's representative: W. H. Schlottman (same address as above). NOTE: The purpose of this partial republication is to include the returned shipments of the above-described commodities, from the above-named destination points to the above-named origin point. The rest of the application remains the same.

No. MC 117883 (Sub-No. 156 TA), filed June 14, 1971. Applicant: SUBLER TRANSFER, INC., 791 East Main Street, Versailles, OH 45380. Applicant's representative: Edward J. Subler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, canned or preserved and flavored beverages*, from Champaign, Ill., to Akron, Ashtabula, Bedford Heights, Bellefontaine, Canton, Cincinnati, Cleveland, Columbus, Dayton, Dennison, Lima, Maple Heights, Massillon, Solon, Warrensville Heights, West Carrollton, Woodlawn, Xenia, Youngstown, Ohio, and Huntington, W. Va. Restriction: Restricted to traffic originating at the plantsite and storage facilities of Kraft Foods, Division of Kraftco Corp. at Champaign, Ill., for 180 days. Supporting shipper: Kraft Foods, Division of Kraftco Corp., 505 North Sacramento Boulevard, Chicago, IL 60612, Send protests to: Emil P. Schwab, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, OH 45202.

No. MC 126473 (Sub-No. 16 TA), filed June 14, 1971. Applicant: HAROLD DICKEY TRANSPORT, INC., Packwood, Iowa 52580. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles*, from Parkersburg, W. Va., to Fairfield, Iowa, for 180 days. Supporting shipper: Cino Win Corp., Post Office Box 926, Fairfield, IA 52556. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 332 Federal Building, Davenport, Iowa 52801.

No. MC 127028 (Sub-No. 8 TA), filed June 13, 1971. Applicant: BREDEHOEFT PRODUCE COMPANY, INC., Decatur, Ark. 72722. Applicant's representative: Edward T. Lyons, Jr., Suite 420, Denver Club Building, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients*, from the plantsite of Occidental Chemical Co. near White Springs, Fla., to points in Arkansas and Missouri, for 180 days. Supporting shipper: Occidental Chemical Co., Post Office Box 1185, Houston, TX 77001. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 127049 (Sub-No. 8 TA), filed June 14, 1971. Applicant: CEDARBURG CONTAINER CARRIERS CORPORATION, 1616 Second Avenue, Grafton, WI 53024. Applicant's representative: William C. Dineen, 412 Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Semi-processed yarn*, between Grafton, Hustisford, and Fort Atkinson, Wis.; Bloomsburg, Pa.; and Fall River, Mass.; on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2) *wool tops*, from points in Massachusetts, North Carolina, Rhode Island, South Carolina, Virginia, and

West Virginia to Bloomsburg, Pa., and Grafton and Fort Atkinson, Wis.; (3) *yarn*, from Fall River, Mass., to points in the United States (except Alaska and Hawaii); (4) *dyestuffs and additives*, from points in New Jersey to Grafton and Fort Atkinson, Wis., and (5) *folding cartons*, from Wisconsin Rapids, Wis., to Fall River, Mass., all for the account of Badger Mills, Grafton, Wis., for 180 days. Supporting shipper: Badger Mills, 1350 14th Avenue, Grafton, WI 53024 (Edward Cowell, Vice President). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 135663 (Sub-No. 1 TA), filed June 14, 1971. Applicant: A. J. MILES, INC., 2969 West 13th Street, Wichita, KS 67203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Clay aggregate*, in bulk, in dump-type vehicles, from Marquette, Kans., to points in Missouri on and west of U.S. Highway 63; and on and north of Interstate Highway 44, restricted to service under contract with Buildex, Inc., for 150 days. Supporting shipper: Buildex, Inc., Post Office Box 10, Ottawa, KS 66067. Send protests to M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 135664 (Sub-No. 1 TA), filed June 14, 1971. Applicant: D.C.C. TRANSPORTATION CO., INC., 110 East Jefferson Avenue, West Memphis, AR 72301. Applicant's representative: John Paul Jones, 189 Jefferson Avenue, Memphis, TN 38103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bottle or can carrying boxes, or crates*, new or used, and/or reconditioned, from points in West Memphis, Ark., and Memphis, Tenn., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia; and *materials, equipment, and supplies* utilized in the manufacture, distribution, and sale of the commodities described above, on return, restricted against the transportation of commodities in bulk, under a continuing contract with Delta Case Co., West Memphis, Ark., and Delta Case Repair Co., Memphis, Tenn., for 180 days. Supporting shipper: Delta Case Co., Inc., 110 Jefferson Avenue, Post Office Box 277, West Memphis, AR 72301. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 135678 TA, filed June 14, 1971. Applicant: MIDWESTERN TRANSPORTATION, INC., 2400 Northwest 23d Street, Oklahoma City, OK 73107. Applicant's representative: Rufus H. Lawson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities;* (1) between Oklahoma City, Okla., and the Oklahoma-Texas State line approximately 1 mile west of Texola, Okla., serving all intermediate points, except Bethany, Yukon, and El Reno, Okla., and serving the off-route point of Hydro, Okla., from Oklahoma City, Okla., over U.S. Highway 66 and Interstate Highway 40 to the Oklahoma-Texas State line, and return over the same route; (2) between Oklahoma City, Okla., and Sayre, Okla., serving all intermediate points; between Clinton, and Sayre, Okla., and the off-route points of Stafford, Hammon, and Herring, Okla., from Oklahoma City, Okla., over Interstate Highway 40 and U.S. Highway 66 to Clinton, Okla., thence over State Highway 73 to its junction with State Highway 34, thence over State Highway 34 to its junction with State Highway 33, thence over State Highway 33 to its junction with U.S. Highway 283, thence over U.S. Highway 283 to Sayre, Okla., and return over the same route; (3) between Oklahoma City, Okla., and intersection of State Highway 34 and State Highway 33, serving all intermediate points between Clinton, Okla., and intersection of State Highway 34 and State Highway 33, from Oklahoma City, Okla., over U.S. Highway 66 and Interstate Highway 40 to Clinton, Okla., thence over U.S. Highway 183 to its intersection with State Highway 33 to its intersection with State Highway 34, and return over the same route;

