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PART I

(Part II begins on page 12651)

HIGHLIGHTS OF THIS ISSUE

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

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

Rules and Regulations

Title 7—AGRICULTURE

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER C—EXPORT PROGRAMS

PART 1488—FINANCING OF SALES OF AGRICULTURAL COMMODITIES

Subpart A—Financing of Export Sales of Agricultural Commodities From Private Stocks Under CCC Export Credit Sales Program (GSM–4, Revision II)

BREEDING SWINE

The regulations in this Subpart A, Part 1488, containing the terms and conditions governing the Commodity Credit Corporation Export Credit Sales Program, published in the FEDERAL REGISTER of April 22, 1971 (36 F.R. 7597–7602), and corrected April 29, 1971 (36 F.R. 8048), amended May 20, 1971 (36 F.R. 9437–9442), and corrected June 9, 1971 (36 F.R. 11081), are further amended by adding the following additional subheading and special provisions with respect to the financing of export credit sales of breeding swine under this Subpart A:

SUPPLEMENT III—BREEDING SWINE

Sec.
A. Addition definitions.
B. Submission of applications for financing.
C. Additional documents required after delivery.
D. Miscellaneous.

Exhibit I—Females.
Exhibit II—Boars.

Appendix I—Health Requirements.
Appendix II—Specifications for Official U.S. Standards for Grades.

AUTHORITY: The provisions of this Supplement III issued under sec. 5(f), 62 Stat. 1072, 15 U.S.C. 714c; sec. 407, 63 Stat. 1055, as amended, 7 U.S.C. 1427; sec. 4, 80 Stat. 1538, 7 U.S.C. 1707a.

SUPPLEMENT III—REGISTERED BREEDING SWINE

A. *Additional definitions.* 1. "Port value" means the net amount of the exporter's sales price for breeding swine to be exported under the financing agreement, basis f.a.s. or f.o.b. export carrier at U.S. ports, at U.S. border points of exit, or at U.S. points of flight if transported by air freight. The point of exportation for animals shall be designated by the Agricultural Research Service, U.S. Department of Agriculture. The port value shall not include the ocean freight for a c.i.f. sale or ocean freight and marine and war risk insurance for a c.i.f. sale, and shall also not include any animal care or servicing cost incurred after such animals are loaded aboard the export carrier. The net amount of the exporter's sales price means the contract price for the animals less any payments made by the importer and less any discounts, credits, or allowances to the importer. Such net amount shall not exceed (a) for boars, $500 each; (b) for bred females, $500 each; and (c) for unbred females $300 each, unless approved by the Assistant Sales Manager for Commercial Credit and Barter. The difference, if any, between the maximum net amount specified in (a), (b), or (c) of this paragraph A. 1. and the contract price for the individual animal shall not be included as part of the port value.

2. "Producer" means the person holding legal title to the animal at time of birth and who has had continuous ownership of such animal until sold for export under an approved financing agreement.

3. "Bred female" means a bred gilt as set forth in Exhibit I, Option B, and must be accompanied by a breeding certificate provided by the breeder.

4. "Breeder" means the person holding legal title to the female animal at the time she was served to qualify such animal hereunder as a bred female.

5. "Registered animal" means an eligible animal which the appropriate national breed association has officially registered, declared eligible for registry or otherwise classified as a purebred animal of that breed.

6. "Eligible animal" means a registered animal which meets all the following requirements:

(a) The animal must have been owned by a person who had continuous title to such animal for a period of at least 60 days immediately before acquisition by the exporter, unless the exporter is the producer of the animal;

(b) The animal must, at the time of export, have two eartags acceptable to USDA as an authentic identifying symbol for such animal and must be marked with a legible ear notch which corresponds with the number shown in the certificate of registration or other official document issued by the appropriate national breed association;

(c) The animal must qualify under the specifications of Exhibit I for females and Exhibit II for boars.

B. *Submission of applications for financing.* 1. In addition to the information required by § 1488.3(c) (2) through (10), applications for financing export credit sales of breeding swine shall include the following:

(a) A list of the animals to be exported including the identification number, breed, and price under the following classes:

1. Boars.
2. Bred females.
3. Unbred females.

(b) If applicable, a statement of justification for prices over the maximum limits specified in A. 1. (a), (b), or (c).

(c) A statement that such animals will conform to the general specification requirements set forth in Exhibit I or II, as applicable to the class of animals to be exported.

2. In addition to the justifications specified in § 1488.3(d), a financing period in excess of 12 months but not in excess of 36 months for breeding swine may be justified when it will result in the use by the importer, or by purchasers from the importer, of the animals in the destination country under conditions which will promote expanded demand for additional breeding animals or feed stuffs from the United States.

C. *Additional documents required after delivery.* In addition to the documents specified in § 1488.9(a) (1), (2), (3), (4), (6), and (7), the exporter shall submit the following documents to the Treasurer, Commodity Credit Corporation:

1. An animal identification list containing the following information:

(a) Identification number.

(b) For each animal, shown separately opposite the identification number, the sales price as specified in the sales invoice.

2. A certification by the exporter that animals of the description in the exporter's sales contract have been delivered, and that the exporter knows of no defenses to the account receivable assigned to CCC.

D. *Miscellaneous.* The following documents or certifications, as applicable, shall be furnished to the importer by the exporter:

1. The certificates issued by an agent of the Consumer and Marketing Service, U.S. Department of Agriculture, as to official registration of the animal(s) and listing the identification number(s) and corresponding registration certificate number(s) for each animal showing that such numbers have been verified as legible and accurate for such animal, and that the person holding legal title to the animal at the time of export sale has appropriately executed such certificate for transfer to the party designated by the importer. (See Exhibit I or II.)

2. A certification by the breeder of females sold as "bred females" showing the identification number of both the female and boar and stating that the service boar was a registered boar of the same breed. In addition the breeder will certify that the bred females have missed at least one heat period since last service. It will also be certified by the breeder that the bred females will not be more than 3 months pregnant at time of departure from point of exit.

3. The certificates issued or endorsed by the Animal Health Division, Agricultural Research Service, listing the identification number and showing that such animal has been inspected for compliance with "Health" requirements. (See Appendix I to Exhibits I and II.)

4. The certificates issued by the Consumer and Marketing Service listing the identification number for each animal and showing for such animal, compliance with breed registration, number of teats, and USDA grade, for the class, as shown in Exhibit I or II, as applicable.

5. The certificates signed by the breeder listing, for each animal, the individual identification number, breed, and age and a statement that the animal was from a litter of at least seven pigs.

EXHIBIT I TO SUPPLEMENT III

USDA APPROVED BREEDING SWINE EXPORT SPECIFICATIONS—FEMALES

Option A (to be specified by purchaser).
1. Registered.[1]

Breed

a. Poland China.
b. Chester White.
c. Yorkshire.
d. Hampshire.
e. Berkshire.
f. Duroc.
g. Tamworth.
h. Landrace.
i. Hereford.
j. Spotted Swine.

[1] All animals for delivery under these specifications must be certified by C&MS agent as officially registered with the appropriate National Breed Association.

Option B (to be specified by purchaser).

Age [1]

1. Unbred female—10 weeks—7 months.[2]
2. Bred female—7—14 months.

General Requirements:

A. Health (see Appendix I).

B. Minimum USDA grade—U.S. No. 2.[3]

C. Eligible females must be out of a litter of at least seven pigs.[3] Also, they must have at least six functional teats on each side of the underline with no inverted nipples.[4]

D. Statement of Service or Other Requirement.

Bred females must have been bred to a registered boar of the same breed. In addition, bred females shall have missed at least one heat period since last service and be not more than three months pregnant at time of departure from point of exit.[5]

EXHIBIT II TO SUPPLEMENT III

USDA APPROVED BREEDING SWINE EXPORT SPECIFICATIONS—BOARS

Option A (to be specified by purchaser).

Breed [1]

a. Poland China.
b. Chester White.
c. Yorkshire.
d. Hampshire.
e. Berkshire.
f. Duroc.
g. Tamworth.
h. Landrace.
i. Hereford.
j. Spotted Swine.

Option B (to be specified by purchaser).

Age [2]

1. Boar pigs—10–16 weeks.[3]
2. Boars—4–8 months.
3. Boars—8–12 months.

Certification furnished by Livestock Division, C&MS, USDA.

General Requirements:

A. Health (see Appendix I).

B. Minimum USDA grade—U.S. No. 1.[4]

C. Eligible boars must be from a litter of at least seven pigs.[5]

APPENDIX I TO EXHIBITS I AND II

HEALTH REQUIREMENTS [1]

Swine financed for export under the CCC Export Credit Sales Program shall be certified by the appropriate USDA inspectors as follows:

1. U.S. is free of foot-and-mouth disease, African swine fever, Teschen disease, and vesicular exanthema.

2. The swine originate from a free area [2] where hog cholera is not known to exist according to title 9, Part 76 of U.S. Department of Agriculture regulations.

3. Animals have been inspected and found sound (including freedom from blindness, structural defects, etc.), free of evidence of communicable disease and exposure thereto, and free of mites, lice, and ticks or freed from the same.

Export inspection and certification requirements of the U.S. Department of Agriculture must be met.

APPENDIX II TO EXHIBITS I AND II

SPECIFICATIONS FOR OFFICIAL UNITED STATES STANDARDS FOR GRADES OF FEEDER PIGS

U.S. No. 1

Feeder pigs in this grade near the borderline of the U.S. No. 2 grade are long and have thick muscling throughout. Thickness of muscling is particularly evident in thick and full hams and shoulders. The hams and shoulders are thicker than the back, which is well-rounded. They usually present a well-balanced appearance.

U.S. No. 2

Feeder pigs in this grade near the borderline of the U.S. No. 3 grade are moderately long and have moderately thick muscling throughout. Thickness of muscling is particularly evident in moderately thick and full hams and shoulders. The back usually appears slightly full and well-rounded. They usually present a well-balanced appearance.

Effective date. This Supplement III to Regulations GSM–4, as revised, shall be effective upon filing with the FEDERAL REGISTER.

Filed on July 1, 1971.

Signed at Washington, D.C., on June 30, 1971.

CLIFFORD G. PULVERMACHER,
Vice President, Commodity Credit Corporation, and General Sales Manager, Export Marketing Service.

[FR Doc.71-9481 Filed 7-1-71;8:51 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter III—Consumer and Marketing Service (Meat Inspection), Department of Agriculture

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

Notice of Termination of Designation of Oregon Under the Federal Meat Inspection Act

On May 18, 1971, there was published in the FEDERAL REGISTER (§ 331.2; 36 F.R. 9003) a notice of designation of the State of Oregon under section 301(c)(1) of the Federal Meat Inspection Act (21 U.S.C. 661(c)(1)). This designation was based on information that the State of Oregon had not developed and activated and was not enforcing State meat inspection requirements at least equal to those imposed under titles I and IV of the Federal Meat Inspection Act, with respect to establishments within the State at which cattle, sheep, swine, goats, or equines are slaughtered, or their carcasses, or parts or products thereof, are prepared for use as human food, solely for distribution within such State. However, the State of Oregon requested the Secretary of Agriculture to resurvey the State program to determine if the State is now in a position to enforce such requirements. Upon a subsequent review by this Department of the meat inspection program of the State of Oregon, it has been determined that the State has developed and will enforce State meat inspection requirements at least equal to those imposed under titles I and IV of the Act, with respect to operations and transactions within the State which would be regulated under section 301(c)(1) of the Act.

Accordingly, pursuant to the authority in section 301(c)(3) of the Act (21 U.S.C. 661(c)(3)), the designation of the State of Oregon under section 301(c) of the Act is hereby terminated, effective upon issuance of this notice.

Done at Washington, D.C., on June 25, 1971.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.71-9412 Filed 7-1-71;8:51 am]

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Rev. 10, Amdt. 5]

PART 121—SMALL BUSINESS SIZE STANDARDS

Miscellaneous Changes Concerning Responsibility for Size Standards Program

The responsibility for administration of the Small Business Size Standards Program has been reassigned to the Assistant Administrator for Administration.

Accordingly Part 121 of Chapter 1 of Title 13 of the Code of Federal Regulations is hereby amended by substituting the words "Assistant Administrator for Administration" for the words "Associate Administrator for Procurement and Management Assistance" in the first sentence of § 121.3–3 and the third sentence of § 121.3–10 thereof.

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[1] Certification by breeder.

[2] Female pigs in this class must weigh at least 60 pounds. Certification furnished by Livestock Division, C&MS, USDA.

[3] Certification furnished by Livestock Division, C&MS, USDA. Grade to be based on the official U.S. standards for grades of feeder pigs. (See Appendix II.)

[4] Certification by Livestock Division, C&MS, USDA.

[5] All animals for delivery under these specifications must be certified by C&MS agent as officially registered with the appropriate National Breed Association.

[1] Certification by breeder.

[2] Boar pigs must weigh at least 60 pounds.

[3] Certification furnished by Livestock Division, C. & M.S., USDA grade to be based on the official U.S. standards for grades of feeder pigs. (See Appendix II.)

[4] Certification by breeder.

[5] Certification or endorsement furnished by Animal Health Division, Agricultural Research Service, USDA.

[2] Free area means a radius of 5 miles within which no cholera has occurred within 3 months.

Effective date. This amendment shall become effective on publication in the FEDERAL REGISTER (7–2–71).

Dated: June 17, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-9361 Filed 7-1-71;8:46 am]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-56; Amdt. 21]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Delegations of Authority

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

Under certain noncontroversial circumstances, the Board has canceled foreign air carrier permits by show cause procedures. Such circumstances occur when a foreign air carrier goes out of business, or when the government of such a carrier cancels its operating authority. This amendment delegates to the Director, Bureau of Operating Rights, the authority to issue orders to show cause in such cases.[1]

Additionally, authority is being delegated to the Director, Bureau of Operating Rights, to issue orders approving or disapproving certain wet leasing arrangements. Specifically, this delegated authority involves those foreign air carriers whose foreign air carrier permits allow them to enter into wet leasing arrangements with specified other foreign air carriers, subject to prior Board approval.

Moreover, the authority heretofore delegated to the Chief, Government Rates Division, Bureau of Economics, to issue orders effectuating profit-sharing determinations pursuant to the local service class subsidy rates in certain cases is being discontinued. Similarly, the authority heretofore delegated to the Chief, Government Rates Division, Bureau of Economics, to issue letters disposing of earnings deficiency matters pursuant to the local service class subsidy rates in certain cases is being discontinued. This action is being taken because all cases under class rates to which these delegations of authority pertain either have been settled or require Board review.

Since the delegation of authority to a staff member is not a substantive rule, but rather is a rule of agency organization and procedure, notice and public procedure hereon are not required and the rule may be made effective immediately.

Accordingly, the Board hereby amends Part 385 of the Organization Regulations (14 CFR Part 385), effective June 29, 1971, as follows:

1. Amend § 385.13 by adding paragraphs (aa) and (bb), to read as follows:

§ 385.13 Delegation to the Director, Bureau of Operating Rights.

* * * * *

(aa) Issue orders directing the holders of foreign air carrier permits to show cause why the Board should not adopt provisional findings and conclusions that such permits should be canceled when (1) the government of the permit holder's home country represents that it has no objection to cancellation of the permit, and (2) either (i) the permit holder has ceased operations, or (ii) the permit holder no longer holds authority from its own government to operate the routes designated in its permit.

(bb) Issue orders approving or disapproving wet leasing arrangements between foreign air carriers, in cases involving foreign air carriers whose foreign air carrier permits specify that they must obtain prior Board approval before entering into certain wet leasing arrangements with specified other foreign air carriers.

2. Amend § 385.16 by deleting and reserving paragraphs (a) and (b), as follows:

§ 385.16 Delegation to the Chief, Government Rates Division, Bureau of Economics.

* * * * *

(a) [Reserved]

(b) [Reserved]

* * * * *

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 F.R. 5989)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-9404 Filed 7-1-71;8:50 am]

Chapter V—National Aeronautics and Space Administration

PART 1208—REPORTING PROCEDURES FOR NASA AND AEROSPACE RELATED EMPLOYMENT

New Part 1208 added as follows:

Sec.
1208.100 Scope.
1208.101 Applicability.
1208.102 Definitions.
1208.103 Who must file.
1208.104 Time and procedure for filing reports.

AUTHORITY: The provisions of this Part 1208 are issued under sec. 7 of Public Law 91-303 (84 Stat. 372; 42 U.S.C. 2462, 1970 Supp.).

§ 1208.100 Scope.

(a) This part identifies, and prescribes the procedures to be followed by:

(1) Those former employees of NASA who were subsequently employed by or performed services for, or represented, an aerospace contractor, and

(2) Those present employees of NASA who were previously employed by, or served as a consultant or otherwise to, an aerospace contractor,

who are required to submit employment reports in compliance with section 6 of Public Law 91-119, as amended by section 7 of Public Law 91-303 (84 Stat. 372; 42 U.S.C. 2462, 1970 Supp.).

(b) Failure to file such reports is punishable by a maximum of 6 months imprisonment, or a fine of not more than $1,000, or both.

§ 1208.101 Applicability.

The provisions of this part apply to NASA Headquarters and NASA Field Installations and to certain present and former NASA employees.

§ 1208.102 Definitions.

For the purposes of this part, the following definitions apply:

(a) The term "former employee" means any former officer or employee of NASA, including consultants or part-time employees, whose salary rate at any time during the 3-year period immediately preceding the termination of his last employment with NASA was equal to or greater than the minimum salary rate at such time for positions in grade GS-13. Included are (1) former wage board employees, (2) former employees in the lower General Schedule grades, (3) former consultants, experts, part-time or temporary employees, and (4) former employees who held Excepted Positions, or were appointed under 5 U.S.C. 3104 ("Public Law 313 Scientists"), or were paid under an Executive Schedule Pay Level, whose rates of pay, if computed on an annual basis, would have equaled or exceeded:

$16,760 in 1970.
$15,812 in 1969.
$14,409 in 1968.
$13,507 in 1967.

(b) The term "aerospace contractor" means any individual, firm, corporation, partnership, association, or other legal entity, which provides services and materials to or for NASA in connection with any aerospace system under a contract directly with NASA. Subcontractors, as such, are excluded from the definition of "aerospace contractor." A subsidiary of a corporation which is a separate legal entity and contracts directly with NASA in its own name will be considered an "aerospace contractor" for purposes of this definition, rather than the parent corporation. Thus, only the dollar amount of contracts awarded by NASA to a subsidiary contracting with NASA in its own name during a fiscal year will be considered in determining whether a person

[1] However, the authority to issue final orders adopting the tentative findings and conclusions contained in the show cause orders will not be delegated.

employed or formerly employed by the subsidiary is required to report.

(c) The term "services and materials" means either services or materials or services and materials which are provided as a part of or in connection with any aerospace system, and includes construction performed under contracts awarded by NASA in connection with any aerospace system.

(d) The term "aerospace system" includes, but is not limited to, any rocket, launch vehicle, rocket engine, propellant, spacecraft, command module, service module, landing module, tracking device, communications device, or any part or component thereof, which is used in either manned or unmanned spaceflight operations.

(e) The term "contracts awarded" means contracts awarded by negotiation, and includes the net amount of modifications to, and the exercise of options under, such contracts. All transactions under $10,000 each are excluded. Contracts awarded by formal advertising are also excluded.

(f) The term "fiscal year" means a year beginning on July 1 and ending on June 30 of the next succeeding year; it is designated by the year in which it ends. (For example, fiscal year 1971 began on July 1, 1970, and will end on June 30, 1971.)

§ 1208.103 Who must file.

Except as provided in paragraph (e) of this section, the following categories of former and present NASA employees are required to file the report prescribed under this Part 1208:

(a) Any former employee (including former employees referred to in paragraph (b) of this section) who, during any fiscal year:

(1) Was employed by or served as a consultant or otherwise to an aerospace contractor for any period of time; or

(2) Represented any aerospace contractor at any hearing, trial, appeal, or other action in which the United States was a party and which involved services and materials provided or to be provided to NASA by such contractor; or

(3) Represented any such contractor in any transaction with NASA involving services or materials provided or to be provided by such contractor to NASA.

(b) Any former employee whose employment with or services for an aerospace contractor terminated during any fiscal year is required to file a report for such fiscal year if he would otherwise be required to file a report under paragraph (a) of this section.

(c) Any present employee of NASA, including (1) present employees referred to in paragraph (d) of this section, (2) wage board employees, (3) employees in lower General Schedule grades, (4) consultants, experts, part-time or temporary employees, and (5) employees who hold Excepted Positions, or were appointed under 5 U.S.C. 3104 ("Public Law 313 Scientists"), or were paid under an Executive Schedule Pay Level, who:

(i) Was previously employed by or served as a consultant or otherwise to an aerospace contractor in any fiscal year, and

(ii) Whose salary rate in NASA is, or if computed on an annual basis would be, equal to or greater than the minimum salary rate for positions in grade GS–13.

(d) Any person whose employment with or service for NASA terminated during any fiscal year is required to file a report for such fiscal year if he would otherwise be required to file a report under paragraph (c) of this section.

(e) The following categories of former and present NASA employees are exempt from the reporting requirements:

(1) No former or present employee is required to file a report for any year prior to fiscal year 1971.

(2) No former employee shall be required to file a report under this part for any fiscal year in which he was employed by or served as a consultant or otherwise to an aerospace contractor if the total amount of contracts awarded by NASA to such contractor during such year was less than $10 million; and no present employee shall be required to file a report under this part for any fiscal year in which he was employed by or served as a consultant or otherwise to an aerospace contractor if the total amount of contracts awarded to such contractor by NASA during such year was less than $10 million.

(3) No former employee shall be required to file a report under this part for any fiscal year on account of employment with NASA if such employment was terminated 3 years or more prior to the beginning of such fiscal year; and no present employee shall be required to file a report under this part for any fiscal year on account of employment with or services performed for an aerospace contractor if such employment was terminated or such services were performed 3 years or more prior to the beginning of such fiscal year.

(4) No former employee shall be required to file a report under this part for any fiscal year during which he was employed by or served as a consultant or otherwise to an aerospace contractor at a salary rate of less than $15,000 per year; and no present employee shall be required to file a report under this part for any fiscal year during which he was employed by or served as a consultant or otherwise to an aerospace contractor at a salary rate of less than $15,000 per year.

§ 1208.104 Time and procedure for filing reports.

(a) Former and present employees required to file reports will file them by November 15 following the close of each fiscal year. (See § 1208.103.)

(b) Reports will be prepared on NASA Form 1480 (Rev. June 1971).

(c) Former employees may obtain NASA Form 1480 from the Personnel Office of the NASA installation where they were employed or from the aerospace contractor by whom employed.

(d) The originals of the completed reports will be submitted to the Director of Personnel, NASA, Washington, D.C. 20546.

Effective date. The provisions of this Part 1208 are effective on and after July 1, 1971.

GEORGE M. LOW,
Acting Administrator.

[FR Doc.71-9372 Filed 7-1-71;8:51 am]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket C-1926]

PART 13—PROHIBITED TRADE PRACTICES

Ithaca Gun Company, Inc.