(4) Between Oklahoma City and Erick, Okla., serving the off-route points of Durham and Dempsey, and serving all intermediate points between Weatherford and Erick, Okla.; from Oklahoma City, Okla., over Interstate Highway 40 and U.S. Highway 66 to Weatherford, Okla., thence over State Highway 54 to its intersection with U.S. Highway 183, thence over U.S. Highway 183 to its intersection with U.S. Highway 60, thence over U.S. Highway 60 to Seiling, Okla., thence over U.S. Highway 60 to Arnett, Okla., thence north over State Highway 46 to Gage, Okla., thence over State Highway 15 to Shattuck, Okla., thence over State Highway 283 to its intersection with State Highway 33, thence over State Highway 33 to its intersection with State Highway 30, thence over State Highway 30 to Erick, Okla., and return over the same route; (5) between Oklahoma City, Okla., and Sayre, Okla., serving all intermediate points; between Clinton and Sayre, Okla., from Oklahoma City, Okla., over Interstate Highway 40 and U.S. Highway 66 to Clinton, Okla., thence over U.S. Highway 183 to its intersection with State Highway 47, thence over State Highway 47 to its intersection with U.S. Highway 283, thence over U.S. Highway 283 to Sayre, Okla., and return over the same route; (6) between Oklahoma City, Okla., and Vici, Okla., and return over the same route; between Elk City, and Vici, Okla., and the off-route point of Trail, Okla., and return over the same route, from Oklahoma City, Okla., to Elk City, Okla., over Interstate Highway 40 and U.S. Highway 66, thence over State Highway 34 to Vici, Okla., and return over the same route; (7) between Oklahoma City, Okla., and intersection of State Highway 33 and U.S. Highway 283 approximately 1 mile north of Roll, Okla., serving all intermediate points, between Elk City, Okla., and intersection of State Highway 33 and U.S. Highway 283, from Oklahoma City, Okla., to Elk City, Okla., over Interstate Highway 40 and U.S. Highway 66, thence over State Highway 6 to its intersection with U.S. Highway 283, thence over U.S. Highway 283 to intersection State Highway 33 and U.S. Highway 283, and return over the same route;

(8) Between Oklahoma City, Okla., and the Oklahoma-Texas State line approximately 5 miles west of Sweetwater, Okla., serving all intermediate points, between the intersection of State Highway 152 and State Highway 54 and the Oklahoma-Texas State line approximately 5 miles of Sweetwater, Okla., from Oklahoma City, Okla., over State Highway 152 to the Oklahoma-Texas State line approximately 5 miles west of Sweetwater, Okla., and return over the same route; (9) between Oklahoma City and Weatherford, Okla., serving the off-route points of Corn and Colony, Okla., from Oklahoma City, Okla., to Weatherford, Okla., over Interstate Highway 40 and U.S. Highway 66, thence over State Highway 54 to its intersection with State Highway 152, and return over the same route; (10) between Oklahoma City and Sayre, Okla., serving all intermediate points, between Cordell and Sayre, Okla., including Cordell, Okla., from Oklahoma City, Okla., over State Highway 152 to Cordell, Okla., thence over U.S. Highway 183 to Rocky, Okla., thence over State Highway 55 to its intersection with State Highway 152, thence over State Highway 152 to Sayre, Okla., and return over the same route; (11) between Oklahoma City, Okla., and Butler, Okla., serving all intermediate points, between Sentinel and Butler, Okla., and the off-route point of Clinton Sherman Air Force Base, from Oklahoma City, Okla., over Interstate Highway 40 and U.S. Highway 66 to Clinton, Okla., thence over State Highway 183 to Rocky, Okla., thence over State Highway 55 to Sentinel, Okla., thence over U.S. Highway 44 to Butler, Okla., and return over the same route; (12) between Elk City and Retrop, Okla., serving all intermediate points, from Elk City, Okla., over State Highway 6 to Retrop, and return over the same route;

(13) Between Elk City, Okla., and intersection of State Highway 34 and State Highway 152, from Elk City, Okla., over Interstate Highway 40 and U.S. Highway 66 to its intersection with State Highway 34, thence over State Highway 34 to its intersection with State Highway 152, and return over the same route; and (14) between Oklahoma City, Okla., and intersection of U.S. Highway 183 and State Highway 47 serving all intermediate points, between Thomas, Okla., and intersection of U.S. Highway 183, from

Oklahoma City, Okla., over Interstate Highway 40 and U.S. Highway 66 to Weatherford, Okla., thence over State Highway 54 to Thomas, Okla., thence over State Highway 47, to its intersection with U.S. Highway 183, and return over the same route, for 180 days. NOTE: Applicant states it intends to tack its authority at Oklahoma City, Elk City, Sayre, and Clinton, Okla. Supported by: There are approximately 58 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the Field Office named below. Send protests to: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 135680 (Sub-No. 1 TA), filed June 14, 1971. Applicant: FRED C. WILLIAMS, 1127 Baker Street, Yakima, WA 98902. Applicant's representative: Terry C. Schmalz, 115 South Second Street, Selah, WA 98942. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages, and wine*, from Los Angeles, Calif., to Ephrata and Wenatchee, Wash., for 180 days. Supporting shipper: Columbia Distributing Co., 3 Benton, Wenatchee, WA 98801. Send protests to: District Supervisor W. J. Huetig, Interstate Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

MOTOR CARRIER OF PASSENGERS

No. MC 3647 (Sub-No. 434 TA), filed June 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 irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in round-trip special operations, beginning and ending at points in Passaic County, N.J., and extending to Monticello Raceway, Monticello, N.Y., for 150 days. Supporting shippers: Mr. Allen J. Finkleson, Director of Public Relations, for Monticello Raceway, Monticello, N.Y.; Mr. Edward Britton (Patron) 180 Park Avenue, Paterson, NJ, and 24 individual patrons whose affidavits are on file in Newark, N.J., field office. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8887 Filed 6-23-71;8:49 am]

ATCHISON, TOPEKA AND SANTA FE RAILWAY CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 26 (Atchison, Topeka and Santa Fe Railway Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 26, be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1971, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., June 30, 1971, and 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 18, 1971.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.71-8886 Filed 6-23-71;8:49 am]

MERCER TRUCKING CO. ET AL.

Assignment of Hearings

JUNE 21, 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.

MC 43685 Sub 14, Mercer Trucking Co., Inc., now assigned June 28, 1971, at Spokane, Wash., is postponed indefinitely.

MC 119777 Sub 191, Ligon Specialized Hauler, Inc., now assigned June 21, 1971, at Louisville, Ky., canceled and transferred to modified procedure.

MC-116110 Sub 9, P. C. White Truck Line, Inc., now assigned September 8, 1971, in Room 224, Aronov Building, 474 South Court Street, Montgomery, AL.

MC-77972 Sub 17, Merchants Truck Line, Inc., now assigned July 12, 1971, at Jackson, Miss., canceled and reassigned to July 12, 1971, at Albert Pick Hotel, Delta Room, Eleventh Floor, Memphis, Tenn., and August 16, 1971, in Holiday Inn North, Jackson Room, Hattiesburg, Miss., and August 18, 1971, in Holiday Inn, Room 302, McComb, Miss.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-8890 Filed 6-23-71;8:49 am]

[Notice 318]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 21, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 4928 (Sub-No. 2 TA), filed June 14, 1971. Applicant: VERNON REHA AND DENNIS REHA, a partnership, doing business as REHA TRUCKING, Adair, Iowa 5002. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel jump forms, metal scaffolding, hydraulic hoists, and materials, equipment, and supplies used in the construction and installation of concrete poured silos*, between points in Iowa, Kansas, Missouri, and Nebraska, for 180 days. Supporting shipper: Iowa Star Silos, Inc., Adair, Iowa 50002. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 105045 (Sub-No. 32 TA), filed June 14, 1971. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Post Office Box 724,