Subpart—Advertising falsely or misleadingly: § 13.155 *Prices*: 13.155-60 List or catalog as regular selling. Subpart—Coercing and intimidating: § 13.350 *Customers or prospective customers.* Subpart—Combining or conspiring: § 13.445 *To force guarantee against price decline.* Subpart—Cutting off supplies or service: § 13.655 *Threatening disciplinary action or otherwise.* Subpart—Maintaining resale prices: § 13.1160 *Refusal to sell.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Ithaca Gun Company, Inc., New York, N.Y., Docket No. C-1926, May 26, 1971]

In the Matter of Ithaca Gun Company, Inc., a Corporation

Consent order requiring an Ithaca, N.Y., manufacturer and seller of sporting firearms and firearm accessories to cease requiring its retail dealers to agree to sell at resale prices fixed by respondent, harassing and threatening dealers to observe its resale prices and requesting them to report dealers who do not observe the established prices, preventing independent dealers from reselling its products to any other distributor, and distributing lists or documents indicating resale prices without stating such prices are only suggested.

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

It is ordered, That respondent, Ithaca Gun Company, Inc., a corporation, its subsidiaries, successors, assigns, officers, directors, agents, representatives, and employees, individually or in concert, directly or through any corporate or other device, in connection with the manufacture, distribution, offering for sale or sale of firearms and firearm accessories, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from hindering, suppressing, or eliminating competition or from attempting to hinder, sup-

press, or eliminate competition between or among dealers handling respondent's products by:

1. Requiring dealers, through a franchise agreement or other means, to agree that they will resell at prices specified by respondent or that they will not resell below or above specified prices;

2. Requiring prospective dealers to agree, through direct or indirect means, that they will maintain respondent's specified resale prices as a condition of buying respondent's products;

3. Requesting dealers, either directly or indirectly, to report any person or firm who does not observe the resale prices suggested by respondent, or acting on reports so obtained by refusing or threatening to refuse sales to the dealers so reported;

4. Harassing, intimidating, coercing or threatening dealers, either directly or indirectly, to observe, maintain, or advertise established resale prices;

5. Directing or requiring respondent's salesmen, or any other agents, representatives, or employees, directly or indirectly, as part of any plan or program of requiring its dealers to adhere to its suggested resale prices, to report dealers who do not observe such suggested resale prices, or to act on such reports by refusing or threatening to refuse sales to dealers so reported;

6. Requiring from dealers charged with price cutting or failure to observe suggested resale prices, promises or assurances of the observance of respondent's resale prices as a condition precedent to future sales to said dealers;

7. Publishing, disseminating, or circulating to any dealer, any price lists, price books, price tags or other documents indicating any resale or retail prices without stating on such lists, books, tags or other documents that the prices are suggested or approximate;

8. Utilizing any other cooperative means of accomplishing the maintenance of resale prices established by respondent;

9. Requiring or inducing by any means, dealers or prospective dealers to refrain, or to agree to refrain from selling respondent's products to any other dealers or distributors;

Provided, however, Nothing hereinabove shall be construed to waive, limit or otherwise affect the right of respondent to enter into, establish, maintain and enforce in any lawful manner any price maintenance agreement excepted from the provisions of section 5 of the Federal Trade Commission Act by virtue of the McGuire Act amendments to said Act and any other applicable statutes, whether, now in effect or hereafter enacted.

It is further ordered, That the respondent herein shall within sixty (60) days after service upon it of this order, mail a copy of this order to each of its dealers in the States of Alabama, Alaska, Hawaii, Kansas, Mississippi, Missouri, Montana, Nebraska, Nevada, Rhode Island, Texas, Utah, Vermont, Wyoming, and Puerto Rico and the District of Columbia under cover of the letter annexed hereto as Exhibit A, and furnish the Commission proof of the mailing thereof.

It is further ordered, That the respondent herein shall:

1. Within sixty (60) days after service upon it of this order send each dealer terminated between January 1, 1966, and the date hereof and listed in Exhibit B annexed hereto (such list of terminated dealers having been previously verified by the staff of the Federal Trade Commission) a letter advising him that he may apply within thirty (30) days from receipt of that letter for reinstatement as a certified dealer;

2. Upon receipt of such application promptly reinstate any such dealer as a certified dealer; and

3. Within one hundred and twenty (120) days after service upon it of this order submit to the Commission a list of all dealers on Exhibit B who have not been reinstated and the reason or reasons therefor.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions, and to all of its sales personnel and shall instruct each sales person employed by it now or in the future to read this order and to be familiar with its provisions.

It is further ordered, That respondent Ithaca Gun Company, Inc., notify the Commission at least 30 days prior to any proposed change in the corporate respondent which may affect compliance obligations arising out this order, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation of or dissolution of subsidiaries or any other change in the corporation.

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

Issued: May 26, 1971.

By the Commission.

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

EXHIBIT A

[Letterhead of Ithaca Gun Co., Inc.]

DEAR DEALER: Ithaca Gun Co., Inc. has entered into an agreement with the Federal Trade Commission relating to the distributional activities and pricing policy of Ithaca Gun. A copy of the consent order entered into pursuant to that agreement is enclosed herewith.

Ithaca Gun has entered into this agreement solely for the purpose of settling a dispute with the Commission, and the agreement and order is not to be construed as an admission by Ithaca Gun that it has violated any of the laws administered by the Commission. Instead, the order merely relates to the activities of Ithaca Gun in the future.

In order that you may readily understand the terms of the order we have set forth the essentials of the agreement with the Commission although you must realize that the order itself is controlling rather than the following explanation of its provisions:

(1) While Ithaca Gun may suggest resale prices for its products, distribute suggested resale price lists, and preticket with suggested prices, Ithaca Gun will not solicit the agreement of its dealers in your State to adhere to those suggested prices or take any other action to induce such dealers to follow those suggested prices since they are not binding.

(2) Ithaca Gun will not solicit, invite or encourage dealers in your State to report any person not following its suggested prices, and furthermore will not act on any such reports sent to it.

(3) Ithaca Gun will not require or induce its dealers in your State to refrain from advertising Ithaca Gun products at any price they choose or from selling Ithaca Gun products at any price to any person of their choice.

Yours sincerely,

JERALD T. BALDRIDGE, *President.*

EXHIBIT B

Keith's Hardware, 3625 Parkway Avenue, Birmingham, AL 35226.
J. O. Callahan & Son, Black Rock, Ark. 72415.
Jim Shepard Guns, 1521 West Magnolia Boulevard, Burbank, CA 91506.
San Gabriel Valley Gun Club, 4001 Fish Canyon Road, Duarte, CA 91010.
Sam Luis Sport Shop, 542 Packeco Boulevard, Los Banos, CA 93635.
Ship Ahoy Country Store, 5676 Holt Boulevard, Ontario, CA 91762.
Suburban Sportsman, Inc., 2720 Summer Street, Stamford, CT 06901.
T. R. Brown Co., 11 South Railroad Avenue, Camden-Wyoming, DE 19934.
O'Daniels Grocery & Gun Store, 1122 North Main, Acworth, GA 30101.
Dean's, Inc., 1126 West Peachtree Street NE., Atlanta, GA 30309.
The Outdoorsman, 370 Shoup Avenue, Idaho Falls, ID 83401.
Canton Sporting Goods, 120 South Main Street, Canton, IL 61520.
Witvoet Gun Shop, 179th and Corchester, South Holland, IL 60473.
Cantrell Lumber & Hardware Co., Xenia, Ill. 62899.
Bait King, 116 South 10½ Street, Terre Haute, IN.
Mile Zero, 2605 Rhomberg Avenue, Box 876, Dubuque, IA.
Dick's Gun Repair, Fareside Road, Topsham, Maine 04086.
Airport Sales, 180 Crawford Street, Leominster, MA 01453.
Detra Sporting Goods, 71-2 Union Square, Somerville, MA 02143.
Nick's Sporting Goods, 23833 John R, Hazel Park, MI 48030.
Allen's Sports Center, Route 3, North on M-66, Ionia, Mich. 48846.
Dave's, 911 Military Street, Port Huron, MI 48060.
Smith's Hardware, 106 Main Street, Starkville, MS.
Brown's Sports Center, 16th Street West at Alpine Avenue, Billings, MT 59102.
Reiter's Marina, 450 Main Highway 10E, Billings, MT 59101.
The Sportsman of Butte, 18 North Main, Butte, MT 59701.
M. L. Brown Co., 812 North Main, Helena, MT 59601.
Wolf Enterprises, 27 Main Street, Denville, NJ 07834.
Roth-Schlenger, Inc., Sayre Woods Shopping Center, Parlin, N.J. 08859.
Roth-Schlenger, Inc., Route 22 and W. Chestnut Street, Union, NJ 07083.
Furr's Family Center No. 22, Central and San Pedro, Albuquerque, NM 87108.

Morley's Sporting Goods, 52-54 Division Street, Amsterdam, NY 12010.
Avoca Pharmacy, 12 Main Street, Avoca, NY 14809.
Johnny Jo Stores, Inc., Camillus Plaza, Camillus, N.Y. 13031.
Owego-Murray Co., Inc., 181 Front Street, Owego, NY 13827.
Ray's Gun Shop, Rural Delivery 3, Route 22, Plattsburgh, N.Y. 12901.
Marjax Enterprises, Inc., 2720 West Henrietta Road, Rochester, NY 14620.
Badgley & Wheeler Hardware, Main Street, Schoharie, N.Y. 12157.
Dom's Sports Shop, 2467 Niagara Falls Boulevard, Tonawanda, N.Y. 14150.
Albert Coppotelli, 2103 Genesee Street, Utica, NY 13501.
Sportsman's Supply Co., 600 North Cherry Street, Winston-Salem, NC 27100.
Dakota Firearms, 24 North Main, Minot, ND 58701.
F & G Police Equipment Co., 860 Broad Road, Bedford, OH 44146.
Southern Ohio Distributors, 3700 Redbank Road, Cincinnati, OH 45200.
Sunset Sporting Goods, 4625 North Detroit Avenue, Toledo, OH 43612.
Thomson Hardware & Sporting Goods, 116 North Main, Altus, OK 73521.
Hales Sporting Goods, Post Office Box 693, Blackwell, OK 74631.
Lampus Co., 2656 Northeast Union, Portland, OR 97212.
Don Williams Hardware Co., Post Office Box 193, Dallas, OR 97058.
M. C. Ebbecke Hardware Co., Inc., 606 Hamilton Street, Allentown, PA 18100.
S. L. Spotto, 804 West Crawford, Connellsville, PA 15425.
Mike Sahlaney Estate, Inc., Main Street, Houtzdale, PA 16651.
Froff's Fishing Equipment, 62 Landis Avenue, Millersville, PA 17551.
Jerrys Sport Center, Rural Delivery No. 1, Route 347, Olyphant, PA 18447.
Nulls General Store, Rural Delivery 2, Route 15, South Gettysburg, PA 17325.
Lenny's Sports Center, 15 West Third Street, Williamsport, PA 17701.
Royal Arms, 846 Pine, Abilene, TX 79600.
Bargain Fair of Denton, Inc., 1620 University Drive, Denton, TX 76201.
Don's Tackle Box, 333 Highway 64, Henderson, TX 75652.
Texas Gun Clinic, 3450 Gulf Freeway, Houston, TX 77004.
Stewart Hardware, North Side Square, Kaufman, TX 75142.
The Gift House, 120 25th Street, Ogden, UT.
Village Barber & Sport Shop, 2603 West Albany, Kennewick, WA 99336.
Al Kreideman, 548 Janich Circle West, Stevens Point, WI 54481.

[FR Doc.71-9393 Filed 7-1-71;8:45 am]

[Docket C-1927]

PART 13—PROHIBITED TRADE PRACTICES

Radigan Brothers, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing:* 13.71-10 Truth in Lending Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73-92 Truth in Lending Act; § 13.155 *Prices:* § 13.155-95 *Terms and conditions:* 13.155-95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623-95 Truth in Lending Act; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions:* 13.1823-20 Truth in Lending Act. Subpart—Neglecting, unfairly, or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-75 Truth in Lending Act; § 13.1905 *Terms and conditions:* 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605) [Cease and desist order, Radigan Brothers, Incorporated, et al., Gary, Ind., Docket C-1927, June 1, 1971]

In the Matter of Radigan Brothers, Inc., a Corporation and John B. Radigan, William J. Radigan, Joseph B. Radigan, Individually and as Officers of Said Corporation

Consent order requiring a Gary, Ind., retailer of furniture to cease violating the Truth in Lending Act by failing to disclose in its credit transactions the annual percentage rate, the total of payments, the cash price, the cash downpayment, the unpaid balance, the amount financed, the deferred payment price, and other disclosures required by Regulation Z of said Act.

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

It is ordered, That respondent Radigan Brothers, Inc., a corporation, and its officers, and respondents John B. Radigan, William J. Radigan, and Joseph B. Radigan, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (Public Law 90-321, 15 U.S.C. 1601 et seq.) do forthwith cease and desist from:

1. Failing to disclose the terms "Finance Charge" and "Annual Percentage Rate," where required to be used, more conspicuously than other required terminology, as required by § 226.6(a) of Regulation Z.

2. Failing to use the term "Total of Payments" to describe the sum of payments scheduled to repay the indebtedness, or failing to disclose the number, amount, and due dates of periods of payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

3. Failing to use the term "Cash Price" to describe the price of the goods and services which are the subject of the transaction, as required by § 226.8(c)(1) of Regulation Z.

4. Failing to use the terms "Cash Down Payment", "Trade-In" and "Total Down Payment", to describe any down payment in money, any down payment in property and the sum of these two items, respectively, as required by § 226.8(c)(2) of Regulation Z.

5. Failing to use the term "Unpaid Balance of Cash Price" to describe the difference between the cash price and the total down payment, as required by § 226.8(c)(8)(ii) of Regulation Z.

6. Failing to use the term "Amount Financed", to describe the amount of credit extended, as required by § 226.8(c)(7) of Regulation Z.

7. Failing to use the term "Deferred Payment Price" to describe the sum of the cash price, the finance charge, and all other charges, as required by § 226.8(c)(8)(ii) of Regulation Z.

8. Failing to disclose the Annual Percentage Rate with an accuracy at least to the nearest quarter of one percent, computed in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

9. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with § 226.4 and § 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondents shall deliver a copy of this order to cease and desist to all present and future salesmen or other persons engaged in the sale of respondents' products or services, and shall secure from each such salesman or other person a signed statement acknowledging receipt of a copy of this order.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

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

Issued: June 1, 1971.

By the Commission.

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

[FR Doc.71-9394 Filed 7-1-71;8:45 am]

[Docket No. C-1928]

PART 13—PROHIBITED TRADE PRACTICES

John Mullins & Sons, Inc., and Irving Sable

Subpart—Advertising falsely or misleadingly: § 13.71 *Financing:* 13.71-10 Truth in Lending Act; § 13.73 *Formal regulatory and statutory requirements:* 13.73-92 Truth in Lending Act; § 13.155 *Prices:* 13.155-95 Terms and conditions:

13.155–95(a) Truth in Lending Act. Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements:* 13.1623–95 Truth in Lending Act; Misrepresenting oneself and goods—Prices: § 13.1823 *Terms and conditions:* 13.1823–20 Truth in Lending Act. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements:* 13.1852–75 Truth in Lending Act. § 13.1905 *Terms and conditions:* 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601–1605) [Cease and desist order, John Mullins & Sons, Inc., et al., Brooklyn, N.Y., Docket No. C–1928, June 2, 1971]

In the Matter of John Mullins & Sons, Inc., a Corporation, and Irving Sable, Individually and as an Officer of Said Corporation

Consent order requiring a Brooklyn, N.Y., corporation selling furniture, electrical appliances and other merchandise to cease violating the Truth in Lending Act by failing to use in installment contracts the terms, finance charge, annual percentage rate, cash price, cash downpayment, unpaid balance of cash price, deferred payment price, total of payments, amount financed, and failing to make other disclosures required by Regulation Z of said Act.

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

It is ordered, That respondents John Mullins & Sons, Inc., a corporation, and its officers, and Irving Sable, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with any extension of consumer credit or any advertisement to aid, promote, or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (P.L. 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to use the term "finance charge" to disclose and describe the cost of credit, as required by § 226.8(c)(8)(i) of Regulation Z, in more prominent print than the other prescribed terminology, as required by § 226.6(a) of Regulation Z.

2. Failing to use the term "annual percentage rate" to disclose and describe the annual rate of the finance charge, as required by § 226.8(b)(2) of Regulation Z, in more prominent print than the other prescribed terminology, as required by § 226.6(a) of Regulation Z.

3. Failing to use the term "cash price" to disclose and describe the price at which the respondents offer, in the ordinary course of business, to sell for cash the property or services, which are the subject of consumer credit transactions, as required by § 226.8(c)(1) of Regulation Z.

4. Failing to use the term "cash downpayment" to disclose and describe the downpayment in money, as required by § 226.8(c)(2) of Regulation Z.

5. Failing to use the term "unpaid balance of cash price" to disclose and describe the difference between the cash price and the cash downpayment, trade-in or total downpayment, as required by § 226.8(c)(3) of Regulation Z.

6. Failing to use the term "deferred payment price" to disclose and describe the sum of the cash price, all the other charges which are included in the amount financed but which are not part of the finance charge, and the finance charge, as required by § 226.8(c)(8)(ii) of Regulation Z.

7. Failing to use the term "total of payments" to disclose and describe the sum of the payments scheduled to repay the indebtedness, as required by § 226.8(b)(3) of Regulation Z.

8. Failing to use the term "amount financed" to disclose and describe the amount of credit which the customer has the actual use of, as required by § 226.8(c)(7) of Regulation Z.

9. Failing to render consumer credit cost disclosure statements before the transactions are consummated, as required by § 226.8(a) of Regulation Z.

10. Failing to render consumer credit cost disclosure statements to mail order and telephone customers not later than the date the first payment is due, as required by § 226.8(g)(1) of Regulation Z.

11. Failing to disclose the annual percentage rate with an accuracy at least to the nearest quarter of 1 percent, in accordance with § 226.5 of Regulation Z, as required by § 226.8(b)(2) of Regulation Z.

12. Failing, in any consumer credit transaction or advertisement, to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

It is further ordered, That respondents deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising, and that respondent secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

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

Issued: June 2, 1971.

By the Commission.

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

[FR Doc.71-9395 Filed 7-1-71;8:45 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs

[T.D. 71-169]

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

Customs Forms and Procedures Relating to the Arrival and Departure of Vessels

On April 1, 1970, a notice of proposed rulemaking to implement the Convention on Facilitation of International Maritime Traffic ratified by the United States on March 17, 1967 (18 U.S.T. 411, TIAS 6251) was published in the FEDERAL REGISTER (35 F.R. 5405). The proposal was to amend the Customs Regulations to substitute standardized model forms developed by the Intergovernmental Maritime Consultative Organization (IMCO) for certain Customs forms presently used in connection with the arrival and departure of vessels in foreign trade, with modifications required by existing law, and to provide for the use of the new forms. Due consideration has been given to all relevant matter presented in response to that notice and it has been determined that three of the proposed new forms may be adopted at this time. The three forms and the forms they will replace are as follows:

Proposed Form	*Replaces*
Customs Form 1301, "General Declaration"	Customs Form 1385, "Permit to Proceed."
Customs Form 1303, "Ship's Stores Declaration"	No printed form—declaration required to be furnished by master.
Customs Form 1304, "Crew's Effects Declaration"	No printed form—declaration required to be furnished by master.

Because the model forms do not provide for the oath of the master required by statute in certain circumstances, a form of "Master's Oath on Entry of Vessel in Foreign Trade," to be designated Customs Form 1300, was also proposed. The form will replace Customs Form 3251, "Master's Oath on Entry of Vessel from Foreign Port," and the oaths presently found on Customs Forms 1374 and 1385. The new forms may be purchased from District Directors of Customs at $1.05 per 100 forms. The format and use of the proposed "Cargo Declaration" requires further study and it will not be adopted at this time.

It has been decided to modify the proposed amendments to adopt certain of the suggestions made. Accordingly, Part 4

of the Customs Regulations is amended as follows:

Section 4.7 is amended to read:

§ 4.7 Inward foreign manifest; production on demand; contents and form.

(a) The master of every vessel arriving in the United States and required to make entry shall have on board his vessel a manifest, as required by section 431, Tariff Act of 1930 (19 U.S.C. 1431),[14] and by this section. The manifest shall be legible and complete; and if in a foreign language, a translation in English shall be furnished with the original and with any required copies. The manifest shall consist of a General Declaration, Customs Form 1301, and the following documents: (1) U.S. Customs Inward Foreign Manifest, Customs Form 7527–A (a District Director of Customs may permit the use of Inward Foreign Manifest forms, Customs Form 7527–B, in his district in lieu of Customs Form 7527–A, to such extent as it will meet his requirements), (2) Ship's Stores Declaration, Customs Form 1303, (3) Crew's Effects Declaration, Customs Form 1304, or, optionally, a copy of the Crew List, Customs and Immigration Form I–418, to which are attached crewmember's declarations on Customs Form 5129, (4) Crew List, Customs and Immigration Form I–418, and (5) Passenger List, Customs and Immigration Form I–418. Any document which is not required may be omitted from the manifest provided the word "None" is inserted in items 17–22 of the General Declaration, as appropriate.

(b) The original and one copy of the manifest shall be ready for production on demand.[15] The master shall deliver the original and one copy of the manifest to the boarding officer.[16] If the vessel is to proceed from the port of arrival to other United States ports with residue foreign cargo or passengers, an additional copy of the manifest shall be available for certification as a traveling manifest (see § 4.85). The district director may require an additional copy or additional copies of the manifest, but a reasonable time shall be allowed for the preparation of any copy which may be required in addition to the original and one copy.

(c) No Passenger List or Crew List shall be required in the case of a vessel arriving from Canada, otherwise than by sea, at a port on the Great Lakes or their connecting or tributary waters.[16a]

(d) (1) The master of a vessel documented under the laws of the United States to engage in the foreign or coasting trade, or intended to be employed in such trade, at the port of first arrival from a foreign country shall declare on Customs Form 3415 any equipment, repair parts, or material purchased for the vessel, or any expense for repairs incurred, in a foreign country,[16b] within the purview of section 466, Tariff Act of 1930, as amended (19 U.S.C. 257). If no equipment has been purchased or repairs made, a declaration to that effect shall be made on Customs Form 3415.

(2) If the vessel is of more than 500 gross tons, the declaration shall include a statement that no work in the nature of a rebuilding or alteration which might give rise to a reasonable belief that the vessel may have been rebuilt within the meaning of the second proviso to section 27, Merchant Marine Act, 1920, as amended (46 U.S.C. 883), has been effected which has not been either previously reported or separately reported simultaneously with the filing of such declaration.

(3) The declaration shall be ready for production on demand and for inspection by the boarding officer and shall be presented as part of the original manifest when formal entry of the vessel is made.

(4) The district director shall notify the U.S. Coast Guard vessel documentation officer at the home port of the vessel of any work in the nature of a rebuilding or alteration, including the construction of any major component of the hull or superstructure of the vessel, which comes to his attention.

(Secs. 431, 439, 465, 581(a), 584, 46 Stat. 710, as amended, 712, as amended, 718, 747, as amended, 748, as amended, secs. 2, 3, 70 Stat. 544, as amended; 19 U.S.C. 1431, 1439, 1465, 1581(a), 1583, 46 U.S.C. 883a, 883b)

Part 4 is amended to add a new § 4.7a reading as follows:

§ 4.7a Inward foreign manifest; information required; alternative forms.

The forms designated by § 4.7(a) as comprising the inward foreign manifest shall be completed as follows:

(a) Ship's Stores Declaration. Articles to be retained aboard as sea or ship's stores, required by section 432, Tariff Act of 1930,[17] to be separately specified shall be listed on the Ship's Stores Declaration, Customs Form 1303. Less than whole packages of sea or ship's stores may be described as "sundry small and broken stores."