Evansville, IN 47701. Applicant's representative: George H. Veech (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete pipes, prestressed beams, precast beams, precast wall panels, prestressed wall panels, hollow core slabs*, (1) from Evansville, Ind., to points in Illinois and Kentucky, (2) from Junction City, Ill., and Champaign, Ill., to points in Indiana and Kentucky, for 180 days. Supporting shipper: Nelson Concrete Products, Inc., Post Office Box 2267, Station D, Evansville, IN 47714. Send protests to: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 105566 (Sub-No. 33 TA), filed June 14, 1971. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, 405–S Crystal Plaza, 2111 Jefferson Davis Highway, Arlington, VA 22202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Charcoal and charcoal briquets*, from Meta, Mo., to points in Arizona, California, Nevada, Utah, Idaho, Washington, and Oregon, for 180 days. Supporting shipper: Standard Milling Co., 1009 Central Street, Kansas City, MO 64105. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Room 1465, 210 North 12th Street, St. Louis, MO 63101.

No. MC 105566 (Sub-No. 34 TA), filed June 14, 1971. Applicant: SAM TANKSLEY TRUCKING, INC., Post Office Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, 405–S Crystal Plaza, 2111 Jefferson Davis Highway, Arlington, VA 22202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, except hides, pelts, and commodities in bulk, in tank vehicles, from the plantsite and facilities of Illini Beef Packers, Inc., to points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington, for 180 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Co. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, 210 North 12th Street, Room 1465, St. Louis, MO 63101.

No. MC 106051 (Sub-No. 43 TA), filed June 14, 1971. Applicant: OLD COLONY TRANSPORTATION CO., INC., 676 Dartmouth Street, South Dartmouth, MA 02748. Applicant's representative: Francis E. Barrett, Jr., 536 Granite Street, Brainstree, MA 02184. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Albany, N.Y., on the one hand, and, on the other, points in Essex and Clinton Counties, N.Y., for 180 days, NOTE: Applicant states it does intend to tack the authority in MC 106051 at Albany, N.Y., supported by: There are approximately 19 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Gerald H. Curry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 187 Westminster Street, Providence, RI 02903.

No. MC 107162 (Sub-No. 31 TA), filed June 15, 1971. Applicant: NOBLE GRAHAM, Route No. 1, Brimley, MI 49715. Applicant's representative: John D. Varda, 121 South Pinckney Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden fencing, posts, and accessories used in the installation thereof*, from Alpena, Carney, Gladstone, Moran, Posen, Powers, Stephenson, and Wallace, Mich., to points in the United States (except Alaska, California, Hawaii, Michigan, Idaho, Montana, Nevada, Oregon, Utah, and Washington), restricted to use of flat-bed equipment only, for 180 days. Supporting shippers: Early American Fence Co., Post Office Box 166, Powers, MI 49874; Farley Fences, Inc., Post Office Box S, Bay City, MI 48706; Habitant Fence Division, Habitant Shops, Inc., Post Office Box 111, Bay City, MI 48706; MacGillis & Gibbs Co., 4278 North Teutonia Avenue, Milwaukee, WI 53209; Peterson Bros. Manufacturing Co., Carney, Mich. 49812. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 107227 (Sub-No. 120 TA), filed June 14, 1971. Applicant: INSURED TRANSPORTERS, INC., 1944 Williams Street, San Leandro, CA 94577. Applicant's representative: John G. Lyons, 1418 Mills Tower, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled aircraft cargo support vehicles*, excepting commodities requiring special equipment, from Van Nuys, Calif., to points in the United States, excepting points in Alaska and Hawaii, for 180 days. Supporting shipper: Nordco Products, 7917 Gaviota, Van Nuys, CA 91406. Send protests to: District Supervisor Wm. E. Murphy, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

No. MC 107295 (Sub-No. 529 TA), filed June 14, 1971. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Dale L. Cox (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe conduit, and fittings, iron or steel, including accessories incidental to the completion erection, and installation thereof*, from Sharon and Wheatland, Pa., to points in Georgia, Alabama, Louisiana, Mississippi, and Texas; and from Alama State Docks at Mobile, Ala., to points in Alabama, Mississippi, Louisiana, Texas, and Georgia, for 180 days. Supporting shipper: Mr. W. B. Tull, Jr., Southern Pipe & Supply Co., Post Office Box 5738, Meridian, MS 39301. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 108393 (Sub-No. 48 TA), filed June 14, 1971. Applicant: SIGNAL DELIVERY SERVICE, INC., 930 North York Road, Hinsdale, IL. Applicant's representative: Eugene L. Cohn, 1 North La Salle Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical or gas appliances, parts of electrical or gas appliances, and equipment materials, and supplies* used in the manufacture, distribution and repair of electrical or gas appliances, for the account of Sears, Roebuck & Co., from Findlay, Ohio, to Pittsburgh, Pa., for 180 days. Supporting shipper: J. L. Roth, Territorial Traffic Manager, Post Office Box 5208, Chicago, IL 60680. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 108449 (Sub-No. 326 TA), filed June 14, 1971. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Applicant's representative: W. A. Myllenbeck (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Diesel fuel*, in bulk, in tank vehicles, from Bettendorf, Iowa, to Kaukauna, Wis., for 180 days. Supporting shipper: Phillips Petroleum Co., Hinsdale, Ill. Send protests to: District Supervisor E. C. Sjogren, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 115180 (Sub-No. 71 TA), filed June 13, 1971. Applicant: ONLEY REFRIGERATED TRANSPORTATION, INC., 265 West 14th Street, New York, NY 10011. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *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 and commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Maine, Vermont, New Hampshire, Ohio, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, West Virginia, Maryland, Pennsylvania, and the District of Columbia, and (2) *Such commodities* as are used by meat packers, in the conduct of their business when destined to or for use by meat packers as described in section B 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 points in Maine, Vermont, New Hampshire, Ohio, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, West Virginia, Virginia, Maryland, Pennsylvania, and the District of Columbia, to the plantsite and storage facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., restricted to the transportation of traffic originating at the above specified origins and destined to the above name destinations, for 180 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Ill. Send protests to: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaze, New York, N.Y. 10007.

No. MC 118127 (Sub-No. 21 TA), filed June 14, 1971. Applicant: HALE DISTRIBUTING COMPANY, INC., 914 South Vail Avenue, Montebello, CA 90640. Applicant's representative: William J. Augello, 103 Fort Salonga Road, Northport, NY 11768. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from points in Los Angeles, and Orange Counties, Calif., to Baltimore, Md., Alexandria, and Norfolk, Va., and Washington, D.C., for 150 days. Supporting shipper: Bavarian Pastry Shop, 750 Basin Street, San Pedro, CA 90731. Send protests to: John E. Nance, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 119493 (Sub-No. 72 TA), filed June 14, 1971. Applicant: MONKEM COMPANY, INC. Office West 20th Street Road, Post Office Box 1196, Joplin, MO 64801. Applicant's representative: Ray F. Kempt (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Atlanta, Ga., and Little Rock, Ark., to points in Alabama, Arkansas, Florida (on and west of U.S. Highway 231), Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee (on and west of U.S. Highway 41), and Texas (on and east of U.S. Highway 283 and 277), for 180 days. Supporting shipper: W. R. Grace & Co., Converted Plastic Group, Post Office Box 464, Duncan, SC 29334. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 126999 (Sub-No. 2 TA), filed June 15, 1971. Applicant: MATTHEW BERLETCH, JR., 62 Laipple Street, Bridgeport, OH 43912. Applicant's representative: D. L. Bennett, 129 Edgington Lane, Wheeling, WV 26003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated nonalcoholic beverages and carbonated beverage flavoring syrup in shipper's special trailers*, from Morgantown, W. Va., to Frostburg, Md., for 180 days. Supporting shipper: Beverages of W. Va., Inc., 1448 University Avenue, Morgantown, W. Va. 26505. Send protests to: Joseph A. Niggemyer, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 416 Old Office Building, Wheeling, W. Va. 26003.

No. MC 127238 (Sub-No. 3 TA), filed June 14, 1971. Applicant: DOROTHY R. ZUMMO, doing business as AIR DELIVERY SERVICE, 521 Cedar Avenue, Post Office Box 1102, Scranton, PA 18505. Applicant's representative: S. J. Zummo (same address as above). 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 those which because of size or weight require special equipment), between points in Columbia County, Pa., on the one hand, and, on the other, Wilkes-Barre-Scranton Airport, Luzerne and Lackawanna Counties, Pa., Philadelphia International Airport, Philadelphia, Pa.; John F. Kennedy International Airport, New York, N.Y., and Newark Airport, Newark, N.J., restricted to the transportation of shipments having an immediately prior or an immediately subsequent movement by air, for 180 days. Supporting shippers: McGregor-Doniger, Inc., 69 King Street, Dover, NJ 07801; Yeager Wire Works, 620 Broad Street, Berwick, PA 18603. Send protests to: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, PA 18503.