(b) (1) Crew's Effects Declaration. The serial number of the Declaration and Entry of Crewmember for Imported Articles, Customs Form 5123, prepared and signed by any officer or crewmember who intends to land articles in the United States, or the word "None," shall be shown in item No. 7 opposite the respective crewmember's name.

(2) If the crewmembers' declarations are on Customs Form 5129, the master, in lieu of describing the articles on Customs Form 1304, shall furnish a Crew List, Customs and Immigration Form I–418, endorsed as follows:

I certify that this list, with its supporting crewmembers' declarations, is a true and complete manifest of all articles on board the vessel acquired abroad by myself and the officers and crewmembers of this vessel, other than articles exclusively for use on the voyage or which have been duly cleared through Customs in the United States.

(Master.)

The Crew List on Form I–418 shall show, opposite the crewmember's name, his shipping article number and, in column 5, the declaration number. If the crewmember has nothing to declare, the word "None" shall be placed opposite his name instead of a declaration number.

(3) For requirements concerning the preparation of Customs Forms 5123 and 5129, see, respectively, §§ 23.4(a) and 10.22(a) and (b) of this chapter.

(d) Crew List. The Crew List shall be completed in accordance with the requirements of the Immigration and Naturalization Service, United States Department of Justice (8 CFR Part 251).

(e) Passenger List. (1) The Passenger List shall be completed in accordance with § 4.50 and with the requirements of the Immigration and Naturalization Service, United States Department of Justice (8 CFR Part 231), and the following certification shall be placed on its last page:

I certify that Customs baggage declaration requirements have been made known to incoming passengers; that any required Customs baggage declarations have been or will simultaneously herewith be filed as required by law and regulation with the proper Customs Officer; and that the responsibilities developing upon this vessel in connection therewith, if any, have been or will be discharged as required by law or regulation before the proper Customs Officer. I further certify that there are no steerage passengers on board this vessel (46 U.S.C. 151–163).

(Master.)

(2) If the vessel is carrying steerage passengers, the reference to steerage passengers shall be deleted from the certification, and the master shall comply with the requirements of § 4.50.

(3) If there are no steerage passengers aboard upon arrival, the listing of the passengers may be in the form of a vessel "souvenir passenger list," or similar list, in which the names of the passengers are listed alphabetically and to which the certificate referred to in subparagraph (1) of this paragraph is attached.

(Sections 431, 432, 439, 453, 465, 497, 498, 584, 46 Stat. 710, as amended, 712, as amended, 716, 718, 728, as amended, 748, as amended, sec. 9, 22 Stat. 189, as amended, R.S. 4573; 19 U.S.C. 1431, 1432, 1439, 1453, 1465, 1497, 1498, 1584, 46 U.S.C. 158, 674)

Section 4.8 is amended to read:

§ 4.8 Preliminary entry.

If it is desired that any vessel having on board inward foreign cargo, passengers, or baggage shall discharge or take on cargo, passengers, or baggage before the vessel has been formally entered, preliminary entry shall be made by compliance with § 4.30 and execution by the master of the Master's Certificate on Preliminary Entry on Customs Form 1300.[18]

(Sections 448, 486, 46 Stat. 714, 725, as amended; 19 U.S.C. 1448, 1486)

Section 4.9 is amended to read:

§ 4.9 Formal entry.

(a) The formal entry of an American vessel from a foreign port or place shall be in accordance with section 434, Tariff Act of 1930 (19 U.S.C. 1434).[19] The formal

entry of a foreign vessel arriving within the limits of any Customs collection district shall be in accordance with section 435, Tariff Act of 1930 (19 U.S.C. 1435).[20] The required oath on entry shall be executed on Customs Form 1300.

(b) Upon the entry of an American vessel, the master shall present to the District Director of Customs, in addition to the Crew Lists required under § 4.7(a), the certified copy of the Crew List on Customs and Immigration Form I–418 obtained, in accordance with the provisions of § 4.68(a), upon the last previous clearance outward from the United States. The master shall deposit the vessel's document with the district director before or at the time of entry. The document may be returned upon request to the master of a vessel of less than 100 gross tons engaged in taking out fishing parties.

(c) The master of any foreign vessel shall exihibit the vessel's document to the district director on or before the entry of the vessel. After the net tonnage has been noted, the master may deliver it to the consul of the nation to which such vessel belongs, in which event he shall file with the district director the certificate required by section 435 of the Tariff Act. If not delivered to the consul, the document shall be deposited in the customhouse.[21]

(d) The master of every vessel required to make entry shall present on entry the pratique required by the pertinent regulations of the United States Public Health Service and shall pay all required fees and penalties incurred.

(e) The master, licensed deck officer, or purser may appear in person at the customhouse to enter the vessel; or the required oaths, related documents, and other papers properly executed by the master or other proper officer may be delivered at the customhouse by the vessel agent or other personal representatives of the master.

(Secs. 434, 435, 46 Stat. 711, as amended, sec. 306, 58 Stat. 705, R.S. 4578, as amended; 19 U.S.C. 1434, 1435, 42 U.S.C. 269, 46 U.S.C. 677)

In § 4.14, paragraph (a) is amended to read:

§ 4.14 Equipment and repairs to American vessels.

(a) The master's declaration on Customs Form 3415 required by § 4.7(d)(1), covering equipment, repair parts, or material acquired, or expense for repairs incurred, in a foreign country,[26] within the purview of section 466, Tariff Act of 1930, as amended,[27] shall be filed, whether or not the items, or any of them, may be exempt from entry as stated in paragraph (b)(1) of this section.

* * * * *

In § 4.20, paragraph (f) is amended to read:

§ 4.20 Tonnage taxes.

* * * * *

(f) For the purpose of computing tonnage tax, the net tonnage of a vessel stated in the vessel's marine document shall be accepted unless (1) such statement is manifestly wrong, in which case the net tonnage shall be estimated, pending admeasurement of the vessel, or the tonnage reported for her by any recognized classification society may be accepted, or (2) an appendix is attached to the marine document showing a net tonnage ascertained under the so-called "British rules" or the rules of any foreign country which have been accepted as substantially in accord with the rules of the United States, in which case the tonnage so shown may be accepted and the date the appendix was issued shall be noted on the tonnage tax certificate, Customs Form 1002, and on the master's oath, Customs Form 1300. For the purpose of computing tonnage tax on a vessel with a tonnage mark and dual tonnages, the higher of the net tonnages stated in the vessel's marine document or tonnage certificate shall be used unless the Customs Officer concerned is satisfied by report of the boarding officer, statement or certificate of the master, or otherwise that the tonnage mark was not submerged at the time of arrival. Whether the vessel has a tonnage mark, and if so, whether the mark was submerged on arrival, shall be noted on Customs Form 1300 by the boarding officer.

* * * * *

In § 4.34, paragraph (e) is amended and paragraph (f) is deleted to read:

§ 4.34 Prematurely discharged, overcarried, and undelivered cargo.

* * * * *

(e) One copy of the inward foreign manifest shall be certified by Customs for use as a substitute traveling manifest for the prematurely landed or overcarried cargo being forwarded as residue cargo, whether or not the forwarding vessel is also carrying other residue cargo. If the application for forwarding is made on the manifest, the new substitute traveling manifest shall be stamped to show the approval of the application. If the application is on a separate document, a copy thereof stamped to show its approval shall be attached to the substitute traveling manifest. An appropriate cross-reference shall be placed on the original traveling manifest to show that the vessel has one or more substitute traveling manifests. A permit to proceed endorsed on Customs Form 1301 issued to the vessel transporting to destination the prematurely landed or overcarried cargo shall make reference to the nature of such cargo, identifying it with the importing vessel.

(f) [Deleted]

* * * * *

§ 4.50 [Amended]

In § 4.50, paragraph (a) is amended by substituting "4.7(a)" for "4.7(c)."

In § 4.61, paragraph (a) is amended to read:

§ 4.61 Requirements for clearance.

(a) Application for clearance for a vessel intending to depart for a foreign port shall be made by filing the oath; Customs Form 1300, and a General Declaration, Customs Form 1301, by or on behalf of the master at the customhouse. The master, licensed deck officer, or purser may appear in person to clear the vessel, or the required oaths, related documents, and other papers properly executed by the master or other proper officer may be delivered at the customhouse by the vessel agent or other personal representative of the master. Clearance shall be granted on Customs Form 1378.

* * * * *

Section 4.63 is amended to read:

§ 4.63 Outward cargo declaration; shippers' export declarations.

(a) No vessel shall be cleared directly for a foreign port, or for a foreign port by way of another domestic port or other domestic ports (see § 4.87(b)), unless (1) there has been filed with the district director at the port from which clearance is being obtained an outward foreign manifest on Customs Form 1374 (the master's oath printed on that form need not be completed) covering all the cargo laden aboard the vessel at that port, together with the master's oath (see paragraph (e) of this section) and such export declarations as are required by pertinent regulations of the Bureau of the Census, Department of Commerce, or (2) unless the vessel is cleared on the basis of an incomplete manifest as provided for in § 4.75.

(b) Except as hereafter stated, the number of the export declaration covering each shipment for which an authenticated export declaration is required shall be shown on the outward foreign manifest in the marginal column headed "Number of Export Declaration." If an export declaration is not required for a shipment, a notation shall be made on the manifest describing the basis for the exemption with a reference to the number of the section in the Census Regulations (see §§ 30.39 and 30.50–30.57, title 15, Code of Federal Regulations) where the particular exemption is provided (however, where shipments are exempt on the basis of value and destination, the appearance of the value and destination on a bill of lading or other commercial form is acceptable as evidence of the exemption and reference to the applicable section in the Census Regulations is not required).

(c) The list of cargo may be shown on bills of lading, cargo lists, or other commercial forms, provided the manifest is completely executed on Customs Form 1374, except for particulars as to cargo; and provided also that the commercial forms are securely attached to the Customs form in such manner as to constitute one document; that they are incorporated by suitable reference on the face of the form such as "Cargo as per attached commercial forms;" and that there is shown on the face of each such commercial form the information required by Customs Form 1374 for the cargo covered by that form.

(d) For each shipment to be exported under an entry or withdrawal for exportation or for transportation and exportation, the outward manifest or commercial document attached to the manifest and made a part thereof in accordance with paragraph (c) of this section shall clearly show for such shipment the number, date, and class of such customs entry or withdrawal (i.e., T. & E., Wd. T. & E., I.E., Wd. Ex., or Wd. T., as applicable) and the name of the port where the entry or withdrawal was filed if other than the port where the merchandise is laden for exportation.

(e) The master's oath shall be properly executed on Customs Form 1300 before the manifest is accepted. (R.S. 4197, as amended, 4199, 4198, 46 U.S.C. 91, 93, 94.)

Section 4.75 is amended to read:

§ 4.75 Incomplete cargo declaration; incomplete export declarations; bond.

(a) If a master desiring to clear his vessel for a foreign port does not have available for filing with the district director a complete outward foreign manifest [106] or all required shippers' export declarations,[107] the district director may accept in lieu thereof an incomplete manifest on Customs Form 1374 (the master's oath printed on that form need not be completed) if there is on file in his office a bond on Customs Form 7567 or 7569 executed by the vessel owner or some other person as attorney in fact of the vessel owner. The form shall be appropriately modified to indicate that it is an incomplete manifest and the oath on clearance on Customs Form 1300 (see § 4.63(e)) shall be required to be executed.

(b) Not later than the fourth business day after clearance [108] from each port in the vessel's itinerary, the master, or the vessel's agent on behalf of the master, shall deliver to the district director at each port a complete manifest (Customs Form 1374) of the cargo laden at such port together with duplicate copies of all required shippers' export declarations for such cargo. The oath of the master or agent on Customs Form 1300 (see § 4.63(e)) shall be properly executed before acceptance.

(c) During any period covered by a finding by the President under section 1 of the Act of June 15, 1917, as amended (50 U.S.C. 191), that the security of the United States is endangered by reason of actual or threatened war, or invasion, or insurrection, or subversive activity, or of disturbance or threatened disturbances of the international relations of the United States, no vessel shall be cleared for a foreign port until a complete outward foreign manifest and all required export declarations have been filed with the district direction, unless clearance in accordance with paragraphs (a) and (b) of this section is authorized by the Commissioner of Customs.[109] (R.S. 4197, as amended; 46 U.S.C. 91.)

In § 4.81, paragraphs (d) and (e) are amended to read:

§ 4.81 Reports of arrivals and departures in coastwise trade.

* * * * *

(d) The traveling Crew's Effects Declaration, Customs Form 1304, or Customs and Immigration Form I–418 with attached Customs Form 5129, referred to in § 4.85 (b), (c), and (e) shall be deposited with the district director upon arrival at each port in the United States and finally surrendered to the boarding officer or district director at the port where the vessel first departs directly for a foreign port.

(e) Before any foreign vessel shall depart in ballast, or solely with articles to be transported in accordance with § 4.93, from any port in the United States for any other such port, the master shall apply to the district director for a permit to proceed by filing a General Declaration, Customs Form 1301, in duplicate. Articles to be transported in accordance with § 4.93 shall be manifested on an inward foreign manifest, Customs Form 7527–B, as required by § 4.93(c). Although the title of the form is Inward Foreign Manifest, it will be considered a coastwise manifest when used in accordance with the preceding sentence. Three copies of the manifest in such case shall be filed with the district director. The required oath shall be executed on Customs Form 1300 (see § 4.63(e)). When the district director grants the permit by making an appropriate endorsement on the General Declaration, Customs Form 1301 (see § 4.85(b)), the duplicate copy, together with two copies of any coastwise manifest, Customs Form 7527–B covering articles to be transported in accordance with § 4.93, shall be returned to the master. The traveling Crew's Effects Declaration and all unused crewmembers' declarations on Customs Form 5123 or 5129 shall be placed in a sealed envelope addressed to the Customs boarding officer at the next intended domestic port and returned to the master for delivery. The master shall execute a receipt for all unused crewmembers' declarations which are returned to him. Within 24 hours after arrival at the next U.S. port the master shall report his arrival to the district director. He shall make entry within 48 hours by filing with the district director the permit to proceed on Customs Form 1301 received at the previous port, a newly executed General Declaration, a Crew's Effects Declaration of all unentered articles acquired abroad by crewmembers which are still on board, a Ship's Stores Declaration in duplicate of the stores remaining on board, both copies of the coastwise manifest covering articles transported in accordance with § 4.93, and the document of the vessel. The required oath shall be executed on Customs Form 1300 (see § 4.63(e)). The traveling Crew's Effects Declaration and all unused crewmembers' declarations on Customs Form 5123 or 5129 returned at the prior port to the master shall be delivered by him to the boarding officer.

* * * * *

§ 4.84 [Amended]

In § 4.84, paragraph (a) is amended by substituting "1301" for "1385."

Section 4.85 is amended to read:

§ 4.85 Vessels with residue cargo for domestic ports.

(a) Any foreign vessel or vessel of the United States under register or frontier enrollment and license, arriving from a foreign port with cargo or passengers manifested for ports in the United States other than the port of first arrival, may proceed with such cargo or passengers from port to port, provided a vessel bond (Customs Form 7567 or 7569) in a suitable amount is on file with the district director at the port of first entry.[110] No additional bond shall be required at subsequent ports of entry. Before the vessel departs from the port of first arrival, the master shall obtain from the district director a certified copy of the complete inward foreign manifest (hereinafter referred to as the traveling manifest).[111] The certified copy shall have a legend similar to the following endorsed on the General Declaration, Customs Form 1301:

---------- ----------
Port Date

Certified to be a true copy of the original inward foreign manifest.

Signature and title

(b) Before a vessel proceeds from one domestic port to another with cargo or passengers on board as described in paragraph (a) of this section, the master shall present to the district director at such port of departure an application in triplicate on Customs Form 1301 for a permit to proceed to the next port. The required oath shall be executed on Customs Form 1300 (see § 4.63(e)). When a district director grants the permit on Customs Form 1301, the following legend shall be endorsed on the form:

---------- ----------
Port Date

Permission is granted to proceed to the port named in item 6.

Signature and title

The duplicate shall be attached to the traveling manifest and the triplicate (the permit to proceed to be delivered at the next port) shall be returned to the master, together with the traveling manifest [114] and the vessel's document, if on deposit. If no inward foreign cargo or passengers are to be discharged at the next port, that fact shall be indicated on Customs Form 1301 by inserting "To load only" in parentheses after the name of the port to which the vessel is to proceed. The traveling Crew's Effects Declaration covering articles acquired abroad by officers and members of the crew, together with the unused crewmembers' declarations prepared for such articles, shall be placed in a sealed envelope addressed to the Customs boarding officer at the next port and given to the master for delivery.

(c) Upon the arrival of a vessel at the next and each succeeding domestic port with inward foreign cargo or passengers still on board, the master shall report arrival and make entry within 24 hours. To make such entry, he shall deliver to the district director the vessel's document, the permit to proceed, the traveling manifest,[117] and the traveling Crew's Effects Declaration, together with the crewmembers' declarations received on departure from the previous port. The master shall also present an abstract manifest consisting of (1) a newly executed General Declaration, (2) an inward foreign manifest and a Passenger List, in such number of copies as may be required for local Customs purposes, of any cargo or passengers on board manifested for discharge at that port, (3) a Crew's Effects Declaration in duplicate of all unentered articles acquired abroad by officers and crewmembers which are still on board, (4) a Ship's Stores List in duplicate of the sea or ship's stores remaining on board, and (5) if applicable, the manifest required by § 4.86. If no inward foreign cargo or passengers are to be discharged the manifest or Passenger List may be omitted from the abstract manifest, and the following legend shall be placed on the General Declaration:

Vessel on an inward foreign voyage with residue cargo/passengers for _____. No cargo or passengers for discharge at this port.

The required oath shall be executed on Customs Form 1300 (see § 4.63(e)). The traveling manifest, together with a copy of the newly executed General Declaration, shall serve the purpose of a copy of an abstract manifest at the port where it is finally surrendered.

(d) If preliminary entry is desired, the abstract manifest described in paragraph (c) of this section shall be ready for presentation to the boarding officer, and preliminary entry shall be made in accordance with § 4.8.

(e) The traveling manifest shall be surrendered to the district director at the final domestic port of discharge of the cargo, except that if residue foreign cargo remains on board for discharge at a foreign port or ports, the traveling manifest shall be surrendered at the final port of departure from the United States. However, it shall not be surrendered at the port from which the vessel departs for another United States port, via an intermediate foreign port, under § 4.89 if residue foreign cargo remains on board for discharge at a subsequent U.S. port. The traveling Crew's Effects Declaration shall be finally surrendered to the district director at any port from which the vessel will depart directly for a foreign port.

(Secs. 439, 442, 443, 444, 623, 46 Stat. 712, as amended, 713, 759, as amended; 19 U.S.C. 1439, 1442, 1443, 1444, 1623)

Section 4.87 is amended to read:

§ 4.87 Vessels proceeding foreign via domestic ports.

(a) Any foreign vessel or vessel of the United States under register or frontier enrollment and license may proceed from port to port in the United States to lade cargo or passengers for foreign ports.

(b) When applying for a clearance from the first and each succeeding port of lading, the master shall present to the district director a General Declaration (Customs Form 1301) in duplicate and a manifest on Customs Form 1374 of all the cargo laden for export at that port. The General Declaration shall clearly indicate all previous ports of lading. The required oath shall be executed on Customs Form 1300 (see § 4.63(e)).

(c) Upon compliance with the applicable provisions of § 4.61, the district director shall grant the permit to proceed by making the endorsement prescribed by § 4.85(b) on the General Declaration. One copy shall be returned to the master, together with the vessel's document if on deposit. The traveling Crew's Effects Declaration, together with any unused crewmembers' declarations, shall be placed in a sealed envelope addressed to the Customs boarding officer at the next domestic port and returned to the master.

(d) On arrival at the next and each succeeding domestic port, the master shall report arrival within 24 hours. He shall also make entry within 48 hours by presenting the vessel's document, the permit to proceed on Customs Form 1301 received by him upon departure from the last port a Crew's Effects Declaration in duplicate listing all unentered articles acquired abroad by officers and crew of the vessel which are still retained on board, and a Ship's Stores Declaration in duplicate of the stores remaining aboard. The master shall also execute a General Declaration. The required oath shall be on Customs Form 1300 (see § 4.63(e)). The traveling Crew's Effects Declaration, together with any unused crewmembers' declarations returned to the master at the prior port, shall be delivered by him to the district director.

(e) Clearance shall be granted at the final port of departure from the United States in accordance with § 4.61.

(f) If a complete manifest and all required shipper's export declarations are not available for filing before departure of a vessel from any port, clearance on Customs Form 1301 (Customs Form 1378 at the last port) may be granted in accordance with § 4.75, subject to the limitation specified in paragraph (c) of that section.

(g) When the procedure outlined in paragraph (f) of this section is followed at any port, the owner or agent of the vessel shall deliver to the district director at that port within 4 business days after the vessel's clearance[118] a manifest on Customs Form 1374, an oath on Customs Form 1300, and the export declarations to cover the cargo laden for export at that port.

(Secs. 433, 435, 437, 439, 442, 443, 444, 46 Stat. 711, 712, as amended, 713, R.S. 4197, as amended, 4367, 4368; 19 U.S.C. 1433, 1435, 1437, 1439, 1442, 1443, 1444, 46 U.S.C. 91, 313, 314)

In § 4.90, paragraph (b) is amended to read:

§ 4.90 Simultaneous vessel transactions.

* * * * *

(b) When a vessel is engaged simultaneously in two or more such transactions, the master shall indicate each type of transaction in which the vessel is engaged in his application for clearance on Customs Form 1301. The master shall conform simultaneously to all requirements of these regulations with respect to each transaction in which the vessel is engaged.

* * * * *

Section 4.91 is amended to read:

§ 4.91 Diversion of vessel; transshipment of cargo.

(a) If any vessel granted a permit to proceed from one port in the United States for another such port as provided for in §§ 4.81(e), 4.85, 4.87, or 4.88, is, while en route, diverted to a port in the United States other than the one specified in the permit to proceed (Customs Form 1301),[118] the owner or agent of the vessel immediately shall give notice of the diversion to the district director who granted the permit, informing him of the new destination of the vessel and requesting him to notify the district director at the latter port. Such notification by the district director shall constitute an amendment of the permit previously granted, shall authorize the vessel to proceed to the new destination, and shall be filed by the district director at the latter port with the Form 1301 submitted on entry of the vessel.

(b) If any vessel cleared from a port in the United States for a foreign port as provided for in § 4.60 is diverted, while en route, to a port in the United States other than that from which it was cleared, the owner or agent of the vessel immediately shall give notice of the diversion to the district director who granted the clearance, informing him of the new destination of the vessel and requesting him to notify the district director at the latter port. Such notification by the district director shall constitute a permit to proceed coastwise, and shall authorize the vessel to proceed to the new destination. On arrival at the new destination, the master shall report arrival within 24 hours. He shall also make entry within 48 hours by presenting (1) the vessel's document, (2) the foreign clearance on Form 1378 granted by the district director at the port of departure, (3) a certificate that when the vessel was cleared from the last previous port in the United States there were on board cargo and/or passengers for the ports named in the foreign clearance certificate only and that additional cargo or passengers (have) (have not) been taken on board or discharged since such clearance was granted (specifying the particulars if any passengers or cargo were taken on board or discharged), (4) a Crew's Effects Declaration in duplicate of all unentered articles acquired abroad by the officers and crew of the vessel which are still

retained on board, and (5) a Ship's Stores Declaration in duplicate of the stores on board.