No. MC 127844 (Sub-No. 17 TA), filed June 15, 1971. Applicant: L. B. BARNHILL AND I. S. JOHNSON, JR., a partnership, doing business as B & J TRANSPORTATION, Route 1, Box 48XA, Sumter, SC 29150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from Nichols, S.C., to points in Connecticut, Massachusetts, Rhode Island, and New Hampshire, for 180 days. Supporting shipper: Unagusta Manufacturing Corp., Post Office Box 288, Nichols, SC 29581. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 300 Columbia Building, 1200 Main Street, Columbia, SC 29201.

No. MC 129459 (Sub-No. 8 TA), filed June 13, 1971. Applicant: KEARNEY'S TRUCKING SERVICE, INC., Alternate Route U.S. 611—Post Office Box 264, Portland, PA 18331. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from Elizabeth, N.J., to points in New York, New Jersey, Pennsylvania, Maryland, Delaware, Connecticut, Massachusetts, and Rhode Island, for 150 days. Supporting shipper: Diamond Crystal Salt Co., St. Clair, Mich. 48079. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 134219 (Sub-No. 5 TA), filed June 15, 1971. Applicant: GEORGE V. D'AGOSTINO, doing business as AIRLIN TRUCKING CO., 213–217 Poinier Street, Newark, NJ 07114. 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: *Chalk*, except in bulk, in tank vehicles, from piers in New York, N.Y., Harbor, as defined by the Commission, warehouses in New York, N.Y., and Newark, N.J., to Harleysville, Pa., for 150 days. Supporting shipper: Pluess-Staufer (North American), Inc., 82 Beaver Street, New York, NY 10005. Send protests to: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 134449 (Sub-No. 3 TA), filed June 14, 1971. Applicant: LESTER V. MOZNIX, 3753 Grandview Highway, Burnaby, 2, BC, Canada. Applicant's representative: Joseph O. Earp, 411 Lyon Building, Seattle, WA 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen cabinets, counter tops and parts thereof*, from ports of entry on the international boundary between the United States and Canada at or near Blaine and Sumas, Wash., to points in California, except points in Alameda, San Francisco, Contra Costa, Marin, San Mateo, Calif., Las Vegas and Reno, Nev., and Phoenix, Ariz., for 180 days. Supporting shipper: Crestwood Kitchens Ltd., 225 No. 5 Road, Richmond, BC, Canada. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 135421 (Sub-No. 1 TA), filed June 16, 1971. Applicant: OSCAR DICKEY, Box 221, 209 Oak Street, Stayner, ON Canada. Applicant's representative: William J. Hirsch, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes,

transporting: *Distiller's dried grain and gluten feed and meal,* in bulk, from ports of entry on the international boundary line between the United States and Canada located on the Niagara River at Buffalo, N.Y., to Buffalo and Watertown, N.Y., for 180 days. Supporting shipper: Barton Distilling (Canada) Ltd., Industrial Park, Collingwood, Ontario, Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, NY 14203.

No. MC 135610 (Sub-No. 1 TA), filed June 15, 1971. Applicant: JEAN CHARLES VOYER TRANSPORT, Riviere a Pierre, County Portneuf, PQ Canada. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Granite,* from the United States-Canada boundary line at or near Champlain, N.Y., to points in New York, for 150 days. Supporting shipper: Dumas & Voyer Ltee, Riviere a Piere, County Portneuf, PQ Canada. Send protests to: Martin P. Monaghan, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, VT 05602.

No. MC 135679 (Sub-No. 1 TA), filed June 14, 1971. Applicant: FRANK A. HICKS, doing business as FRANK E. HICKS TRUCKING, Post Office Box 95, Somerset, CA 95684. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Limestone* (crushed), in bulk, from Shingle Springs, Calif., to points in Washoe County, Nev., and (2) *cement,* in bulk, from Fernley, Nev., to points in Alpine, Calaveras, El Dorado, Amador, Madera, Merced, Placer, Sacramento, San Joaquin, and Stanislaus Counties, Calif., for 180 days. NOTE: Applicant does not intend to tack or interline. Supporting shippers: El Dorado Limestone Co., Post Office Box 8, Shingle Springs, CA 95684; Nevada Cement Co., Fernley, Nev. 89408. Send protests to: Daniel Augustine, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

No. MC 135684 TA, filed June 16, 1971. Applicant: BASS TRANSPORTATION CO., INC., Old Croton Road, Star Route A, Post Office Box 391, Flemington, NJ 08822. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. 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, restricted against the transportation of commodities in bulk, in tank vehicles, limited to a transportation service to be performed with Needham Packing Co., Inc., Sioux City, Iowa, (1) from the plant and warehouse facilities of Needham Packing Co., Inc., located at West Fargo, N. Dak., Fargo, N. Dak., Sioux City, Iowa, and Omaha, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, North Carolina and South Carolina, and (2) from the plant and warehouse facilities of Needham Packing Co., Inc., located at Sioux City, Iowa, and Omaha, Nebr., to Chicago, Ill., and points in Illinois and Indiana in the Chicago commercial zone as defined by the Commission, for 180 days. NOTE: Applicant has extensive authority as contract carrier in MC 87720. Supporting shipper: Needham Packing Co., Inc., Sioux City Dressed Beef Division, 1911 Cunningham Drive, Sioux City, IA 51107. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.71-8888 Filed 6-23-71;8:49 am]

[Notice 706]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 21, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72823. By order of June 17, 1971, the Motor Carrier Board approved the acquisition of control, through purchase of capital stock, by Michael Schlam, 65-05 Myrtle Avenue, Glendale, NY, of Swiss Ski Tours, Inc., Glendale, N.Y., which holds license No. MC-12820 issued June 4, 1964, authorizing it to engage in operations as a broker in connection with the transportation of passengers and their baggage, in round-trip tours, beginning and ending at Glendale, N.Y., and extending to points in Maine, Massachusetts, New Hampshire, and Vermont. Thomas E. Brett, 118-21 Queens Boulevard, Forest Hills, NY 11375, attorney for transferor.

No. MC-FC-72856. By order of June 17, 1971, the Motor Carrier Board approved the transfer to S & D Trucking Co., Inc., Dyersburg, Tenn., of the Certificate of Registration in No. MC-121666 issued February 2, 1971, to J. C. Stephens and Clyde W. Davis, a partnership, doing business as S & D Trucking Co., Dyersburg, Tenn., evidencing a right to engage in transportation in interstate or foreign commerce solely within the State of Tennessee, corresponding in scope to the service authorized by Certificate No. 2979, embraced in order dated June 26, 1970, issued by the Tennessee Public Service Commission. Barret Ashley, 322 Church Avenue, Dyersburg, TN 38024, attorney for applicants.

No. MC-FC-72870. By order of June 17, 1971, the Motor Carrier Board approved the transfer to Paul Cavallo, doing business as Paul Cavallo Bus Line, Gillespie, Ill., of Certificates Nos. MC-101883, MC-101883 (Sub-No. 2), MC-101883 (Sub-No. 3), and MC-101883 (Sub-No. 4), issued June 29, 1949, June 15, 1955, September 29, 1966, and August 14, 1967, respectively, to Cavallo Bus Lines, Inc., authorizing, generally, the transportation of: Passengers and their baggage and passengers and their baggage, in charter operations, from, to, or between points in Illinois and Missouri. Paul Cavallo, 301 West Osie, Gillespie, IL 62033, for applicants.

No. MC-FC-72898. By order of June 17, 1971, the Motor Carrier Board approved the transfer to Coy Hill, doing business as Hill Auto Transport, Fairbanks, Alaska, of Certificate No. MC-117137 issued May 22, 1969, to Alaska Auto Transport, Inc., Fairbanks, Alaska, authorizing the transportation of: Motor vehicles, in secondary movements, in truckaway service, from Seward, Valdez, and Anchorage, Alaska, to Fairbanks, Alaska, restricted to shipments having a prior movement by water; and automobiles and pickup trucks, in truckaway service, in secondary movements, between Seattle, Wash., and Fairbanks, Alaska. James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101, attorney for applicants.

No. MC-FC-72916. By order of June 17, 1971, the Motor Carrier Board approved the transfer to H & R Trucking Co., a corporation, doing business as H & R Trucking Co., Powell, Wyo. 82435, of Certificate No. MC-61174 (Sub-No. 1), issued March 26, 1968, to Harvey D. Henry and Byron K. Rood, doing business as H & R Trucking, Powell, Wyo., authorizing the transportation of oil field equipment, machinery and supplies between specified points in Montana and Wyoming.

No. MC-FC-72939. By order of June 17, 1971, the Motor Carrier Board approved the transfer to Helen L. Tillman, Fremont, Nebr., of Certificate of Registration No. MC-120504 (Sub-No. 1) issued November 29, 1963, to Harvey Tillman and Helen L. Tillman, a partnership, doing business as Tillman Transfer, Fremont, Nebr., evidencing a right to engage in transportation in interstate commerce as described in Certificate No. M-11094 dated February 16, 1960, issued by the Nebraska State Railway Commission.