(c) In a case of necessity, a district director may grant an application on Customs Form 3171 of the owner or agent of an established line for permission to transship [12b] all cargo and passengers from one vessel of the United States to another such vessel under Customs supervision, if the first vessel is transporting residue cargo for domestic or foreign ports or is on an outward foreign voyage or a voyage to noncontiguous territory of the United States, and is following the procedure prescribed in §§ 4.85, 4.87, or 4.88. When inward foreign cargo or passengers are so transshipped to another vessel, a separate traveling manifest (a General Declaration and either an inward foreign manifest or a Passenger List) shall be used for the transshipped cargo or passengers, whether or not the forwarding vessel is also carrying other residue cargo or passengers. An appropriate cross-reference shall be made on the separate traveling manifest to show whether any other traveling manifest is being carried forward on the same vessel.

In § 4.93, paragraph (c) is amended to read:

§ 4.93 Coastwise transportation of containers by certain vessel; procedures.

* * * * *

(c) Any manifest required to be filed under this part by any foreign vessel shall describe any article mentioned in paragraph (a) of this section laden aboard and transported from one U.S. port to another, giving its identifying number or symbols, if any, or such other identifying data as may be appropriate; the names of the shipper and consignee, and the destination. The manifest shall include a statement (1) that the articles specified in subparagraph (1) of paragraph (a)) is owned or leased by the owner or operator of the transporting vessel and are transported for his use in handling his cargo in foreign trade; or (2) that the stevedoring equipment and material (subparagraph (2) of paragraph (a) is owned or leased by the owner or operator of the transporting vessel, or is owned or leased by the stevedoring company contracting for the lading or unlading of that vessel, and is transported without charge for use in the handling of cargo in foreign trade.

(Sec. 27, 41 Stat. 999, as amended; 46 U.S.C. 883)

Part 4 is amended to add a new § 4.99 reading as follows:

§ 4.99 Forms; substitution.

Customs Forms 1300, 1301, 1303, and 1304 printed by private parties or foreign governments shall be accepted provided the forms so printed conform to the official Customs forms in size (except that such forms may be up to 14 inches in length), wording, arrangement, style, size of type, and paper specifications. If instructions are printed on the reverse of any of the official Customs forms, such instructions may be omitted (although such instructions must be followed).

(80 Stat. 379, R.S. 251; 5 U.S.C. 301, 19 U.S.C 66)

Effective date. These amendments shall become effective on the date of their publication in the FEDERAL REGISTER (7-2-71). However, Customs Form 1385, now used in accordance with existing provisions of the Customs Regulations, may be used in accordance with those regulations for a period of 6 months from the aforesaid date of publication in lieu of the new forms and procedures.

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

Approved: June 23, 1971.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.71-9422 Filed 7-1-71;8:51 am]

Title 20—EMPLOYEES' BENEFITS

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

[Reg. No. 5, further amended]

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

Subpart D—Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians

INPATIENT ROUTINE NURSING SALARY COST DIFFERENTIAL

On August 1, 1970, there was published in the FEDERAL REGISTER (35 F.R. 12346) a Notice of Proposed Rule making with proposed amendments to Subpart D, Regulations No. 5 which set forth interim principles for determining the inpatient routine nursing salary cost differential as an element of reimbursable cost under the Hospital Insurance program. All comments submitted with respect to the proposed amendments were considered. As a result of comments received, various editorial changes were made in the interest of greater clarity. In addition, the factor by which title XVIII reimbursement is increased (under application of § 405.430) is defined as the "inpatient routine nursing salary cost differential adjustment factor." Also a new subparagraph has been added to § 405.430(e) describing a technique for verifying the correctness of the differential adjustment factor for determining the additional reimbursement authorized by these amendments. Accordingly, the amendments are, with the abovementioned changes, adopted.

(Secs. 1102, 1814(b), 1861(v), 1871, 49 Stat. 647 as amended, 79 Stat. 296, 79 Stat. 322, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq)

Dated: March 30, 1971.

ROBERT M. BALL,
Commissioner of Social Security.

Approved: June 28, 1971.

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

Subpart D of Regulations No. 5 (20 CFR 405.401 et seq.) is amended as follows:

1. Paragraphs (b) and (c) of § 405.404 are revised to read as follows:

§ 405.404 Methods of apportionment under title XVIII.

* * * * *

(b) The first alternative is to apply the beneficiaries' share of total charges, on a departmental basis, to total costs for each respective department, taking into account, to the extent pertinent, for inpatient routine services provided after June 30, 1969, an inpatient routine nursing salary cost differential. Use of this department-by-department method will involve determination, by cost-finding methods, of the total costs for each of the institution's departments that are revenue-producing; i.e., departments providing services to patients for which charges are made.

(c) The second alternative is a combination method. Under this method, as applied to inpatient care, that part of a provider's total allowable cost which is attributable to routine services (room, board, nursing services) is to be apportioned on the basis of the relative number of patient days for beneficiaries and for other patients; taking into account, to the extent pertinent, for inpatient routine services provided after June 30, 1969, an inpatient routine nursing salary cost differential. The residual part of the provider's allowable cost, attributable to nonroutine or ancillary services, is to be apportioned on the basis of the beneficiaries' share of the total charges to patients by the provider for nonroutine or ancillary services. The amounts computed to be the program's share of the two parts of the provider's allowable costs are then combined in determining the amount of reimbursement under the program. Use of the combination method will necessitate cost finding to determine the division of the provider's total allowable costs into the two parts, although it would be less involved than for the first alternative, the department-by-department method.

* * * * *

2. A new § 405.430 is added to read as follows:

§ 405.430 Inpatient routine nursing salary cost differential.

(a) *Principle.* In recognition of the above average cost of inpatient routine

nursing care furnished to aged patients, an inpatient routine nursing salary cost differential is allowable as a reimbursable cost of the provider. The differential applicable to such inpatient routine nursing salary costs of aged patients is established effective July 1, 1969, and until a redetermined rate is made effective, at the rate of 8½ percent. The differential shall be redetermined as described in § 405.430(c)(1). Program recognition of the differential shall be accomplished through an inpatient routine nursing salary cost differential adjustment factor as defined in § 405.430(b)(8).

(b) *Definitions*—(1) *Aged day.* Aged day means a day of care rendered to an inpatient 65 years of age or older.

(2) *Pediatric day.* Pediatric day means a day of care rendered to an inpatient less than age 14 who is not occupying a bassinet for the newborn in the nursery.

(3) *Maternity day.* Maternity day means a day of care rendered to a female inpatient admitted for delivery of a child.

(4) *Nursery day.* Nursery day means a day of care rendered to an inpatient occupying a bassinet for the newborn in the nursery.

(5) *Inpatient day.* Inpatient day means a day of care rendered to any inpatient (except an individual occupying a bassinet for the newborn in the nursery).

(6) *Inpatient routine nursing salary cost.* Inpatient routine nursing salary cost includes only the gross salaries and wages of nurses and other personnel for nursing activities performed in nursing units not associated with the nursery and not associated with services for which a separate charge is customarily made. This cost includes gross salaries and wages of head nurses, registered nurses, licensed practical and vocational nurses, aides, orderlies, and ward clerks. It does not include salaries and wages of administrative nursing personnel assigned to the departmental office or nursing personnel who perform their work in surgery, central supply, recovery units, emergency units, delivery rooms, nurseries, employee health service, or any other areas not providing general inpatient care, nor does it include the salaries and wages of personnel performing maintenance or other activities that do not directly relate to the care of patients.

(7) *Adjusted inpatient routine nursing salary cost.* The adjusted inpatient routine nursing salary cost attributable to title XVIII beneficiaries is determined on a per diem basis and is arrived at by dividing (A) total inpatient routine nursing service salary costs for all patients (excluding nursery patients), plus 8½ percent thereof, by (B) total inpatient days (excluding nursery days), plus 8½ percent of aged, pediatric, and maternity days. This quotient is the adjusted average per diem inpatient routine nursing salary (excluding nursery salary) cost.

$$\text{Adjusted per diem inpatient routine nursing salary (excluding nursery salary) cost} = \frac{\text{Inpatient routine nursing salary (excluding nursery salary) costs} \times 1.085}{\text{Total inpatient days (excluding nursery days) less aged, pediatric, and maternity days} + \text{Aged, pediatric, and maternity days} \times 1.085}$$

(8) *Inpatient routine nursing salary cost differential adjustment factor.* The inpatient routine nursing salary cost differential adjustment factor is determined on a per diem basis and is the difference between the adjusted per diem inpatient routine nursing salary (excluding nursery salary) cost and the average per diem inpatient routine nursing salary (excluding nursery salary) cost for all patients. It includes that portion of the total differential applicable to title XVIII beneficiaries that is not otherwise included in computing the cost of routine services, and is illustrated in paragraph (e) of this section. The amount of the differential adjustment factor included in the provider's reimbursable costs is computed by multiplying the per diem differential adjustment factor by the number of covered health insurance days during the reporting period.

$$\text{Per diem differential adjustment factor} = \text{Adjusted per diem inpatient routine nursing salary (excluding nursery salary) cost } \textit{minus} \text{ Average per diem inpatient routine nursing salary (excluding nursery salary) cost}$$

(c) *Application.* (1) Studies have indicated that aged patients (both program beneficiaries and nonbeneficiaries), on the average, receive inpatient routine nursing care that is more costly on an average per day basis than the average of the remainder of the adult nonmaternity patient population. It is appropriate that the greater costs of providing these services, which are attributable to caring for title XVIII beneficiaries and which are sufficiently supported by such studies, be recognized by the program in its reimbursement. In order to determine the greater cost of providing these services to program beneficiaries with a minimum of additional cost finding, the cost of nursing services in maternity and pediatric areas is being equated with the cost of nursing services provided to the aged. In the determination of health insurance inpatient routine service costs the rate of 8½ percent has been established, until the effective date of a redetermination, as the inpatient routine nursing salary cost differential for aged, pediatric, and maternity patients. However, further studies will be conducted periodically: (i) To determine the amount of an inpatient routine nursing salary cost differential for the aged that is appropriate in the future; (ii) to ascertain what variations in differentials should be established for such classes of providers as may be found appropriate, and (iii) to obtain other pertinent data including data on nursing care costs for maternity, pediatric, geriatric, and general medical and surgical patients.

(2) Although the inpatient routine nursing salary cost differential under the health insurance program is established at a rate of 8½ percent, the effect of the differential on reimbursement to a particular provider is also a function of the relationship that total aged, pediatric, and maternity patient days of service bears to total patient days of service (excluding nursery days) rendered by that provider.

(d) *Effective dates*—(1) *Cost reporting period beginning after June 30, 1969.* With respect to any cost reporting period beginning after June 30, 1969, the inpatient routine nursing salary cost differential adjustment factor, as defined in paragraph (b)(8) of this section, shall be applicable for the entire reporting period as an element in the computation of the provider's reimbursable cost.

(2) *Cost reporting period ending before July 1, 1969.* With respect to any cost reporting period ending before July 1, 1969, there shall not be included as an element in the computation of the provider's reimbursable costs any inpatient routine nursing salary cost differential adjustment factor.

(3) *Cost reporting period beginning before July 1, 1969, and ending after June 30, 1969.* With respect to any cost reporting period beginning before July 1, 1969, and ending after June 30, 1969, an inpatient routine nursing salary cost differential adjustment factor shall be computed in accordance with the provisions of paragraph (b)(8) of this section; but only the portion of the inpatient routine nursing salary cost differential adjustment factor equivalent to the part of the cost reporting period falling after June 30, 1969, shall be included as an element of reimbursable cost. The amount of the differential adjustment factor included in the provider's reimbursable costs is computed by multiplying the per diem differential adjustment factor by the number of covered health insurance days during the reporting period and apportioning this amount by applying a fraction whose numerator is the number of months after June 30, 1969, in the reporting period and whose denominator is the total number of months in the reporting period. (Where a cost reporting period ends on a day other than the last day of the month, the days after June 30, 1969, in the reporting period shall be included in the numerator and the total

days in the reporting period shall be included in the denominator.)

(e) *Examples*—(1) *Illustration of calculation of differential adjustment factor for a cost reporting period beginning after June 30, 1969.*

Inpatient routine nursing salary costs (excluding nursery costs)	$160,000
Total inpatient days	12,800
Total inpatient days applicable to beneficiaries	3,840
Total aged, pediatric, and maternity days	5,120
Adjusted per diem inpatient routine nursing salary (excluding nursery salary) cost	$13.12
(12,800−5,120)+(5,120×1.085)	
Average per diem routine nursing salary (excluding nursery salary) cost $160,000÷12,800	−12.50
Per diem differential adjustment factor	.62
Allowable routine nursing salary cost differential adjustment factor applicable to beneficiaries for the reporting period $0.62×3,840	2,381

(2) *Verification of differential adjustment factor computation as calculated in the illustration in (e)(1).* Using data in the illustration in (e)(1) the computation of the differential adjustment factor may be verified as follows:

(i) Adjusted per diem inpatient routine nursing salary cost per computation in (e)(1)	$13.12
(ii) Total adjusted inpatient routine nursing salary cost for these patients (5,120×$13.12)	$67,174.40
(iii) Total inpatient routine nursing salary cost for the remainder of the adult patient population ($160,000−$67,174.40)	$92,825.60
(iv) Per diem inpatient routine nursing salary cost for the remaining adult patient population	$12.09
Total patient days	12,800
Aged, pediatric, and maternity days	−5,120
Remaining adult patient days	7,680
$\frac{\$92,825.60}{7,680}=\$12.09$	
(v) Difference between adjusted per diem inpatient routine nursing salary cost and per diem inpatient routine nursing salary cost for the remainder of the adult patient population (i) less (iv)	$1.03
(vi) $1.03÷$12.09=8.5 percent.	
(vii) Average per diem routine nursing salary cost included in basic computation of cost of routine services ($160,000÷12,800)	$12.50
(viii) Inpatient routine nursing salary cost differential adjustment factor to be reimbursed in addition to average per diem routine nursing salary cost ($13.12−$12.50)	$0.62
(ix) Portion of the per diem inpatient routine nursing salary cost differential included in the cost of routine service ($12.50−$12.09)	$0.41

(3) *Illustration of differential adjustment factor for a cost reporting period beginning before July 1, 1969 and ending after June 30, 1969.* Assume the same statistical and financial data in paragraph (e)(1) of this section and that the provider's cost reporting period was for a 12-month period ending March 31, 1970.

Potential routine nursing salary cost differential adjustment factor applicable to beneficiaries for the reporting period	$2,381
Allowable routine nursing salary cost differential adjustment factor applicable to beneficiaries for the reporting period	9/12×$2,381=$1,786

3. Paragraph (a) of § 405.452 is revised to read as follows:

§ 405.452 Determination of cost of services to beneficiaries.

(a) *Principle.* Total allowable costs of a provider shall be apportioned between program beneficiaries and other patients so that the share borne by the program is based upon actual services received by program beneficiaries. To accomplish this apportionment, the provider shall have the option of either of the two following methods:

(1) *Departmental method.* The ratio of beneficiary charges to total patient charges for the services of each department is applied to the cost of the department, taking into account, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential. (See § 405.430 for definition and application of this differential.)

(2) *Combination method.* The cost of "routine services" for program beneficiaries is determined on the basis of average cost per diem of these services, taking into account, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential (see § 405.430 for definition and application of this differential). To this amount is added the cost of ancilliary services used by beneficiaries, determined by apportioning the total cost of ancilliary services on the basis of the ratio of beneficiary charges for ancilliary services to total patient charges for such services.

* * * * *

4. In § 405.452(c)(2), the last sentence, reading "The total reimbursement for services rendered by the provider to the beneficiaries would be $235,000," is revised to read: "To the total shown in the illustration is added, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential adjustment factor as defined and illustrated in § 405.430."

5. Paragraph (c)(3)(i) of § 405.452 is revised to read as follows:

(c) *Application.* * * *

(3) *Combination method*—(i) *Using cost finding.* A provider may, at its option, elect to be reimbursed for the cost of routine services on the basis of the average cost per diem, taking into account, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential (as defined and illustrated in § 405.430). To this amount is added the cost of the ancillary services rendered to beneficiaries of the program determined by computing the ratio of total inpatient charges for ancillary services to beneficiaries to the total inpatient ancillary charges to all patients and applying this ratio to the total allowable cost of inpatient ancillary services.

COMBINATION METHOD EMPLOYED BY HOSPITAL B

Statistical and financial data:	
Total inpatient days for all patients	30,000
Inpatient days applicable to beneficiaries	7,500
Inpatient routine services—total allowable cost	$600,000
Inpatient ancillary services—total allowable cost	$320,000
Inpatient ancillary services—total charges	$400,000
Inpatient ancillary services—charges for services to beneficiaries	$80,000
Computation of cost applicable to program:	
Average cost per diem for routine services: $600,000÷30,000 days=$20 per diem.	
Cost of routine services (exclusive of any inpatient routine nursing salary cost differential adjustment factor pertinent for services provided after June 30, 1969) rendered to beneficiaries: $20 per diem×7,500 days	$150,000
Ratio of beneficiary charges to total charges for all ancillary services: $80,000÷$400,000=20 percent	
Cost of ancillary services rendered to beneficiaries: 20 percent×$320,000	64,000
Total cost (exclusive of any inpatient routine nursing salary cost differential adjustment factor pertinent for services provided after June 30, 1969) of beneficiary services	$214,000

To the cost of routine services and total cost shown in the above illustration are added, to the extent pertinent, for services provided after June 30, 1969, an inpatient routine nursing salary cost differential adjustment factor as defined and illustrated in § 405.430.

* * * * *

[FR Doc.71-9397 Filed 7-1-71;8:49 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Recodification of Certain New Animal Drug Regulations; Correction

In F.R. Doc. 71-5496 appearing at page 7647 in the issue of April 23, 1971, the table in § 135b.6d(d) is corrected by replacing the word "implantation" with the word "injection" in both the table

heading and the text of the "Limitations" column. In the same document, the reference to "code No. 008" in § 135b.10(c) is corrected to read "code No. 035".

In F.R. Doc. 71-5498 appearing at page 7650 in the issue of April 23, 1971, the reference to "code Nos. 004 and 018" in § 135c.16(b) is corrected to read "code Nos. 004 and 035" and the reference to "code No. 018" in § 135c.17(b) is corrected to read "code No. 035".

Dated: June 23, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.17-9365 Filed 7-1-71;8:47 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Sulfadimethoxine Oral Suspension

The Commissioner of Food and Drugs has evaluated a new animal drug application (43-785V) filed by Hoffman-La Roche, Inc., proposing the safe and effective use of sulfadimethoxine oral suspension for the treatment of dogs. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended by adding the following new section:

§ 135c.46 **Sulfadimethoxine oral suspension.**

(a) *Chemical name.* *N*'-(2,6-Dimethoxy-4-pyrimidinyl) sulfanilamide.

(b) *Specifications.* Each milliliter of the drug contains 50 milligrams of sulfadimethoxine.

(c) *Sponsor.* See code No. 020 in § 135.501(c) of this chapter.

(d) *Conditions of use.* (1) It is intended for use in dogs in the treatment of sulfonamide susceptible bacterial infections and enteritis associated with coccidiosis.

(2) On the first day of treatment administer an oral dose of 25 milligrams per pound of body weight, then follow with a daily dosage of 12.5 milligrams per pound of body weight. Length of treatment will depend upon clinical response. Continue treatment until patient is asymptomatic for 48 hours. Maintain adequate water intake during the treatment period.

(3) For use only by or on the order of a licensed veterinarian.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (7-2-71).

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

Dated: June 24, 1971.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.71-9366 Filed 7-1-71;8:47 am]

PART 146d—CERTIFICATION OF CHLORAMPHENICOL AND CHLORAMPHENICOL - CONTAINING DRUGS

Chloramphenicol Ophthalmic Solution, Veterinary; Correction

In F.R. Doc. 71-5853 appearing at page 7964 of the FEDERAL REGISTER of April 28, 1971, § 146d.320(a) is corrected to add an inadvertantly omitted sentence regarding limits for the acceptance or rejection of each batch of the subject drug on the basis of its potency, as follows:

§ 146d.320 **Chloramphenicol ophthalmic solution, veterinary.**

(a) *Standards of identity, strength, quality, and purity.* Chloramphenicol ophthalmic solution contains in each milliliter 5 milligrams of chloramphenicol with or without one or more suitable and harmless preservatives and surfactants in an aqueous solution. Its potency is not less than 90 percent nor more than 130 percent of the number of milligrams of chloramphenicol it is represented to contain. It is sterile. Its pH is not less than 3 nor more than 6. The chloramphenicol used conforms to the requirements of § 146d.301(a) (1), (3), (6), (7), (8), and (9). Each other substance used, if its name is recognized in the U.S.P. or N.F., conforms to the standards prescribed therefor by such official compendium.

* * * * *

Dated: June 24, 1971.

FRED J. KLINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.71-9367 Filed 7-1-71;8:47 am]

PART 148q—GENTAMICIN

Sterile Gentamicin Sulfate

Correction

In F.R. Doc. 71-8569 appearing at page 11811 in the issue of Saturday, June 19, 1971, under § 148q.1(b)(8) a subdivision "(vi) *Calculations.*" should be inserted following subdivision (v) and immediately preceding the table.

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Departmental Regulation 108.639]

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Miscellaneous Amendments

Part 42, Chapter I, Title 22 of the Code of Federal Regulations is amended in the following respects. Section 42.43 is amended to revise the procedure for return of immigrant visa petitions for reconsideration and to conform with recent changes made by the Immigration and Naturalization Service concerning the validity and revocation of immigrant visa petitions. Sections 42.61 and 42.62 are amended to conform with the revised Department of Labor regulations (29 CFR Part 60).

1. Section 42.43 is amended to read:

§ 42.43 **Suspension or termination of action in petition cases.**

(a) *Suspension of action.* (1) The consular officer shall suspend action in a petition case and shall return the petition, with a report of the facts in the case, for reconsideration by the Service if the petitioner requests suspension of action, or if the consular officer knows or has reason to believe that the approval of the petition was obtained by fraud, misrepresentation, or other unlawful means, or that the beneficiary is not entitled, for any other reason, to the status approved.

(2) When a third or sixth preference petition is automatically revoked because of the expiration of the beneficiary's labor certification, the consular officer shall suspend action in the case and shall retain the petition while affording the beneficiary an opportunity to seek revalidation of the labor certification or to obtain a new labor certification.

(b) *Termination of action.* The consular officer shall terminate action in a petition case upon receipt from the Service of notice of the revocation of the petition or upon a finding that the petition has been automatically revoked pursuant to 8 CFR 205.1(a) or to 8 CFR 205.1(b) (2) through (5).

2. Subparagraph (3)(ii) of paragraph (a) of § 42.61 is amended to read:

§ 42.61 **Consular records of visa applications.**

(a) * * *

(3) * * *

(ii) Is within one of the professional or occupational groups listed in Schedule A of the Department of Labor regulations (29 CFR 60.7), or

* * * * *

3. Subparagraph (2) of paragraph (b) of § 42.62 is amended to read:

§ 42.62 **Priority date of individual applicants.**

* * * * *

(b) * * *

(2) * * *

(i) The applicant is within one of the professional or occupational groups listed in Schedule A (29 CFR 60.7), or

* * * * *

Effective date. These amendments shall become effective upon publication in the FEDERAL REGISTER (7-2-71).

The provisions of the Administrative Procedure Act (80 Stat. 383; 5 U.S.C. 553) relative to notice of proposed rule making are inapplicable to this order because the regulations contained herein involve foreign affairs functions of the United States.

(Sec. 104, 66 Stat. 174; 8 U.S.C. 1104)

For the Secretary of State.

[SEAL] BARBARA M. WATSON,
Administrator, Bureau of Security and Consular Affairs.

JUNE 22, 1971.

[FR Doc.71-9363 Filed 7-1-71;8:46 am]

Title 24—HOUSING AND HOUSING CREDIT

Chapter II—Federal Housing Administration, Department of Housing and Urban Development

[Docket No. R-71-124]

DEBENTURE INTEREST RATES

The following amendments have been made to this chapter to change the debenture interest rate. The Secretary has determined that advance publication and notice and public procedure are unnecessary since the debenture interest rate is set by the Secretary of the Treasury in accordance with a procedure established by statute.

SUBCHAPTER C—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart B—Contract Rights and Obligations

1. Section 203.405 is amended to read as follows:

§ 203.405 **Debenture interest rate.**

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the mortgage was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
4¼	Jan. 1, 1967	Jan. 1, 1968
5⅛	Jan. 1, 1968	July 1, 1969
5¾	July 1, 1969	Jan. 1, 1970
6⅛	Jan. 1, 1970	July 1, 1970
6½	July 1, 1970	Jan. 1, 1971
6¼	Jan. 1, 1971	July 1, 1971
5⅞	July 1, 1971	

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

2. Section 203.479 is amended to read as follows:

§ 203.479 **Debenture interest rate.**

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the loan was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
4¼	Jan. 1, 1967	Jan. 1, 1968
5⅛	Jan. 1, 1968	July 1, 1969
5¾	July 1, 1969	Jan. 1, 1970
6⅛	Jan. 1, 1970	July 1, 1970
6½	July 1, 1970	Jan. 1, 1971
6¼	Jan. 1, 1971	July 1, 1971
5⅞	July 1, 1971	

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies to sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709)

SUBCHAPTER D—RENTAL HOUSING INSURANCE

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart B—Contract Rights and Obligations

In § 207.259 paragraph (e)(6) is amended to read as follows:

§ 207.259 **Insurance benefits.**

* * * * *

(e) *Issuance of debentures.* * * *

(6) Bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date of initial insurance endorsement of the mortgage, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
4¼	Jan. 1, 1967	Jan. 1, 1968
5⅛	Jan. 1, 1968	July 1, 1969
5¾	July 1, 1969	Jan. 1, 1970
6⅛	Jan. 1, 1970	July 1, 1970
6½	July 1, 1970	Jan. 1, 1971
6¼	Jan. 1, 1971	July 1, 1971
5⅞	July 1, 1971	

* * * * *

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 207, 52 Stat. 16, as amended; 12 U.S.C. 1713)

SUBCHAPTER F—URBAN RENEWAL HOUSING INSURANCE AND INSURED IMPROVEMENT LOANS

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart D—Contract Rights and Obligations—Projects

Section 220.830 is amended to read as follows:

§ 220.830 **Debenture interest rate.**

Debentures shall bear interest from the date of issue, payable semiannually on the first day of January and the first day of July of each year at the rate in effect as of the date the commitment was issued, or as of the date the loan was endorsed for insurance, whichever rate is the higher. The following interest rates are effective for the dates listed:

Effective rate (percent)	On or after—	Prior to—
4¼	Jan. 1, 1967	Jan. 1, 1968
5⅛	Jan. 1, 1968	July 1, 1969
5¾	July 1, 1969	Jan. 1, 1970
6⅛	Jan. 1, 1970	July 1, 1970
6½	July 1, 1970	Jan. 1, 1971
6¼	Jan. 1, 1971	July 1, 1971
5⅞	July 1, 1971	

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k)

Issued at Washington, D.C., June 28, 1971; effective July 1, 1971.

EUGENE A. GULLEDGE,
Federal Housing Commissioner.

[FR Doc.71-9353 Filed 7-1-71;8:45 am]

Chapter VII—Federal Insurance Administration, Department of Housing and Urban Development

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Designated Areas

Section 1914.4 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1914.4 **List of designated areas.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Florida	Collier	Naples	I 12 021 2150 04 through I 12 021 2150 06	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.	Office of the City Manager, 735 8th St. South, Naples, FL 33940.	July 2, 1971.
Do	Lee	Cape Coral				Do.
Nebraska	Sarpy	Papillion				Do.
New Jersey	Ocean	Berkeley Township.				Do.
Texas	Aransas	Rockport	I 48 007 5890 04 through I 48 007 5890 06	Texas Water Development Board, Post Office Box 12386, Capital Station, Austin, TX 78701. Texas State Board of Insurance, 1110 San Jacinto St., Austin, TX 78701.	City Hall, City of Rockport, Broadway St., Rockport, TX 78382.	Do.
Do	Harris	El Lago	I 48 201 2178 02	do	City Hall, 1122 Cedar Lane, Seabrook, TX 77586.	Do.
Do	Montgomery	Pinehurst	I 48 339 5357 02	do	Office of the City Tax Assessor-Collector, Johnson's Butane, 1627 West Strickland Dr., Orange, TX 77630.	Do.
Virginia	City of Portsmouth.		I 51 740 1970 09 through I 51 740 1970 18	Division of Water Resources, Department of Conservation and Economic Development, 911 East Broad St., Richmond, VA 23219. Virginia Insurance Department, 700 Blanton Bldg., Post Office Box 1157, Richmond, VA 23209.	City Planning Commission, Municipal Bldg., Third Floor, No. 1 High St., Portsmouth, VA 23704.	Do.
Do	City of Waynesboro.		I 51 820 2610 09 through I 51 820 2610 16	do	Office of the City Engineer, City Hall, 250 South Wayne Ave., Waynesboro, VA 22980.	Do.
Wisconsin	Ozaukee	Mequon				Do.
Do	Wood	Port Edwards				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: July 2, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-9314 Filed 7-1-71;8:45 am]

PART 1915—IDENTIFICATION OF FLOOD-PRONE AREAS

List of Flood Hazard Areas

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of flood hazard areas.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Florida	Collier	Naples	H 12 021 2150 04 through H 12 021 2150 06	Department of Community Affairs, 309 Office Plaza, Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, State Capitol, Tallahassee, FL 32304.	Office of the City Manager, 735 8th St. South, Naples, FL 33940.	May 2, 1970, Aug. 7, 1970, and July 2, 1971.
Do	Lee	Cape Coral				July 2, 1971.
Nebraska	Sarpy	Papillion				Do.
New Jersey	Ocean	Berkeley Township.				Do.
Texas	Aransas	Rockport	H 48 007 5890 04 through H 48 007 5890 06	Texas Water Development Board, Post Office Box 12386, Capital Station, Austin, TX 78701. Texas State Board of Insurance, 1110 San Jacinto St., Austin, TX 78701.	City Hall, City of Rockport, Broadway St., Rockport, TX 78382.	June 17, 1970.
Do	Harris	El Lago	H 48 201 2178 02	do	City Hall, 1122 Cedar Lane, Seabrook, TX 77586.	Aug. 14, 1970.
Do	Montgomery	Pinehurst	H 48 339 5357 02	do	Office of the City Tax Assessor-Collector, Johnson's Butane, 1627 West Strickland Dr., Orange, TX 77630.	Jan. 8, 1971.
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Virginia	City of Portsmouth.		H 51 740 1970 09 through H 51 740 1970 18	Division of Water Resources, Department of Conservation and Economic Development, 911 East Broad St., Richmond, VA 23219. Virginia Insurance Department, 700 Blanton Bldg., Post Office Box 1157, Richmond, VA 23209.	City Planning Commission, Municipal Bldg., Third Floor, No. 1 High St., Portsmouth, VA 23704.	May 15, 1970.
Do	City of Waynesboro.		H 51 820 2610 00 through H 51 820 2610 16	do	Office of the City Engineer, City Hall, 250 South Wayne Ave, Waynesboro, VA 22080.	June 17, 1970, and July 2, 1971.
Wisconsin	Ozaukee	Mequon				July 2, 1971.
Do	Wood	Port Edwards				Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued: July 2, 1971.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.71-9315 Filed 7-1-71;8:45 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 7128]

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

Depreciation Allowances Using Asset Depreciation Range System; Correction

On June 23, 1971, T.D. 7128 was published in the FEDERAL REGISTER (36 F.R. 11924).

The following changes should be made:

1. The 26th line of § 1.167(a)–11(b)(2) should read as follows: "(A));".

2. The fourth line of § 1.167(a)–11(d)(2)(iv) should read as follows: "and 263, if the taxpayer pays or incurs any".

3. The 11th line of § 1.167(a)–11(d)(2)(viii) should read as follows: "determined under subdivision (vii)(*a*)".

4. The 23rd line of § 1.167(a)–11(d)(2)(viii) should read as follows: "termined under subdivision (viii)(*b*) of".

5. The eighth line of example under § 1.167(a)–11(d)(3)(vi) should read as follows: "of this paragraph) in the asset guideline".

6. The 26th, 27th, and 28th lines of § 1.167(a)–11(f)(1)(i) should read as follows: "able year of election, or (*b*) September 20, 1971. If an elec-".

JAMES F. DRING,
Director,
Legislation and Regulations Division.

[FR Doc.71-9421 Filed 7-1-71;8:51 am]

Title 29—LABOR

Chapter XVII—Occupational Safety and Health Administration, Department of Labor

PART 1904—RECORDING AND REPORTING OCCUPATIONAL INJURIES AND ILLNESSES

On May 11, 1971 notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 8693) concerning proposed recordkeeping and reporting under the Williams-Steiger Occupational Safety and Health Act of 1970, concerning occupational injuries and illnesses. After consideration of the relevant material which has been submitted by interested persons, the proposal is hereby adopted with some changes as a new Part 1904 to Title 29 in the Code of Federal Regulations.

Sections 1904.4, 1904.4a, and 1904.8 of the new Part 1904 shall be effective upon publication in the FEDERAL REGISTER, good cause having been found for not providing any further delay in effective date because there is an immediate need for the prompt recording of certain occupational injuries and illnesses and reporting of serious accidents thereunder in order to protect the health and safety of the workers involved. The remainder of the new Part 1904 shall be effective 30 days from its publication in the FEDERAL REGISTER.

The new Part 1904 reads as follows:

Sec.

Sec.
1904.8 Reporting of fatality or multiple hospitalization accidents.
1904.9 Initials — falsification — failure to keep records or reports.
1904.10 Recordkeeping under approved State plans.
1904.11 Change of ownership.
1904.12 Definitions.
1904.13 Petitions for recordkeeping exceptions.

AUTHORITY: The provisions of this Part 1904 issued under secs. 8(c)(1), (2), 8(g)(2), and 24(e), 84 Stat. 1599, 1600, 1615; 29 U.S.C. 657, 673.

§ 1904.1 Purpose and scope.

The regulations in this part implement sections 8(c)(1), (2), 8(g)(2), and 24 (a) and (e) of the Occupational Safety and Health Act of 1970. These sections provide for recordkeeping and reporting by employers covered under the act as necessary or appropriate for enforcement of the act, for developing information regarding the causes and prevention of occupational accidents and illnesses, and for maintaining a program of collection, compilation, and analysis of occupational safety and health statistics. The regulations in this Part were promulgated with the cooperation of the Secretary of Health, Education, and Welfare.

§ 1904.2 Log of occupational injuries and illnesses.

Each employer subject to the act shall maintain in each establishment, a log of occupational injuries and illnesses. Each employer shall record on the log each recordable occupational injury and illness within 2 working days after receiving information that a recordable case has occurred. Occupational Safety and Health Administration Form OSHA No. 100[1] shall be used for this purpose and shall be completed in the form and detail provided for in the form and the instructions contained therein. The log may be maintained in another manner if approved in accordance with the provisions of § 1904.13.

§ 1904.3 Period covered.

Logs shall be established on a calendar year basis. The initial log shall include recordable occupational injuries and illnesses occurring on or after July 1, 1971.

§ 1904.4 Supplementary record.

In addition to the log of occupational injuries and illnesses provided for under § 1904.2, each employer subject to the act shall maintain at each establishment a supplementary record of occupational injuries and illnesses on which he shall record each recordable occupational injury or occupational illness in the detail prescribed in the instructions accompanying Occupational Safety and Health Administration Form OSHA No. 101. Workmen's compensation, insurance, or other reports are acceptable alternative records if they contain the information required by Form OSHA No. 101. If no acceptable alternative record is maintained for other purposes, Form OSHA No. 101 shall be used or the necessary information shall be otherwise maintained.

[1] Filed as part of the original document.

§ 1904.4a Temporary rules.

(a) *Explanation.* Copies of the three recordkeeping forms required under this part (OSHA Forms Nos. 100, 101, and 102) may not be available when these rules are published. Specimens of two of these forms were published in the daily issue of the FEDERAL REGISTER on the date of the publication of this part. One of these specimens (OSHA Form No. 101) will, in addition to its intended purpose, be used, as provided below, as an interim method of recording log-type information. The log-type information will later be transferred to the log (Form 100) when copies of that form are generally available either through direct mailing or at the local offices of the Occupational Safety and Health Administration or the Bureau of Labor Statistics.

(b) *Rules.* (1) Pending the availability of OSHA Form No. 101, each employer subject to this part and required to use Form No. 101 by § 1904.4 shall comply with § 1904.4 by preparing records in a manner which is consistent with the specimen of OSHA Form No. 101. The specimen is published in the daily issue of the FEDERAL REGISTER on the date of the publication of this part.

(2) Pending the availability of OSHA Form No. 100, each employer subject to this part shall comply with § 1904.2 by making the records required by subparagraph (1) of this paragraph or § 1904.4, as the case may be, within 2 working days after receiving information that a recordable injury or illness has occurred. When OSHA Form No. 100 becomes available, information concerning recordable occupational injuries and illnesses occurring before such availability and on or after July 1, 1971, shall be transcribed therein from the records maintained under subparagraph (1) of this paragraph or § 1904.4, as the case may be.

§ 1904.5 Annual summary.

(a) Each employer subject to the act shall compile an Annual Summary of Occupational Injuries and Illnesses, based on the information contained in the Log of Occupational Injuries and Illnesses. Occupational Safety and Health Administration Form OSHA No. 102 shall be used for this purpose and shall be completed no later than 1 month after the close of each calendar year (including calendar year 1971) in the form and detail provided for in the form and the instructions contained therein.

(b) The summary shall be maintained at each establishment. Each employer shall post a copy of the summary at each establishment in a conspicuous place where notices to its employees are customarily posted. Each employer shall take steps to insure that such notices are not altered, defaced, or covered by other material.

§ 1904.6 Retention of records.

Records provided for in §§ 1904.2, 1904.4, and 1904.5 shall be retained in each establishment for 5 years following the end of the year to which they relate.

§ 1904.7 Access to records.

Records provided for in §§ 1904.2, 1904.4, and 1904.5 shall be available for inspection and copying by Compliance Safety and Health Officers of the Occupational Safety and Health Administration, U.S. Department of Labor during any occupational safety and health inspection provided for under Part 1903 of this chapter and section 8 of the act, by any representative of the Bureau of Labor Statistics, U.S. Department of Labor, by any representative of the Secretary of Health, Education, and Welfare during any investigation under section 20(b) of the act, or by any representative of a State accorded jurisdiction for occupational safety or health inspections or for statistical compilations under sections 18 and 24 of the act.

§ 1904.8 Reporting of fatality or multiple hospitalization accidents.

Within 48 hours after the occurrence of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, the employer of any employees so injured or killed shall report the accident either orally or in writing to the nearest office of the Area Director of the Occupational Safety and Health Administration, U.S. Department of Labor. The reporting may be by telephone or telegraph. The report shall relate the circumstances of the accident, the number of fatalities, and the extent of any injuries. The Area Director may require such additional reports, in writing or otherwise, as he deems necessary, concerning the accident.

§ 1904.9 Initials—falsification—failure to keep records or reports.

Entries in records maintained pursuant to § 1904.2 shall be signed or initialed by the official or employee responsible for the accuracy of the entry. Section 17(g) of the act provides that "Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 6 months or by both." Failure to maintain records or file reports required by this part, or in the details required by forms and instructions issued under this part may result in the issuance of citations and assessment of penalties as provided for in sections 9, 10, and 17 of the Act.

§ 1904.10 Recordkeeping under approved State plans.

Records maintained by an employer and reports submitted pursuant to, and in accordance with the requirements of an approved State plan under section 18

of the act shall be regarded as compliance with this Part 1904.

§ 1904.11 Change of ownership.

Where an establishment has changed ownership, the employer shall be responsible for maintaining records and filing reports only for that period of the year during which he owned such establishment. However, in the case of any change in ownership, the employer shall preserve those records, if any, of the prior ownership which are required to be kept under this part. These records shall be retained at each establishment to which they relate, for the period, or remainder thereof, required under § 1904.6.

§ 1904.12 Definitions.

(a) "Act" means the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590 et seq., 29 U.S.C. 651 et seq.).

(b) The definitions and interpretations contained in section (2) of the Act shall be applicable to such terms when used in this Part 1904.

(c) "Recordable occupational injuries or illnesses" are any occupational injuries or illnesses which result in:

(1) Fatalities, regardless of the time between the injury and death, or the length of the illness; or

(2) Lost workday cases, other than fatalities, that result in lost workdays; or

(3) Nonfatal cases without lost workdays which result in transfer to another job or termination of employment, or require medical treatment (other than first aid) or involve: loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.

(d) "Medical treatment" includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even though provided by a physician or registered professional personnel.

(e) "First Aid" is any one-time treatment, and any followup visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such one-time treatment, and followup visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel.

(f) "Lost workdays:" The number of days (consecutive or not) after, but not including, the day of injury or illness during which the employee would have worked but could not do so; that is, could not perform all or any part of his normal assignment during all or any part of the workday or shift, because of the occupational injury or illness.

(g)(1) "Establishment:" A single physical location where business is conducted or where services or industrial operations are performed. (For example: a factory, mill, store, hotel, restaurant, movie theater, farm, ranch, bank, sales office, warehouse, or central administrative office.) Where distinctly separate activities are performed at a single physical location (such as contract construction activities operated from the same physical location as a lumber yard), each activity shall be treated as a separate establishment.

(2) For firms engaged in activities such as agriculture, construction, transportation, communications, and electric, gas and sanitary services, which may be physically dispersed, records may be maintained at a place to which employees report each day.

(3) Records for personnel who do not primarily report or work at a single establishment, such as traveling salesmen, technicians, engineers, etc., shall be maintained at the location from which they are paid or the base from which personnel operate to carry out their activities.

§ 1904.13 Petitions for recordkeeping exceptions.

(a) *Submission of petition.* Any employer who for good cause wishes to maintain records in a manner different from that required by this part may submit a petition containing the information specified in paragraph (c) of this section to the Regional Director of the Bureau of Labor Statistics wherein the establishment involved is located.

(b) *Opportunity for comment.* Affected employees or their representatives shall have an opportunity to submit written data, views, or arguments concerning the petition to the Regional Director involved within 10 working days following the receipt of notice under paragraph (c)(5) of this section.

(c) *Contents of petition.* A petition filed under paragraph (a) of this section shall include:

(1) The name and address of the applicant;

(2) The address of the place or places of employment involved;

(3) Specifications of the reasons for seeking relief;

(4) A description of the different recordkeeping procedures which are proposed by the applicant;

(5) A statement that (i) the applicant has informed his affected employees of the petition by giving a copy thereof to them or to their authorized representative, posting a statement giving a summary of the petition and specifying where a copy of the petition may be examined, at the place or places where notices to employees are normally posted, and by other appropriate means; and that (ii) applicant has in the same manner informed affected employees and their representatives of their rights under paragraph (b) of this section.

(d) *Referrals to Assistant Commissioner.* Whenever a Regional Director receives a petition from an employer having one or more establishments beyond the geographic boundary of his region, or a petition from a class of employers having any establishment beyond the boundary of his region, he shall refer the petition to the Assistant Commissioner for action.

(e) *Additional Notice, Conferences.* (1) In addition to the actual notice provided for in paragraph (c)(5) of this section, the Assistant Commissioner, or the Regional Director, as the case may be, may provide, or cause to be provided, such additional notice of the petition as he may deem appropriate.

(2) The Assistant Commissioner or the Regional Director, as the case may be, may also afford an opportunity to interested parties for informal conference or hearing concerning the petition.

(f) *Action.* After review of the petition, and of any comments submitted in regard thereto, and upon completion of any necessary appropriate investigation concerning the petition, if the Regional Director or the Assistant Commissioner, as the case may be, finds that the alternative procedure proposed will not hamper or interfere with the purposes of the Act and will provide equivalent information, he may grant the petition subject to such conditions as he may determine appropriate, and subject to revocation for cause.

(g) *Publication.* Whenever any relief is granted to an applicant under this Act, notice of such relief, and the reasons therefor, shall be published in the FEDERAL REGISTER.

(h) *Revocation.* Whenever any relief under this section is sought to be revoked for any failure to comply with the conditions thereof, an opportunity for informal hearing or conference shall be afforded to the employers and affected employees, or their representatives. Except in cases of willfulness or where public safety or health requires otherwise, before the commencement of any such informal proceeding, the employer shall: (1) Be notified in writing of the facts or conduct which may warrant the action; and (2) be given an opportunity to demonstrate or achieve compliance.

(i) *Compliance after submission of petitions.* The submission of a petition or any delay by the Regional Director, or the Assistant Commissioner, as the case may be, in acting upon a petition shall not relieve any employer from any obligation to comply with this part. However, the Regional Director or the Assistant Commissioner, as the case may be, shall give notice of the denial of any petition within a reasonable time.

(j) *Consultation.* There shall be consultation between the appropriate representatives of the Occupational Safety and Health Administration and the Bureau of Labor Statistics in order to insure the effective implementation of this section.

Effective date. This part shall become effective 30 days after publication in the FEDERAL REGISTER, except §§ 1904.4, 1904.4a, and 1904.8 which shall become

effective immediately on publication in the FEDERAL REGISTER (7–2–71).

Signed at Washington, D.C., this 25 day of June 1971.

J. D. HODGSON,
Secretary of Labor.

OSHA No. 101 Form approved
Case or File No. OMB No. 44R–1453

SUPPLEMENTARY RECORD OF OCCUPATIONAL INJURIES AND ILLNESSES

Employer
1. Name ----------
2. Mail address ----------
(No. and street) (City or town) (State)
3. Location, if different from mail address ----------

Injured or ill employee
4. Name ----------
(First) (Middle) (Last)
Social Security No. ----------
5. Home address ----------
(No. and street) (City or town) (State)
6. Age ----- 7. Sex: Male ----- Female -----
(Check one)
8. Occupation ----------
(Enter regular job title, *not* the specific activity he was performing at time of injury.)
9. Department ----------
(Enter name of department or division in which the injured person is regularly employed, even though he may have been temporarily working in another department at the time of injury.)