No. MC-FC-72944. By order of June 17, 1971, the Motor Carrier Board approved

the transfer to Roesch Lines, Inc., San Bernardino, Calif., of the operating rights in Certificate No. MC–119843 issued July 9, 1963, to Jack Austin Roesch, doing business as Roesch Transportation Co., San Bernardino, Calif., authorizing the transportation of passengers and their baggage, in charter operations, beginning and ending at Riverside and Santa Ana, Calif., and extending to points in Arizona, New Mexico, Nevada, and Utah. Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, CA 90212, attorney for applicants.

No. MC–FC–72948. By order of June 16, 1971, the Motor Carrier Board approved the transfer to Jacob Los, doing business as Los Transfer and Storage, 924 Mound Road, Post Office Box 401, Delavan, WI 53115, of the operating rights in certificate No. MC–106133 issued August 12, 1964, to Jacob Los and John Vriezen, a partnership, doing business as Los & Vriezen Transfer & Storage, 360 Bradley Avenue, Delavan, WI 53115, authorizing the transportation of household goods, as defined by the Commission, between points in Racine, Kenosha, and Walworth Counties, Wis., on the one hand, and, on the other, points in Illinois.

No. MC–FC–72949. By order of June 17, 1971, the Motor Carrier Board approved the transfer to Sherman Edward Lassiter, doing business as Lassiter Bus Line, 311 East Troy Street, Ahoskie, NC 27910, of the operating rights in certificate No. MC–115207, issued June 8, 1956, to H. G. Swain, doing business as Swain's Friendly Bus Service, Route 4, Box 174, Windsor, NC 27983, authorizing the transportation of passengers and their baggage, in round-trip charter operations, beginning and ending at points in Bertie County, N.C., and those points in Martin County, N.C., within 15 miles of Windsor, N.C., and extending to points in Virginia and the District of Columbia.

No. MC–FC–72951. By order of June 17, 1971, the Motor Carrier Board approved the transfer to Owen Transport Corp., Richmond, Va., of the operating rights in certificate No. MC–119511 issued August 9, 1960, to Thomas B. Puryear, Richmond, Va., authorizing the transportation of lumber, between Semora, Youngsville, Pittsboro, and Kenly, N.C., on the one hand, and, on the other, Richmond, Va., between Pemberton, Va., and Richmond, Va., and from Richmond, Va., to Camden, N.J., Washington, D.C., Baltimore, Md., Wilmington, Del., and Allentown, Lancaster, Lansdale, Harrisburg, Reading, York, and Philadelphia, Pa.; lumber, fertilizer, and grain, from Baltimore, Md., to Richmond, Va.; posts, poles, ties, piling, and lumber, from Richmond, Va., and points within 6 miles thereof, to points in Delaware, Maryland, North Carolina, West Virginia, and the District of Columbia, subject to restrictions; and ties, posts, poles, and piling, with exceptions, from the plant of Kopper's Co., Inc., near Richmond, Va., to points in Pennsylvania. Jno. C. Goddin, 200 West Grace Street, Richmond, VA 23220, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71–8889 Filed 6–23–71;8:49 am]

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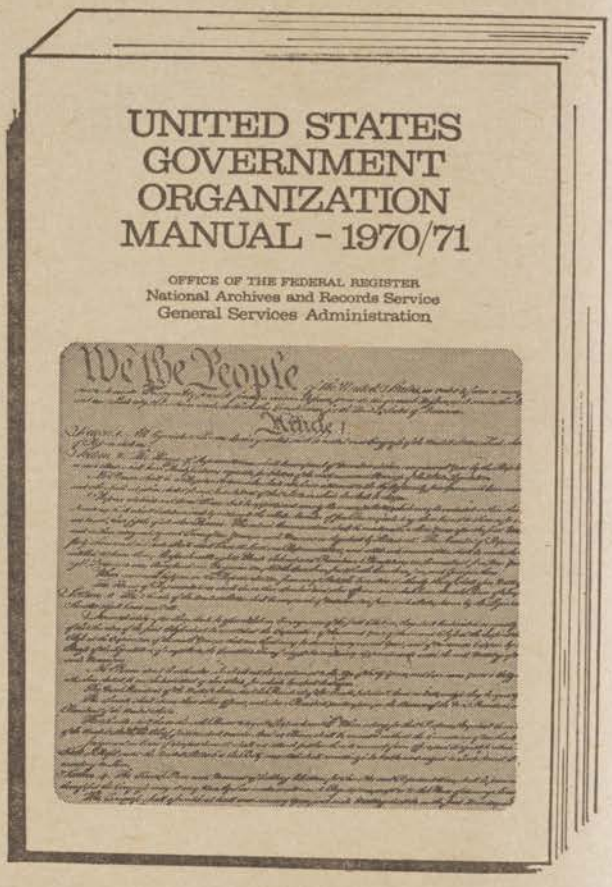

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