The accident or exposure to occupational illness
10. Place of accident or exposure ----------
(No., Street) (City or town) (State)
If accident or exposure occurred on employer's premises, give address of plant or establishment in which it occurred. Do not indicate department or division within the plant or establishment. If accident occurred outside employer's premises at an identifiable address, give that address. If it occurred on a public highway or at any other place which cannot be identified by number and street, please provide place references locating the place of injury as accurately as possible.
11. Was place of accident or exposure on employer's premises? ---------- (Yes or No)
12. What was the employee doing when injured? ----------
(Be specific. If he was using tools or equipment or handling material, name them and tell what he was doing with them.)
13. How did the accident occur? ----------
(Describe fully the events which resulted in the injury or occupational illness. Tell what happened and how it happened. Name any objects or substances involved and tell how they were involved. Give full details on all factors which led or contributed to the accident. Use separate sheet for additional space.)

Occupational injury or occupational illness
14. Describe the injury or illness in detail and indicate the part of body affected. ----------
(e.g.: amputation of right index finger at second joint; fracture of ribs; lead poisoning; dermatitis of left hand, etc.)
15. Name the object or substance which directly injured the employee.
(For example, the machine or thing he struck against or which struck him; the vapor poison he inhaled or swallowed; the chemical or radiation which irritated his skin; or in cases of strains, hernias, etc., the thing he was lifting, pulling, etc.)
16. Date of injury or initial diagnosis: ----- (Date)
17. Did employee die? ----- (Yes or No)
Other
18. Name and address of physician ----------
19. If hospitalized, name and address of hospital ----------
Date of report ---------- Prepared by ----------
Official position ----------
12–4720 B. 1469

SUPPLEMENTARY RECORD OF OCCUPATIONAL INJURIES AND ILLNESSES

To supplement the Log of Occupational Injuries and Illnesses (OSHA No. 100), each establishment must maintain a record of each recordable occupational injury or illness. Workmen's compensation, insurance, or other reports are acceptable as records if they contain all facts listed below or are supplemented to do so. If no suitable report is made for other purposes, this form (OSHA No. 101) may be used or the necessary facts can be listed on a separate plain sheet of paper. These records must also be available in the establishment without delay and at reasonable times for examination by representatives of the Department of Labor and the Department of Health, Education, and Welfare, and States accorded jurisdiction under the Act. The records must be maintained for a period of not less than 5 years following the end of the calendar year to which they relate.

Such records must contain at least the following facts:

(1) *About the employer*—name, mail address, and location if different from mail address.

(2) *About the injured or ill employee*—name, social security number, home address, age, sex, occupation, and department.

(3) *About the accident or exposure to occupational illness*—place of accident or exposure, whether it was on employer's premises, what the employee was doing when injured, and how the accident occurred.

(4) *About the occupational injury or illness*—description of the injury or illness, including part of body affected; name of the object or substance which directly injured the employee; and date of injury or diagnosis of illness.

(5) *Other*—name and address of physician; if hospitalized, name and address of hospital; date of report; and name and position of person preparing the report.

SEE DEFINITIONS ON THE BACK OF OSHA FORM NO. 100

(Note the definitions on the back of OSHA Form No. 100 are those published in 1904.12 of Title 29, Code of Federal Regulations.)

OSHA No. 102

SUMMARY

OCCUPATIONAL INJURIES AND ILLNESSES

Establishment name and address:

Injury and illness category		Lost workday cases			Nonfatal cases without lost workdays[1]		
Code	Category	Fatalities	Number of cases	Number of cases involving permanent transfer to another job or termination of employment	Number of lost workdays	Number of cases	Number of cases involving transfer to another job or termination of employment
1	2	3	4	5	6	7	8
10	Occupational injuries						
	Occupational illnesses:						
21	Occupational skin diseases or disorders.						
22	Dust diseases of the lungs (pneumoconioses).						
23	Respiratory conditions due to toxic agents.						
24	Poisoning (systemic effects of toxic materials).						
25	Disorders due to physical agents (other than toxic materials).						
26	Disorders due to repeated trauma.						
29	All other occupational illnesses.						
	Total-occupational illnesses (21–29).						
	Total-occupational injuries and illnesses.						

[1] Nonfatal cases without lost workdays-cases resulting in: Medical treatment beyond first aid, diagnosis of occupational illness, loss of consciousness, restriction of work or motion, or transfer to another job (without lost workdays).

SUMMARY

OCCUPATIONAL INJURIES AND ILLNESSES

Every employer is required to prepare a summary of the occupational injury and illness experience of the employees in each of his establishments at the end of each year within one month following the end of that year. The summary must be posted in a place accessible to the employees. The form on the reverse of this sheet is to be used.

Before preparing the summary, review the log to be sure that entries are correct and each case is included in only one of the classes identified by columns 8, 9, and 11. If an employee's loss of workdays is continuing at the time the summary is being made, estimate the number of future workdays he will lose and add that estimate to the workdays he has already lost and include this total in the summary. No further entries need be made with respect to such cases in the next summary.

Occupational injuries and the seven categories of occupational illness are to be summarized separately. Identify each case by the code in column 7 of the log of occupational injuries and illnesses.

The summary from the log is made as follows (for occupational injuries, code 10—follow the same procedure for each of the illness categories):

Fatalities. For cases with code 10 in column 7, count the number of entries (date of death) in column 8. *Lost workday cases, number of cases.* For cases with code 10 in column 7, count the number of entries in column 9.

Number of cases involving transfer or termination. For cases with code 10 in column 7, count the number of check marks in column 10. *Number of lost workdays.* For cases with code 10 in column 7, add the entries (lost workdays) in column 9.

Nonfatal cases without lost workdays, number of cases. For cases with code 10 in column 7, count the checks in column 11.

Number of cases involving transfer or termination. For cases with code 10 in column 7, count the checks in column 12.

Total each column for occupational illnesses and then, on the last line, for occupational injuries and illnesses combined.

Compare the sum of entries in the total line for columns 3, 4, and 7 with the total number of cases on the log. If the summary has been made correctly, they will match.

[FR Doc.71-9260 Filed 7-1-71;8:45 am]

Title 35—PANAMA CANAL

Chapter I—Canal Zone Regulations

PART 51—AIR NAVIGATION

Traffic Circuits

Effective upon publication in the FEDERAL REGISTER (7-2-71), § 51.123, Subpart B of Part 51 of Title 35, Code of Federal Regulations, is revised to read as follows:

§ 51.123 Traffic circuits.

The traffic circuits for Old France Field are as follows:

Runway 35
Turns—Right hand.
Altitude—600 feet MSL.
Downwind leg shall be flown along Randolph Road, parallel to runway.

Runway 17
Turns—Left hand.
Altitude—600 feet MSL.
Downwind leg shall be flown along Randolph Road, parallel to runway.

(2 C.Z.C. 701, 76A Stat. 29; 35 CFR 3.1(a)(2); 35 CFR 51.81)

Dated: June 17, 1971.

DAVID S. PARKER,
Governor.

[FR Doc.71-9355 Filed 7-1-71;8:46 am]

Title 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent Office, Department of Commerce

PART 1—RULES OF PRACTICE IN PATENT CASES

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

Recognition of Attorneys and Agents, Standards of Conduct, and Patent Application Petitions

These rule changes eliminate present provision for the recognition and registration of firms of attorneys and agents for practice in patent and trademark cases, and permit registered attorneys and agents to file papers in patent applications without the need for filing powers of attorney or authorizations. The changes further establish the Code of Professional Responsibility of the American Bar Association as the standard of conduct for those practicing before the Patent Office insofar as the Code is not inconsistent with Patent Office rules. Other changes eliminate the present requirement for a petition or other express request for a patent and liberalize requirements as to inventor names.

tinuance of the recognition and registration of firms are intended to obviate problems incident to such registration such as, for example, the lack of certainty as to the responsibility of indi-

The changes relating to the disconvidual attorneys and agents for actions taken by registered nonpartnership business entities, such as professional corporations, the problems associated with the rights to firm names and registration numbers upon dissolution or reorganization of firms, and the recognition as "firms" of groups of attorneys or agents, such as parts of corporation organizations, when the attorneys and agents are not in fact associated as partners. Acceptance of papers filed in patent applications by registered attorneys and agents upon a representation that the attorney or agent is authorized to act in a representative capacity is for the purpose of facilitating responses on behalf of applicants in patent applications, and, further, to obviate the need for filing powers of attorney or authorizations of agent in individual applications when there has been a change in composition of law firms or corporate patent staffs. Interviews with a registered attorney or agent not of record will, in view of 35 U.S.C. section 122, be conducted only on the basis of information and files supplied by the attorney or agent.

Provision is made for an applicant to supply an address to receive correspondence from the Patent Office concerning his application, in addition to his residence address, so that the Patent Office may direct mail to any address of applicant's selection, such as a corporate patent department, a firm of attorneys or agents, or an individual attorney, agent, or other person. In connection with patent applications pending upon the effective date of the changes in which a firm is the only representative of record (and in connection with divisions and continuations thereof not requiring execution by the applicant), the address of the firm will be considered to be the correspondence address for the application. Powers of attorney and authorizations of agent in favor of registered individual attorneys and agents will, of course, continue to be recognized and accepted.

The amendments to §§ 1.344 and 2.13 are intended to provide a more definite and uniform standard of conduct for those engaged in practice before the Patent Office than do present rules. The Code of Professional Responsibility of the American Bar Association is incorporated by reference in the rule with a statement as to where copies thereof may be inspected or obtained. The rule specifies that the standards referred to are those set forth in the Code of Professional Responsibility as amended February 24, 1970, and the rule does not, therefore, refer to standards imposed by later amendments of the Code. Any standards in other Patent Office rules which are inconsistent with standards imposed by the Code (as, for example, the limitations in § 1.345(b) on the distribution of professional announcements and the duties imposed by § 1.205(b)) remain in force.

The elimination of the requirement for a petition requesting the grant of a patent and the relaxation of requirements as to the names of applicants are intended to simplify patent application procedures. Section 1.76 is being revoked as redundant in view of revisions in § 1.57.

Notice of proposed rule making regarding revocation of §§ 1.35 and 1.61 and revision of §§ 1.14, 1.21, 1.33, 1.34, 1.36, 1.51, 1.52, 1.57, 1.76, 1.341, 1.343, 1.344, 1.346, 1.347, 2.13, and 2.15 of Title 37, Code of Federal Regulations, was published in the FEDERAL REGISTER of January 15, 1971 (36 F.R. 611). Interested persons were given an opportunity to participate in the rulemaking process through submission of comments in writing and at an oral hearing held on March 23, 1971. The rules are being adopted after full and careful consideration of all the material submitted. The departures from the published text reflect certain of the views expressed in the submitted material.

Effective date. This revision shall become effective on the date of its publication in the FEDERAL REGISTER (7-2-71).

In consideration of the comments received and pursuant to the authority contained in Section 6 of the Act of July 19, 1952 (66 Stat. 793; 35 U.S.C. 6), and Section 31 of that Act (66 Stat. 795; 35 U.S.C. 31), Title 37 of the Code of Federal Regulations is hereby amended as follows:

1. In § 1.14, paragraph (a) is revised to read as follows:

§ 1.14 Patent applications preserved in secrecy.

(a) Except as provided in § 1.11(b) pending patent applications are preserved in secrecy. No information will be given by the Office respecting the filing by any particular person of an application for a patent, the pendency of any particular case before it, or the subject matter of any particular application, nor will access be given to or copies furnished of any pending application or papers relating thereto, without written authority in that particular application from the applicant or his assignee or attorney or agent of record, unless it shall be necessary to the proper conduct of business before the Office or as provided by this part.

* * * * *

2. In § 1.21, paragraph (h) is revised to read as follows:

§ 1.21 Patent and miscellaneous fees and charges.

* * * * *

(h) For registration of an attorney or agent:

For admission to examination for registration to practice, fee payable upon application	$35.00
On registration to practice	25.00

* * * * *

3. Section 1.33 is revised to read as follows:

§ 1.33 Correspondence respecting patent applications and proceedings.

(a) The residence and post office address of the applicant must appear in the oath or declaration if not stated elsewhere in the application. The applicant may also specify and an attorney or agent of record may specify a correspondence address to which communications about the application are to be directed. All notices, official letters, and other communications in the case will be directed to the correspondence address or, if no such correspondence address is specified, to an attorney or agent of record (see § 1.34(b)), or, if no attorney or agent is of record, to the applicant, or to any assignee of record of the entire interest if the applicant or such assignee so requests, or to an assignee of an undivided part if the applicant so requests, at the post office address of which the Office has been notified in the case. Amendments and other papers filed in the application must be signed: (1) By the applicant, or (2) if there is an assignee of record of an undivided part interest, by the applicant and such assignee, or (3) if there is an assignee of record of the entire interest, by such assignee, or (4) by an attorney or agent of record, or (5) by a registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a). Double correspondence with an applicant and his attorney or agent, or with more than one attorney or agent, will not be undertaken. If more than one attorney or agent be made of record and a correspondence address has not been specified, correspondence will be held with the one last made of record.

(b) An applicant who has not made of record a registered attorney or agent may be required to state whether he received assistance in the preparation or prosecution of his application, for which any compensation or consideration was given or charged, and if so, to disclose the name or names of the person or persons providing such assistance. This includes the preparation for the applicant of the specification and amendments or other papers to be filed in the Patent Office, as well as other assistance in such matters, but does not include merely making drawings by draftsmen or stenographic services in typing papers.

4. Section 1.34 is revised to read as follows:

§ 1.34 Recognition for representation.

(a) When a registered attorney or agent acting in a representative capacity appears in person or signs a paper in practice before the Patent Office in a patent case, his personal appearance or signature shall constitute a representation to the Patent Office that, under the provisions of this part and the law, he is authorized to represent the particular party in whose behalf he acts. In filing such a paper, the attorney or agent should specify his registration number with his signature. Further proof of authority to act in a representative capacity may be required.

(b) When an attorney or agent shall have filed his power of attorney, or authorization, duly executed by the person or persons entitled to prosecute the application, he is a principal attorney of record in the case. A principal attorney or agent so appointed, may appoint an associate attorney or agent who shall also then be of record.

§ 1.35 [Revoked]

5. Section 1.35 is revoked.

6. Section 1.36 is revised to read as follows:

§ 1.36 Revocation of power of attorney or authorization; withdrawal of attorney or agent.

A power of attorney or authorization of agent may be revoked at any stage in the proceedings of a case, and an attorney or agent may withdraw, upon application to and approval by the Commissioner. An attorney or agent, except an associate attorney or agent whose address is the same as that of the principal attorney or agent, will be notified of the revocation of his power of attorney or authorization, and the applicant will be notified of the withdrawal of the attorney or agent. An assignment will not of itself operate as a revocation of a power or authorization previously given, but the assignee of the entire interest may revoke previous powers and be represented by an attorney or agent of his own selection.

7. Section 1.51 is revised to read as follows:

§ 1.51 General requisites of an application.

Applications for patents must be made to the Commissioner of Patents. A complete application comprises:

(a) A specification, including a claim or claims, see §§ 1.71 to 1.77.

(b) An oath or declaration, see §§ 1.65 and 1.68.

(c) Drawings, when necessary, see §§ 1.81 to 1.88.

(d) The prescribed filing fee. (See 35 U.S.C. section 41 for filing fees.)

8. In § 1.52, paragraph (a) is revised to read as follows:

§ 1.52 Language, paper, writing, margins.

(a) The specification and oath or declaration must be in the English language. All papers which are to become a part of the permanent records of the Patent Office must be legibly written or printed in permanent ink.

* * * * *

9. Section 1.57 is revised to read as follows:

§ 1.57 Signature.

The application must be signed by the applicant in person. The signature to the oath or declaration will be accepted as the signature to the application provided the oath or declaration is attached to and refers to the specification and claims to which it applies. Otherwise the signature must appear at the end of the specification after the claims. Full names must be given, including at least one given name without abbreviation together with any other given name or initial.

§ 1.61 [Revoked]

10. Section 1.61 is revoked.

§ 1.76 [Revoked]

11. Section 1.76 is revoked.

12. In § 1.77, paragraph (h) is reviesd to read as follows:

§ 1.77 Arrangement of application.

* * * * *

(h) Signature. (See § 1.57.)

§ 1.341 [Amended]

13. Section 1.341 is amended by revoking paragraph (d).

14. Section 1.343 is revised to read as follows:

§ 1.343 Persons not registered or recognized.

Only persons who are registered or given limited recognition as provided in § 1.342 will be permitted to prosecute patent applications of others before the Patent Office.

15. Section 1.344 is revised to read as follows:

§ 1.344 Professional conduct.

Attorneys and agents appearing before the Patent Office must conform to the standards of ethical and professional conduct set forth in the Code of Professional Responsibility of the American Bar Association as amended February 24, 1970, insofar as such code is not inconsistent with this part. A copy of the said code is available for inspection in the Office of the Solicitor, U.S. Patent Office, Room 11C04, Building 3, Crystal Plaza, 2021 Jefferson Davis Highway, Arlington, VA. Copies of the code are available upon request to the American Bar Center, 1155 E. 60th Street, Chicago, IL 60637.

16. Section 1.346 is revised to read as follows:

§ 1.346 Signature and certificate of attorney.

Every paper filed by an attorney or agent representing an applicant or party to a proceeding in the Patent Office must bear the signature of such attorney or

agent, except papers which are required to be signed by the applicant or party in person (such as the application itself and affidavits or declarations required of applicants). The signature of an attorney or agent to a paper filed by him, or the filing or presentation of any paper by him, constitutes a certificate that the paper has been read; that its filing is authorized; that to the best of his knowledge, information, and belief, there is good ground to support it; and that it is not interposed for delay.

17. Section 1.347 is revised to read as follows:

§ 1.347 Removing names from registers.

Attorneys and agents, registered to practice before the Patent Office, should notify the Office of any change of address for entry on the register, by letter separate from any notice of change of address filed in individual applications. The Office may address a letter to any person on the registers, at the address of which separate notice for the register was last received, for the purpose of ascertaining whether such person desires to remain on the register. The name of any person failing to reply and give the information requested within a time limit specified will be removed from the register, and the names so removed published in the Official Gazette. Any name so removed may be reinstated, either on the register of attorneys or the register of agents, as may be appropriate.

18. Section 2.13 is revised to read as follows:

§ 2.13 Professional conduct.

Attorneys and other persons appearing before the Patent Office in trademark cases must conform to the standards of ethical and professional conduct set forth in the Code of Professional Responsibility of the American Bar Association as amended February 24, 1970, insofar as such code is not inconsistent with this part. A copy of the said code is available for inspection in the Office of the Solicitor, U.S. Patent Office, Room 11C04, Building 3, Crystal Plaza, 2021 Jefferson Davis Highway, Arlington, VA. Copies of the code are available upon request to the American Bar Center, 1155 East 60th Street, Chicago, IL 60637.

19. Section 2.15 is revised to read as follows:

§ 2.15 Signature and certificate of attorney or agent.

Every paper filed by an attorney at law or other person representing an applicant or party to a proceeding in the Patent Office must bear the signature of such attorney at law or other person except those papers which are required to be signed by the applicant or party. The signature of an attorney at law or such other person to a paper filed by him, or the filing of any paper by him, constitutes a certificate that the paper has been read; that its filing is authorized; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay.

WILLIAM E. SCHUYLER, Jr.,
Commissioner of Patents.

Approved:

JAMES H. WAKELIN, Jr.,
Assistant Secretary for Science and Technology.

[FR Doc.71-9387 Filed 7-1-71;8:49 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans Administration

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

RESTORATION OF BENEFITS TO WIDOWS

1. In § 3.701, paragraph (a) is amended to read as follows:

§ 3.701 Elections of pension or compensation.

(a) *General.* Except as otherwise provided, a person entitled to receive pension or compensation under more than one law or sections of a law administered by the Veterans' Administration may elect which benefit to receive regardless of whether it is the greater or lesser benefit and even though his election results in reducing the benefits of his dependents. This person may at any time elect or reelect the other benefit. An election by a veteran controls the rights of all dependents in that case and an election by a widow controls not only her claim but those of the children as well, including children over the age of 18 and children not in the widow's custody. Termination of a marital relationship which barred the receipt of pension based on a veteran's service during World War I or later war periods does not permit his widow the right to receive protected pension. Her entitlement to pension, if otherwise established, is under the provisions of Public Law 86-211 (73 Stat. 432).

* * * * *

2. In § 3.702, paragraph (a) is amended to read as follows:

§ 3.702 Dependency and indemnity compensation.

(a) *Right to elect.* A person who is eligible for death compensation and who has entitlement to dependency and indemnity compensation pursuant to the provisions of § 3.5(b)(2) or (3) may receive dependency and indemnity compensation upon the filing of a claim. The claim of such a person for service-connected death benefits upon termination of her remarriage pursuant to § 3.55 shall be considered a claim for dependency and indemnity compensation subject to confirmation by the claimant. Payments may be authorized as of the date of entitlement provided the claim is filed within a reasonable period (not to exceed 120 days) before that date. The effective date of payment is controlled by the provisions of § 3.400(c)(3).

* * * * *

(72 Stat. 1114; 38 U.S.C. 210)

This VA Regulation is effective January 1, 1971.

Approved: June 25, 1971.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[FR Doc.71-9385 Filed 7-1-71;8:48 am]

PART 17—MEDICAL

State Home Facilities for Furnishing Nursing Home Care

Immediately following § 17.176, Appendix A is revised to read as follows:

APPENDIX A

(See § 17.171)

STATE HOME FACILITIES FOR FURNISHING NURSING HOME CARE

The maximum number of beds, as required by 38 U.S.C. 5034(1), to provide adequate nursing home care to war veterans residing in each State is established as follows:

State	War veteran population [1]	Number of beds
Alabama	364,000	[illegible]
Alaska	26,000	[illegible]
Arizona	212,000	[illegible]
Arkansas	194,000	[illegible]
California	2,704,000	[illegible]
Colorado	260,000	[illegible]
Connecticut	397,000	[illegible]
Delaware	67,000	[illegible]
District of Columbia	108,000	[illegible]
Florida	876,000	[illegible]
Georgia	429,000	[illegible]
Hawaii	57,000	[illegible]
Idaho	85,000	[illegible]
Illinois	1,421,000	[illegible]
Indiana	627,000	[illegible]
Iowa	338,000	[illegible]
Kansas	268,000	[illegible]
Kentucky	341,000	[illegible]
Louisiana	384,000	[illegible]
Maine	122,000	[illegible]
Maryland	472,000	[illegible]
Massachusetts	746,000	[illegible]
Michigan	1,047,000	[illegible]
Minnesota	463,000	[illegible]
Mississippi	196,000	[illegible]
Missouri	581,000	[illegible]
Montana	86,000	[illegible]
Nebraska	164,000	[illegible]
Nevada	60,000	[illegible]
New Hampshire	93,000	[illegible]
New Jersey	965,000	[illegible]
New Mexico	122,000	[illegible]
New York	2,310,000	[illegible]
North Carolina	482,000	[illegible]
North Dakota	62,000	[illegible]
Ohio	1,378,000	[illegible]
Oklahoma	302,000	[illegible]
Oregon	278,000	[illegible]
Pennsylvania	1,601,000	[illegible]
Rhode Island	117,000	[illegible]
South Carolina	234,000	[illegible]
South Dakota	75,000	[illegible]
Tennessee	432,000	[illegible]
Texas	1,231,000	[illegible]
Utah	118,000	[illegible]
Vermont	50,000	[illegible]
Virginia	491,000	[illegible]
Washington	427,000	[illegible]
West Virginia	227,000	[illegible]
Wisconsin	519,000	[illegible]
Wyoming	47,000	[illegible]
Puerto Rico (Commonwealth)	129,000	[illegible]

[1] Data as of Dec. 31, 1970.

SOURCE: Reports and Statistics Service, Office of the VA Controller. (Based on last available Bureau of the Census data.)

(72 Stat. 1114; 38 U.S.C. 210)

This VA Regulation is effective the date of approval.

Approved: June 23, 1971.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
Associate Deputy Administrator.

[FR Doc.71-9384 Filed 7-1-71;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 14H—Bureau of Indian Affairs, Department of the Interior

PART 14H-1—GENERAL

Designation of Contracting Officer Position

JUNE 30, 1971.

Beginning on page 13659 of the August 26, 1969 issue of the FEDERAL REGISTER (34 F.R. 13659) was published Chapter 14H of Title 41 of the Code of Federal Regulations. Chapter 14H contains the Bureau of Indian Affairs Procurement Regulations (BIAPR). Amendments to Chapter 14H were published on page 533 of the January 15, 1970, FEDERAL REGISTER (35 F.R. 533); on page 5403 of the April 1, 1970, FEDERAL REGISTER (35 F.R. 5403); and on page 11398 of the July 16, 1970, FEDERAL REGISTER (35 F.R. 11398).

Pursuant to the authority contained in the Act of November 2, 1921, C. 115, 42 Stat. 208 (25 U.S.C. 13) and 41 CFR 14-1.008, § 14H-1.451-2(a)(1) of 41 CFR 14H is being amended to designate the Engineering Contract Adviser as a contracting officer position.

Since this amendment involves internal Bureau procedures, advance notice and public procedure thereon have been deemed unnecessary and are dispensed with under the exception provided in subsection (b)(B) of 5 U.S.C. 553 (Supp. V, 1965-1969).

Since delay in the amendment becoming effective could delay the internal processing of contracts in the Bureau with a resultant delay in providing services to Indian people, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(3) of 5 U.S.C. 553 (Supp. V, 1965-1969). Accordingly, these regulations will become effective upon the date of publication in the FEDERAL REGISTER (7-2-71).

As amended, § 14H-1.451-2(a)(1) of 41 CFR 14H reads as follows:

§ 14H-1.451-2 Designation of contracting officer positions.

(a) Each of the following organizational titles are designated as contracting officer positions.

(1) Headquarters Office Officials:

(i) Associate Commissioner for Support Services.

(ii) Director of Operating Services.

(iii) Chief, Division of Property and Supply Management.

(iv) Engineering Contract Adviser.

(v) Chief, Division of Plant Design and Construction, Albuquerque, N. Mex.

(vi) Chief, Plant Management Engineering Center, Littleton, Colo.

(vii) Executive Officer, Indian Affairs Data Center, Albuquerque, N. Mex.

(viii) Property and Supply Officer, Indian Affairs Data Center, Albuquerque, N. Mex.

* * * * *

HAROLD D. COX,
Acting Commissioner.

[FR Doc.71-9502 Filed 7-1-71;9:48 am]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER E—SUPPLY AND PROCUREMENT

PART 101-32—GOVERNMENT-WIDE AUTOMATED DATA MANAGEMENT SERVICES

Procurement of ADPE

This amendment provides: (1) Definitions of the terms "selection plan," "systems or items life," "mandatory requirements," "desirable features," and "lowest overall cost;" (2) a requirement for timelier submission of ADP solicitation documents to GSA; (3) instructions for the submission of an agency procurement request; (4) guidance relating to GSA and agency responsibilities when GSA procures ADPE or related items for another agency; (5) a clause to be used in ADP solicitations concerning late proposals or modifications thereof; (6) a fixed price options clause for inclusion in all solicitation documents for ADP; and (7) a requirement that solicitation documents identify all the evaluation factors to be considered.

The table of contents for Part 101-32 is amended to add the following entries:

Sec.

101-32.402-10	Selection plan.
101-32.402-11	Systems or items life.
101-32.402-12	Mandatory requirements.
101-32.402-13	Desirable features.
101-32.402-14	Lowest overall cost.
101-32.405-1	Agency responsibilities when GSA procures ADPE or related items for such agency.
101-32.405-2	GSA responsibilities when GSA procures ADPE or related items for another agency.
101-32.408-4	Late proposals clause.
101-32.408-5	Fixed price options clause.
101-32.408-6	Evaluation factors.

Subpart 101-32.4—Procurement and Contracting

1. Sections 101-32.402-10 through 101-32.402-14 are added to read as follows:

§ 101-32.402-10 Selection plan.

"Selection plan" means those criteria and systematic procedures established in order to enable the Government to measure the proposal of an offeror against the requirements of the Government as set forth in the solicitation document. These criteria shall be based on the Government's requirements and should not be equipment or vendor oriented.

§ 101-32.402-11 Systems or items life.

"Systems or items life" means a forecast or projection of the period of time which begins with the installation of the systems or items and ends when the need for such systems or items has terminated. Systems or items life is established by the Government on the basis of its requirements and is usually set forth in the RFP. Systems or items life is not synonymous with actual life of the equipment.

§ 101-32.402-12 Mandatory requirements.

"Mandatory requirements" means those contractual conditions and technical specifications which are established by the Government as being essential to meet the Government's needs. When set forth in a solicitation, the mandatory requirements must be met by an offer (or bid) in order for such offer (or bid) to be considered responsive to the solicitation.

§ 101-32.402-13 Desirable features.

"Desirable features" means those contractual conditions and technical specifications which are established by the Government as having some value, but which are not essential to meet the Government needs. When set forth in a solicitation, the desirable features, individually or collectively, may be offered (or bid) at the discretion of the offeror (or bidder). Failure to offer (or bid) the desirable features shall have no effect on responsiveness to the solicitation.

§ 101-32.402-14 Lowest overall cost.

"Lowest overall cost" means the least expenditure of funds over the systems or items life, price and other factors considered. Lowest overall costs shall include, but shall not be limited to such elements as personnel, purchase price or rentals, maintenance, site preparation and installation, programing, and training.

2. Section 101-32.403(b) is revised to read as follows:

§ 101-32.403 Procurement authority.

* * * * *

(b) In those instances where agencies are authorized to procure ADPE, software, or maintenance services under the provisions of this § 101-32.403, or as may be authorized by GSA in accordance with the provisions of § 101-32.405, two copies of the solicitation document (RFP, IFB, or RFQ), as applicable, and any subsequent amendments thereto, shall be forwarded to the General Services Administration (FTP), Washington, D.C. 20406, as soon as available, but in no event to arrive later than 8 workdays before the proposed date of issuance to industry. GSA will notify the agency of the date of receipt of the solicitation document as soon as it is received. Amendments which

merely extend opening dates need not be forwarded until the date it is sent to industry. In addition, one copy of the resulting purchase/delivery order or contract shall be forwarded to GSA upon issuance.

3. Sections 101-32.404-1 and 101-32.404-2 are revised to read as follows:

§ 101-32.404-1 Automatic data processing equipment.

When the contemplated procurement involves ADPE, two copies of the APR and such other documents as may be applicable shall be forwarded to GSA. The APR shall:

(a) Contain the name and telephone number of an individual within the agency who will act as the point of contact with GSA; and

(b) Be accompanied by a justification to support negotiated procurement when such procurement is being accomplished. (This justification is for use by GSA when GSA effects the procurement. If GSA determines that the procurement will be accomplished by the agency, the justification will be returned along with the delegation of authority for use by the agency in effecting the procurement.)

§ 101-32.404-2 Software and maintenance.

When the contemplated procurement involves software or maintenance services, the solicitation (RFP, IFB, or RFQ) or such other documents as may be applicable shall be submitted to GSA. The agency point of contact and the justification for negotiated procurement referred to in § 101-32.401-1 (a) and (b) shall also be submitted to GSA.

4. Sections 101-32.405-1 and 101-32.405-2 are added to read as follows:

§ 101-32.405-1 Agency responsibilities when GSA procures ADPE or related items for such agency.

When GSA procures ADPE or related items for another agency, the procurement is a joint endeavor of both the requiring agency and GSA. To preclude an overlap of functions, the responsibilities of each participant in the procurement are clearly delineated with the requiring agency's functions listed below and the functions of GSA listed in § 101-32.405-2. The requiring agency shall:

(a) Submit the documentation required by § 101-32.404 to GSA. Such documentation shall include the agency's requirements, systems or items life, and the technical specification;

(b) Prepare the technical portion of the solicitation document and define any unique requirements;

(c) Provide necessary technical personnel (and contracting personnel if the agency desires) as members of the contract negotiating team;

(d) Prepare the selection plan and submit it to the GSA contracting officer prior to issuance of the solicitation document;

(e) Evaluate proposals from a technical point of view to include arranging for offerors' oral presentations, when appropriate;

(f) Provide copies of correspondence to the GSA contracting officer, when authorized to communicate with offerors directly under the provisions of § 101-32.405-2;

(g) Determine the technical capability of the items offered to meet the requiring agency's requirements, technical specifications, and systems or items life. This shall include determining those proposals which are technically acceptable and those proposals which are not technically acceptable. This advice shall be transmitted to the GSA contracting officer to enable the contracting officer to take appropriate action with the offerors;

(h) Select the lowest overall cost item(s) and transmit this decision with the necessary supporting documentation to the GSA contracting officer. In the event that a conclusive judgment cannot be made on the basis of lowest overall cost, a findings and determination to this effect will be prepared before any other factor is used as a basis for selection;

(i) Provide the following administrative information to the GSA contracting officer along with the data required in § 101-32.405-1(h) above:

(1) Finance data (i.e., paying office, fund citation, etc.);

(2) Contract distribution list and addresses;

(3) Identity of successor contracting officer within the requiring agency;

(j) Assist the GSA contracting officer in debriefing offerors, when debriefings are requested by offerors;

(k) Place the delivery order;

(l) Accomplish any other task not included above which will further the joint procurement objective or expedite completion of the procurement action at the agency's discretion and with GSA concurrence; and

(m) Administer the contract in accordance with the terms and conditions thereof.

§ 101-32.405-2 GSA responsibilities when GSA procures ADPE or related items for another agency.

GSA, when conducting procurement of ADPE or related items for another agency in conjunction with the requiring agency's responsibilities in § 101-32.405-1 above, shall:

(a) Appoint the GSA contracting officer;

(b) Form the negotiating team which will be headed by the GSA contracting officer;

(c) Prepare and issue the solicitation document and all amendments thereto after concurrence of the requiring agency. (The technical material shall be supplied in final form by the requiring agency.)

(d) Prepare the procurement plan (which will be coordinated with the requiring agency), the Determination and Findings, and any contractual material needed for the selection plan;

(e) Act as the point of contact between offerors and the Government. In this respect, the GSA contracting officer will provide the requiring agency with a copy of all correspondence between the offerors and the Government. Correspondence going to offerors will be coordinated with the requiring agency. When appropriate, the GSA contracting officer may authorize direct communication between the offerors and the requiring agency on purely technical matters. In such instances, the requiring agency shall provide copies of such correspondence to the GSA contracting officer;

(f) Receive proposals from the offerors;

(g) Provide copies of all proposals received from the offerors to the requiring agency;

(h) Review all offers from a contractual point of view;

(i) Provide personnel to be present at demonstrations, when held, to determine the technical capability of the items offered;

(j) Notify the offeror(s) concerned when a proposal is determined to be unacceptable;

(k) Conduct negotiations with all offerors whose proposals are acceptable and are within or are capable of being brought within the competitive range. price and other factors considered;

(l) Notify the offerors of the date and time that negotiations are to be terminated;

(m) Provide the requiring agency with both a report which summarizes the results of negotiations and with copies of the proposed contract negotiated with each vendor for consideration in the agency evaluation and analysis;

(n) Brief the appropriate requiring agency personnel on the results of contract negotiations when requested;

(o) Award the contract after receiving notification of the requiring agency's equipment selection;

(p) Debrief offerors, with the assistance of requiring agency representatives when debriefings are requested by offerors; and

(q) Distribute the contract and forward all pertinent documents to the successor contracting officer appointed by the requiring agency.

5. Section 101-32.408 is revised and §§ 101-32.408-4, 101-32.408-5, and 101-32.408-6 are added as follows:

§ 101-32.408 Procurement guidance.

The procurement of ADPE, software, maintenance services, and supplies shall be accomplished in conformance with the policy, guidance, or provisions in:

(a) Applicable procurement regulations, except as otherwise provided in this § 101-32.408;

(b) The Federal Property Management Regulations (FPMR);

(c) The policies and guidance stated in applicable Office of Management and Budget issuances; and

(d) Federal Information Processing Standards Publications (FIPS PUBS) as issued by the National Bureau of Standards under the direction of the Office of Management and Budget.

§ 101–32.408–4 Late proposals clause.

The following clause shall be inserted in all solicitation documents for negotiated procurements for ADPE, software, maintenance services, or supplies.

LATE PROPOSALS

Proposals or modifications thereof which are received in the office designated in the request for proposals after the time specified for their submission are late proposals. Late proposals shall not be considered unless the contracting officer determines that such action would not unduly delay the procurement and would be in the best interest of the Government. Normally, only late offers that are lower in price or that offer more favorable factors which do not require a technical reevaluation will be considered. The contracting officer's decision is final and conclusive. Except as otherwise expressly stated in the modification, a late modification if rejected, shall not be deemed a withdrawal of the offeror's timely proposal.

§ 101–32.408–5 Fixed price options clause.

When the Government has firm requirements for ADPE, software, or maintenance services which exceed the basic contract period (and quantity) to be awarded, but due to the unavailability of funds the option(s) cannot be exercised at the time of award of the basic contract (although there is a reasonable certainty that funds will be available thereafter to permit exercise of the options); realistic competition for the option periods (and quantity) is impracticable once the initial contract is awarded; and it is in the best interest of the Government to evaluate options in order to eliminate the possibility of a "buy-in," the following clause shall be inserted in solicitation documents.

FIXED PRICE OPTIONS

(a) This solicitation is being conducted on the basis that the known requirements exceed the basic contract period (and quantity) to be awarded but due to the unavailability of funds, the option(s) cannot be exercised at the time of award of the basic contract (although there is a reasonable certainty that funds will be available thereafter to permit exercise of the options); realistic competition for the option periods (and quantity) is impracticable once the initial contract is awarded; and it is in the best interest of the Government to evaluate options in order to eliminate the possibility of a "buy-in". Therefore, to safeguard the integrity of the Government's evaluation and because the Government is required to procure ADPE and related items on the basis of fulfilling systems specifications at the lowest overall cost, subsequent (or additional) as well as initial requirements must be satisfied on a fixed price basis. Since the systems or items to be procured under this solicitation have an expected life of ____ months (hereafter referred to as "systems life," or "items life," as appropriate), and since systems (items) life costs are synonymous with lowest overall costs, the contract resulting from this solicitation must contain options for renewals for subsequent fiscal years throughout the projected systems (items) life at fixed prices, and, if applicable, at fixed prices for all stated optional quantities of supplies or services not included in the initial requirement. Should the offeror desire, separate charges, if any, which will incur to the Government should the latter fail to exercise the option(s), may be stated separately. Options included in offers submitted in response to this solicitation will be evaluated as follows:

(1) To be considered responsive to this solicitation, vendors must offer fixed prices for the initial contract period for the initial systems or items being procured. Fixed prices, or prices which can be finitely determined, must be quoted for each separate option renewal period and must remain in effect throughout that period. Where optional quantities are offered, prices must be fixed or finitely determinable.

(2) Offers will be evaluated for purposes of award by adding the total price of all optional periods and, if applicable, all stated optional quantities to the total price for the initial contract period covering the initial systems or items. Separate charges, if any, which will incur to the Government should the latter fail to exercise the options, will not be considered in the evaluation, except as stated in (3) below.

(3) An offer which is unbalanced as to prices for the basic and optional quantities may be rejected as nonresponsive. This will include an evaluation of the separate charges, if any, which will incur to the Government should the Government fail to exercise the options. An unbalanced offer is one which is based on prices significantly less than cost for some systems and/or items and prices which are significantly overstated for the other systems and/or items.

(b) Evaluation of options will not obligate the Government to exercise the options. Offers which do not include fixed or determinable systems (items) life prices cannot be evaluated for the total requirement and will be rejected as nonresponsive. Offers which meet the mandatory requirements will be evaluated on the basis of lowest overall cost to the Government, including all stated options. Accordingly, the following applicable provisions shall be included in any contract resulting from this solicitation.

OPTION TO EXTEND THE TERM OF THE CONTRACT

This contract is renewable, at the option of the Government, by the Contracting Officer giving written notice of renewal to the Contractor by July 1st of each year or within 30 days after funds for that fiscal year become available, whichever date may be the later; provided that the Contracting Officer shall have given preliminary notice of the Government's intention to renew at least _____ days before this contract is to expire. Such a preliminary notice shall not be deemed to commit the Government to renewals. If the Government exercises this option for renewal, the contract as renewed shall be deemed to include this option provision. However, the total duration of this contract, including the exercise of any options under this clause, shall not exceed _____ months. (Optional: Should the Government fail to exercise this option to extend the term of the contract, separate charges, as set forth elsewhere in this contract, shall incur.)

OPTION FOR INCREASED QUANTITY

The Government may increase the quantity of items called for herein by the amount stated elsewhere in this contract and at the unit prices specified therein. The Contracting Officer may exercise this option, at any time within the period specified in the contract, by giving written notice to the Contractor. Delivery of items added by exercise of this option shall be in accordance with the delivery schedule set forth elsewhere in this contract. (Optional: Should the Government fail to exercise this option for increased quantity, separate charges, as set forth elsewhere in this contract, shall incur.)

§ 101–32.408–6 Evaluation factors.

To enable an offeror to prepare a proposal or quotation properly, the solicitation shall identify all the evaluation factors which are to be considered. In addition to the mandatory requirements, desirable features shall be included where applicable. When desirable features are included in a solicitation, relative weights, expressed in dollar value, or points, or any other reasonable indicator which will describe the relative importance of the desirable features shall be assigned to such desirable features.

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

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (7–2–71).

Dated: June 25, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71–9356 Filed 7–1–71;8:46 am]

Title 45—PUBLIC WELFARE

Chapter II—Social and Rehabilitation Service (Assistance Programs), Department of Health, Education, and Welfare

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Subpart A—General Administration

REASONABLE CHARGES FOR INPATIENT HOSPITAL SERVICES

Notice of proposed rulemaking was published August 1, 1970 (35 F.R. 12346) with respect to methods of reimbursement for inpatient hospital services under the medical assistance program authorized by Title XIX of the Social Security Act. After consideration of comments received, the regulations as so proposed are hereby adopted, with a clarifying change in the computation method described in § 250.30(b)(1)(i).

Section 250.30(b)(1) is revised to read as follows:

§ 250.30 Reasonable charges.

* * * * *

(b) * * *

(1) *Inpatient hospital services.* (i) For each hospital also participating in the Health Insurance for the Aged program under Title XVIII of the Social Security Act, apply the same standards, cost reporting period, cost reimbursement principles, and method of cost apportionment currently used in computing reimbursement to such hospital under Title XVIII of the Act; however, effective July 1, 1969, the inpatient routine service costs for medical assistance recipients will be determined subsequent to the application of the Title XVIII method of apportionment and the calculation will exclude the applicable Title XVIII inpatient routine service charges under the Departmental Method or patient days under the Combination Method as well as

Title XVIII inpatient routine service costs (including any nursing salary cost differential).

(ii) For each hospital not participating in the program under Title XVIII of the Act, apply the standards and principles described in 20 CFR 405.402–405.454 (excluding, effective July 1, 1969, the inpatient routine nursing salary cost differential) and either (*a*) one of the available alternative cost apportionment methods in 20 CFR 405.404 or (*b*) the "Gross RCCAC method" of cost apportionment applied as follows: For a reporting period, the total allowable hospital inpatient costs are divided by the total allowable hospital inpatient charges; the resulting percentage is applied to the bill of each inpatient under the medical assistance program.

(iii) As an alternative to subdivisions (i) and (ii) of this subparagraph, for each State for which the Secretary has approved on a demonstration or experimental basis the use of a reimbursement plan for the payment of reasonable costs by methods other than those described in such subdivisions (i) and (ii) of this subparagraph, apply the standards and principles as described in said State's approved reimbursement plan. Criteria for approval of such proposed plan will include:

(*a*) Incentives for efficiency and economy;

(*b*) Reimbursement on a reasonable cost basis;

(*c*) Reimbursement not to exceed that produced under available Title XVIII methods of apportionment;

(*d*) Assurance of adequate participation of hospitals and availability of hospital services of high quality to title XIX recipients;

(*e*) Adequate documentation for evaluation of experience under the State's approved reimbursement plan.

In developing such plans, State title XIX agencies are encouraged to work closely with Title V grantees, the Social Security Administration, and other Governmental purchasers of hospital care in an attempt to achieve coordination in reimbursement methods within States. Approval by the Secretary of a reimbursement plan developed under this subdivision may be retroactive to January 1, 1970.

(iv) For the purposes of this subparagraph, other than subdivision (iii), those States which prohibit retroactive adjustments by State law shall adjust current payments in the light of anticipated reasonable costs. Ordinarily, a State agency will use a percentage adjustment of a hospital's reported costs to bring such costs in line with current levels as nearly as they can be estimated in advance. Such percentage adjustment will then be revised as frequently as circumstances warrant during the course of the year. Where the State agency's payments exceed the actual level of reasonable costs, the hospital shall be required by the State agency to make the necessary adjustments.

* * * * *

(Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302)

Effective date. The regulations in this section shall be effective 60 days from the date of publication in the FEDERAL REGISTER.

Dated: January 12, 1971.

JOHN D. TWINAME,
Administrator, Social and Rehabilitation Service.

Approved: June 28, 1971.

ELLIOT L. RICHARDSON,
Secretary.

[FR Doc.71-9398 Filed 7-1-71;8:49 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 71-674]

PART 73—RADIO BROADCAST SERVICES

Waiver of "Prime-Time Access Rule" for Stations Carrying One Hour of Local News Followed by Network News

JUNE 25, 1971.

The "prime-time access" rule, § 73.658 (k), adopted in May 1970, becomes effective in most respects October 1, 1971, and limits to 3 hours per evening between 7 and 11 p.m. (or 6 to 10 p.m. in the central time zone) the amount of programs which stations in the top 50 markets may present from one or more of the three national television networks (ABC, CBS, and NBC).

In adopting the rule, it was recognized that some stations present an hour of local news at 6 p.m. (or 5 p.m. in the central time zone) followed by the network news at seven (six in the central zone), and that the network news would thus count against the 3 hours permitted if the rule applies in these situations. It was also noted that stations could avoid impact from the rule by presenting the network news at 6:30, "bracketed" by a half-hour of local news before and after, but that there is no public-interest reason to require stations to adopt such a format, even though it is used by some stations. Accordingly, it was stated that waivers in these situations would be appropriate.

It has been requested that the Commission indicate by a public notice that a blanket waiver would be granted in these situations, without stations having to burden both themselves and the Commission by the filing of individual requests. It has also been requested, by NBC, that waiver be granted in the above circumstances to it in connection with three of its owned stations, those in New York, Los Angeles, and Chicago. Both of these requests appear appropriate. Accordingly, the Commission hereby gives notice that the provisions of § 73.658(k) will not apply to stations in the top 50 markets, with respect to a half-hour of network news carried starting at 7 p.m. (or 6 p.m. in the central time zone), if: (1) The station actually devotes the previous hour of broadcast (except for commercial announcements) to locally originated news and/or public affairs programs; and (2) the licensee notifies the Chief of the Broadcast Bureau, Federal Communications Commission, Washington, D.C. 20554, on or before September 15, 1971, that it will operate under this waiver of the Rules. The waiver is granted only through September 30, 1972.

Action by the Commission June 24, 1971.[1]

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

[FR Doc. 71-9379 Filed 7-1-71;8:48 am]

Title 49—TRANSPORTATION

Subtitle A—Office of the Secretary of Transportation

[OST Docket No. 1; Amdt. 1-49]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation of Authority to Assistant Secretary for Policy and International Affairs

The purpose of this amendment is to delegate the Secretary's functions with respect to Transportation Orders T-1 and T-2, as they pertain to aircraft, to the Assistant Secretary for Policy and International Affairs.

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon is unnecessary and it may be made effective in less than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing effective June 28, 1971, § 1.55 of Title 49, Code of Federal Regulations is amended by adding the following new paragraph at the end therof:

§ 1.55 Delegations to Assistant Secretary for Policy and International Affairs.

* * * * *

(e) Carry out the functions of the Secretary pertaining to aircraft with respect to Transportation Orders T-1 and T-2 (32A CFR, Chapter VII) under the Act of September 8, 1950, as amended (64 Stat. 798, 50 App. U.S.C. 2061 et seq.) and Executive Order 10480.

(Sec. 9, Department of Transportation Act, 49 U.S.C. 1657)

Issued in Washington, D.C., on June 28, 1971.

JOHN A. VOLPE,
Secretary of Transportation.

[FR Doc.71-9420 Filed 7-1-71;8:51 am]

[1] Commissioners Burch (Chairman), Bartley, H. Rex Lee, and Wells.

Title 50—WILDLIFE AND FISHERIES

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

PART 80—RESTORATION OF GAME BIRDS, FISH, AND MAMMALS

Requirements of Uniform Relocation Assistance and Land Acquisition Policies Act of 1970

Notice is hereby given that the Uniform Relocation Assistance Policies Act of 1970, 84 Stat. 1894, provides among other things that there shall be a uniform policy for the fair and equitable treatment of persons who are displaced, or have their real property taken for Federal and federally assisted programs.

It is further determined that the provisions of this Act are of general application to the Federal Aid in Wildlife Restoration Act, as amended (50 Stat. 919; 16 U.S.C. 669i) and the Federal Aid in Fish Restoration Act as amended (64 Stat. 434; 16 U.S.C. 777i).

Accordingly, to assure proper implementation of the requirements of 84 Stat. 1894, it is necessary and appropriate that all grantees of the above federally assisted programs be advised of the revisions of Part 80 of Title 50, Code of Federal Regulations, as set forth below.

§ 80.30 **Federal aid payments.**

* * * * *

(c) Payments for acquired real property, including all associated acquisition and relocation expenses, shall not exceed 75 percent of the fair and reasonable cost of acquiring property in accordance with 84 Stat. 1894 and the regulations and procedures promulgated thereunder by the Secretary.

* * * * *

Section 80.42 has been added and reads as follows:

§ 80.42 **Uniform relocation assistance and land acquisition policies.**

Approval of each agreement involving acquisition of land or interests therein shall be conditioned upon the receipt by the United States of an assurance executed in writing by a properly authorized representative of the State guaranteeing that federally assisted land acquisition projects or programs will be conducted in accordance with Titles II and III of the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (84 Stat. 1894) and with the regulations and procedures published to that end. Failure to conduct the acquisition of real property in accordance with the assurances given shall be considered a diversion of Federal aid funds as described in section 80.5 of these rules and regulations.

Effective date. These revisions shall become effective on the date of their publication in the FEDERAL REGISTER (7-2-71).

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

JUNE 25, 1971.

[FR Doc.71-9358 Filed 7-1-71;8:46 am]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1, 13]

INCOME TAXES

Mineral Production Payments

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 August 31, 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 August 31, 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 sections 636(e) and 7805 of the Internal Revenue Code of 1954 (83 Stat. 630, 26 U.S.C. 636(e); 68A Stat. 917, 26 U.S.C. 7805).

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

The regulations under section 636 of the Internal Revenue Code of 1954, as added by section 503(a) of the Tax Reform Act of 1969 (83 Stat. 630), relating to the income tax treatment of mineral production payments, set forth in paragraph 1 are hereby prescribed. Section 1.636–4 of the regulations hereby adopted supersedes those provisions of § 13.0 of this chapter relating to section 503(c)(2) of such Act, which were prescribed by T.D. 7032, approved March 9, 1970 (35 F.R. 4330). In addition, the Income Tax Regulations (26 CFR Part 1) are amended as set forth in paragraphs 2 through 7 to conform them to the rules relating to the income tax treatment of mineral production payments prescribed under section 636.

MINERAL PRODUCTION PAYMENTS

PARAGRAPH. 1. There are inserted immediately after § 1.632–1 the following new sections:

MINERAL PRODUCTION PAYMENTS

§ 1.636 Statutory provisions; income tax treatment of mineral production payments.

Sec. 636. *Income tax treatment of mineral production payments*—(a) *Carved-out production payment.* A production payment carved out of mineral property shall be treated, for purposes of this subtitle, as if it were mortgage loan on the property, and shall not qualify as an economic interest in the mineral property. In the case of a production payment carved out for exploration or development of a mineral property, the preceding sentence shall apply only if and to the extent gross income from the property (for purposes of section 613) would be realized, in the absence of the application of such sentence, by the person creating the production payment.

(b) *Retained production payment on sale of mineral property.* A production payment retained on the sale of a mineral property shall be treated, for purposes of this subtitle, as if it were a purchase money mortgage loan and shall not qualify as an economic interest in the mineral property.

(c) *Retained production payment on lease of mineral property.* A production payment retained in a mineral property by the lessor in a leasing transaction shall be treated, for purposes of this subtitle, insofar as the lessee (or his successors in interest) is concerned, as if it were a bonus granted by the lessee to the lessor payable in installments. The treatment of the production payment in the hands of the lessor shall be determined without regard to the provisions of this subsection.

(d) *Definition.* As used in this section, the term "mineral property" has the meaning assigned to the term "property" in section 614(a).

(e) *Regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the purposes of this section.

[Sec. 636 as added by sec. 503(a), Tax Reform Act 1969 (83 Stat. 630)]

§ 1.636–1 Treatment of production payments as loans.

(a) *In general.* (1)(i) For purposes of subtitle A of the Internal Revenue Code of 1954, a production payment (as defined in paragraph (a) of § 1.636–3) to which this section applies shall be treated as a loan on the mineral property (or properties) burdened thereby and not as an economic interest in mineral in place, except to the extent that § 1.636–2 or paragraph (b) of this section applies. See paragraph (b) of § 1.611–1. A production payment carved out of mineral property which remains in the hands of the person carving out the production payment immediately after the transfer of such production payment shall be treated as a mortgage loan on the mineral property burdened thereby. A production payment created and retained upon the transfer of the mineral property burdened by such production payment shall be treated as a purchase money mortgage loan on the mineral property burdened thereby. Such production payments will be referred to hereinafter in the regulations under section 636 as carved-out production payments and retained production payments, respectively. Moreover, in the case of a transaction involving a production payment treated as a loan pursuant to this section, the production payment shall constitute an item of income (not subject to depletion), consideration for a sale or exchange, or a gift if in the transaction a debt obligation used in lieu of the production payment would constitute such an item of income, consideration, or gift, as the case may be. For the definition of the term "transfer" see paragraph (c) of § 1.636–3.

(ii) The payer of a production payment treated as a loan pursuant to this section shall include the proceeds from (or, if paid in kind, the value of) the mineral produced and applied to the satisfaction of the production payment in his gross income and "gross income from the property" (see section 613(a)) for the taxable year so applied. The payee shall include in his gross income (but not "gross income from the property") amounts received with respect to such production payment to the extent that such amounts would be includible in gross income if such production payment were a loan. The payer and payee shall determine their allowable deductions as if such production payment were a loan. See section 483, relating to interest on certain deferred payments in the case of a production payment created and retained upon the transfer of the mineral property burdened thereby, or in the case of a production payment transferred in exchange for property. See section 1232 in the case of a production payment which is originally transferred by a corporation at a discount and is a capital asset in the hands of the payee. In the case of a carved-out production payment treated as a mortgage loan pursuant to this section, the consideration received for such production payment by the taxpayer who created it is not included in either gross income or "gross income from the property" by such taxpayer.

(2) If a production payment is treated as a loan pursuant to this section, no transfer of such production payment or any property burdened thereby (other than a transfer between the payer and payee of the production payment which, if the production payment were a loan, would result in the extinguishment of the loan) shall cause it to cease to be so treated. For example, A sells operating

subject to a $500,0000 retained production payment payable out of X. Subsequently, A sells the production payment to C, and B sells X to D. C and D must treat the production payment as a purchase money mortgage loan.

(3) The provisions of this paragraph may be illustrated by the following examples:

Example (1). On December 22, 1972, A, a cash-basis calendar-year taxpayer who owns operating mineral interest X, carves out of X a production payment in favor of B for $300,000 plus interest, payable out of 50 percent of the first oil produced and sold from X. In 1972, A treats the $300,000 received from B for the production payment as the proceeds of a mortgage loan on X. In 1973, A produces and sells 125,000 barrels of oil for $373,500. A pays B $186,750 with respect to the production payment, $168,750 being principal and $18,000 being interest. In computing his gross income and "gross income from the property" for the year 1973, A includes the $373,500 and takes as deductions the allowable expenses paid in production of such mineral. A also takes a deduction under section 163 for the $18,000 interest paid with respect to the production payment. For 1973, B would treat $18,000 as ordinary income not subject to the allowance for depletion under section 611.

Example (2). Assume the same facts as in example (1) except that the principal amount of the production payment is to be increased by the amount of the ad valorem tax on the mineral attributable to the production payment which is paid by B. Under State law, the ad valorem tax with respect to the mineral attributable to the production payment is a liability of the owner of the production payment. For 1973, B includes the amount received with respect to such taxes as income and takes a deduction under section 164 for the taxes paid by him. Since the ad valorem taxes paid by B are his liability under State law, A may not take a deduction under section 164 for such taxes.

Example (3). On December 31, 1974, C, a calendar-year taxpayer and owner of the operating mineral interest Y, sells Y to D for $10,000 cash and retains a $40,000 production payment payable out of Y. At the time D acquires the property, it is estimated that 500,000 tons of mineral are recoverable from the property. In 1975, D produces a total of 50,000 tons from the property. D's cost depletion for 1975 is $5,000 determined as follows:

Basis in property: $50,000
Total recoverable units: 500,000

Rate of depletion per ton: $0.10 $\left(\frac{\$50,000}{500,000}\right)$

Cost depletion for year: $5,000 ($0.10 × 50,000)

(b) *Exception.* (1) A production payment carved out of a single mineral property for exploration or development shall not be treated as a mortgage loan under section 636(a) and this section to the extent "gross income from the property" (for purposes of section 613) would not be realized by the taxpayer creating such production payment, under the law existing at the time of the creation of such production payment, in the absence of section 636(a). For the treatment of a carved-out production payment transferred in connection with the performance of services, see section 83. As used in section 636(a) and this paragraph, the terms "exploration" and "development" have the meanings traditionally given them with respect to the mineral in question. Whether or not a production payment is carved out for the exploration or development of the mineral property burdened thereby shall be determined in light of all relevant facts and circumstances in each case. However, a production payment shall not be treated as carved out for exploration or development to the extent that the consideration for the production payment—

(i) Is not pledged for use in the future exploration or development of the mineral property which is burdened by the production payment;

(ii) May be used for the exploration or development of any other property, or for any other purpose than that described in subdivision (i) of this subparagraph;

(iii) Does not consist of a binding obligation of the payee of the production payment to pay expenses of the exploration or development described in subdivision (i) of this subparagraph; or

(iv) Does not consist of a binding obligation of the payee of the production payment to provide services, materials, supplies, or equipment for the exploration or development described in subdivision (i) of this subparagraph.

(2) In the case of a carved-out production payment only a portion of which is subject to the exception provided in this paragraph, the rules contained in paragraph (a) of this section with respect to the treatment of income and deductions where a production payment is treated as a loan shall apply to the portion of the taxpayer's income or expenses attributable to the production payment which bears the same ratio to the total amount of such income or expenses, as the case may be, as the amount of the consideration for the production payment which would have been realized as income in the absence of section 636(a), by the taxpayer creating such production payment, bears to the total consideration to the taxpayer for the production payment. For example, A, owner of a mineral property, carves out a production payment in favor of B for $600,000 plus interest in return for $600,000 cash. A pledges to use $400,000 for the development of the burdened mineral property. In each of the payout years loan treatment applies to one-third of the income and expenses of A and B attributable to the production payment.

(c) *Treatment upon disposition or termination of mineral property burdened by production payment.* (1) (i) In the case of a sale or other disposition of the mineral property burdened by a production payment treated as a loan pursuant to this section, there shall be included in determining the amount realized upon such disposition an amount equal to the outstanding principal balance of such production payment on the date of such disposition. However, if such a production payment is created in connection with the disposition, the amount to be so included shall be the fair market value of the production payment, rather than its principal amount, if the fair market value is established by clear and convincing evidence to be an amount which differs from the principal amount. See section 1001 and the regulations thereunder. In determining the cost of the transferred mineral property to the transferee for purposes of section 1012, the outstanding principal balance of the production payment shall be included in the cost.

(ii) The provisions of this subparagraph may be illustrated by the following examples:

Example (1). A, the owner of mineral property X which is burdened by a carved-out production payment to which section 636(a) applies having an outstanding principal balance of $10,000, sells property X to B, an individual, for $100,000 cash. The amount realized by A on the sale of property X is $110,000. B's basis in property X for cost depletion and other purposes is also $110,000.

Example (2). Assume the same facts as in example (1) except that the production payment is retained by A in connection with the sale of property X to B, that section 636(b) applies to the production payment, that the production payment includes, in addition to the $10,000 principal amount, an additional amount equivalent to interest at a rate which precludes application of section 483, and that the fair market value of the production payment is $9,000. The amount realized by A on the sale of property X is $109,000. B's basis in property X for cost depletion and other purposes is $110,000. A's basis in the retained production payment is $9,000. If the production payment is paid in full, A realizes income of $1,000 plus the amount equivalent to interest, which income is includible in A's gross income at the time when such amounts would be so includible if such production payment were a loan.

Example (3). C, the owner of mineral property Y, sells the mineral property to D for $500,000 cash. Property Y is burdened by a carved-out production payment with an outstanding principal balance of $600,000, 40 percent of the consideration for which was pledged for the development of property Y. The amount realized by C on the sale is $860,000 ($500,000 plus $600,000 × .60). D's basis in property Y for cost depletion and other purposes is $860,000.

(2) In the case of the expiration, termination, or abandonment of a mineral property burdened by a production payment treated as a loan pursuant to this section, for purposes of determining the amount of any loss under section 165 with respect to the burdened mineral property the adjusted basis of such property shall be reduced (but not below zero) by an amount equal to the outstanding principal balance of such production payment on the date of such expiration, termination, or abandonment. Thus, in example (2) in subparagraph (1)(ii) of this paragraph, if B abandons the mineral property at a time when $5,000 of the principal amount of the production payment remains unsatisfied, B's adjusted basis immediately before the abandonment would be reduced by $5,000 for determining his loss on abandonment under section 165.

(3) In the case of a transfer of a portion of the mineral property burdened by a production payment treated as a loan pursuant to this section, such production payment shall be apportioned

between the transferred portion and the retained portion by allocating to such transferred portion that part of the outstanding principal balance of the production payment which bears the same ratio to such balance as the value of such transferred portion (exclusive of any value not related to the burdened mineral) bears to the total value of the burdened mineral property (exclusive of any value not related to the burdened mineral).

(4) In general, the entire amount of gain or loss realized pursuant to this paragraph shall be recognized in the taxable year of such realization. See section 1211 for limitation on capital losses. This subparagraph shall not affect the applicability of rules providing exceptions to the recognition of gain or loss which has been realized (e.g., a transfer to which section 351 or 1031 applies). However, see section 357(c) with respect to the assumption of liabilities in excess of basis in certain tax-free exchanges. Furthermore, in the case of a transaction which otherwise qualifies, gain realized on a transfer of a mineral property to which section 636(b) applies may be returned on the installment method under section 453.

§ 1.636–2 Production payments retained in leasing transactions.

(a) *Treatment by lessee.* In the case of a production payment (as defined in paragraph (a) of § 1.636–3) which is retained by the lessor in a leasing transaction (including a sublease or the exercise of an option to acquire a lease or sublease), the lessee (or his successors in interest) shall treat the retained production payment for purposes of subtitle A of the Code as if it were a bonus granted by the lessee to the lessor payable in installments. Accordingly, the lessee shall include the proceeds from (or, if paid in kind, the value of) the mineral produced and applied to the satisfaction of the production payment in his gross income for the taxable year so applied. The lessee shall capitalize each payment (including any interest and any amounts added on to the production payment other than amounts for which the lessee would be liable in the absence of the production payment) paid or incurred with respect to such production payment. See paragraph (c)(5)(ii) of § 1.613–2 for rules relating to computation of percentage depletion with respect to a mineral property burdened by a production payment treated as a bonus under section 636(c) and this section.

(b) *Treatment by lessor.* The lessor who retains a production payment in a leasing transaction (or his successors in interest) shall treat the production payment without regard to the provisions of section 636 and § 1.636–1. Thus, the production payment will be treated as an economic interest in the mineral in place in the hands of the lessor (or his successors in interest) and the receipts in discharge of the production payment will constitute ordinary income subject to depletion.

(c) *Example.* The provisions of this section may be illustrated by the following example:

Example. In 1971, A leases a mineral property to B reserving a one-eighth royalty and a production payment (as defined in § 1.636–3 (a)) with a principal amount of $300,000 plus an amount equivalent to interest. In 1972, B pays to A $60,000 with respect to the principal amount of the production payment plus $16,350 equivalent to interest. The adjusted basis of the property in the hands of B for cost depletion and other purposes for 1972 and subsequent years will include (subject to proper adjustment under section 1016) the $76,350 paid to A. In 1973, B pays to A $60,000 with respect to the principal amount of the production payment plus $12,750 equivalent to interest. The adjusted basis of the property in the hands of B for cost depletion and other purposes for 1973 and subsequent years will include (subject to proper adjustment under section 1016) the $72,750 paid to A. The $76,350 received by A in 1972, and the $72,750 received by A in 1973, will constitute ordinary income subject to depletion in the hands of A in the years of receipt of such amounts by A.

§ 1.636–3 Definitions.

For purposes of section 636 and the regulations thereunder—

(a) *Production payment.* (1) The term "production payment" means, in general, a right to a specified share of the production from mineral in place (if, as, and when produced), or the proceeds from such production. Such right must be an economic interest in such mineral in place. It may burden more than one mineral property, and the burdened mineral property need not be an operating mineral interest. Such right must have an expected economic life (at the time of its creation) of shorter duration than the economic life of one or more of the mineral properties burdened thereby. A right to mineral in place which can be required to be satisfied by other than the production of mineral from the burdened mineral property is not an economic interest in mineral in place. A production payment may be limited by a dollar amount, a quantum of mineral, or a period of time. A right to mineral in place has an economic life of shorter duration than the economic life of a mineral property burdened thereby only if such right may not reasonably be expected to extend in substantial amounts over the entire productive life of such mineral property. The term "production payment" includes payments which are commonly referred to as "in-oil payments", "gas payments", or "mineral payments".

(2) A right which is in substance economically equivalent to a production payment shall be treated as a production payment for purposes of section 636 and the regulations thereunder, regardless of the language used to describe such right, the method of creation of such right, or the form in which such right is cast (even though such form is that of an operating mineral interest). Whether or not a right is in substance economically equivalent to a production payment shall be determined from all the facts and circumstances. An example of an interest which is to be treated as a production payment under this subparagraph is that portion of a "royalty" which is attributable to so much of the rate of the royalty which exceeds the lowest possible rate of the royalty at any subsequent time. For example, assume that A creates a royalty with respect to a mineral property owned by A equal to 5 percent for 5 years and thereafter equal to 4 percent for the balance of the life of the property. An amount equal to 1 percent for 5 years shall be treated as a production payment. Another example is the interest in a partnership engaged in operating oil properties of a partner who provides capital for the partnership if such interest is subject to a right of another person or persons to acquire or terminate it upon terms which merely provide for such partner's recovery of his capital investment and a reasonable return thereon.

(b) *Property.* The term "property" has the meaning assigned to it in section 614(a), without the application of section 614 (b), (c), or (e).

(c) *Transfer.* The term "transfer" means any sale, exchange, gift, bequest, devise, or other disposition (including a distribution by an estate or a contribution to or distribution by a corporation, partnership, or trust).

§ 1.636–4 Effective dates of section 636.

(a) *In general.* Except as provided hereinafter in this section, section 636 and §§ 1.636–1, 1.636–2, and 1.636–3 apply to production payments created on or after August 7, 1969, other than production payments created before January 1, 1971, pursuant to a binding contract entered into before August 7, 1969.

(b) *Election.* Under section 503(c)(2) of the Tax Reform Act of 1969, if the taxpayer so elects, section 636(a) of the Code and §§ 1.636–1 and 1.636–3 apply to all production payments carved out by him after the beginning of his last taxable year ending before August 7, 1969, including such production payments created after such date pursuant to a binding contract entered into before such date. No interest shall be allowed on any refund or credit of any overpayment of tax resulting from an election under section 503(c)(2) for any taxable year ending before August 7, 1969. The provisions of this paragraph may be illustrated by the following example:

Example. A, a fiscal-year taxpayer whose taxable year ends on October 31, carved out and sold (from a producing property) production payments on October 1, 1967, and on July 9, 1969. On August 1, 1969, A entered into a binding contract to create another carved-out production payment (from a different producing property) and the production payment was carved out on December 22, 1969. If A elects under section 503(c)(2), the production payments carved out on July 9, 1969, and December 22, 1969, are treated as mortgage loans under section 636(a). The production payment carved out on October 1, 1967, is not treated as a mortgage loan under section 636(a) because it was carved out before the beginning of A's last taxable year ending before August 7, 1969.

(c) *Time and manner of making election.* (1) Any election under section 503(c)(2) of the Tax Reform Act of 1969 must be made not later than the 90th day after the date on which permanent regulations under section 636(a) are published in the FEDERAL REGISTER.

(2) An election under section 503(c)(2) shall be made by a statement attached to the taxpayer's income tax return (or amended return) for the first taxable year in which the taxpayer created a production payment (i) to which the election applies, and (ii) which, in the absence of section 636, would not have been treated as a loan. A statement shall also be attached to an amended return for each subsequent taxable year for which he has filed his income tax return before making the election, but only if his tax liability for such year is affected by the election. Each such statement shall indicate the taxpayer's election under section 503(c)(2), and shall identify by date, amount, parties, and burdened mineral properties all production payments described in subdivisions (i) and (ii) of this subparagraph which have been created by the date on which the statement is filed. However, a taxpayer who, prior to the date on which permanent regulations under this section are published in the FEDERAL REGISTER, made a valid election under section 503(c)(2) pursuant to Part 13 of this chapter (Temporary Income Tax Regulations Under the Tax Reform Act of 1969) is not required to amend statements previously furnished which meet the requirements of paragraph (b)(1)(ii) of § 13.0 of Part 13 unless requested to do so by the district director. In applying the election to the taxable years affected, there shall be taken into account the effect that any adjustments resulting therefrom have on other items affected thereby and the effect that adjustments of any such items have on other taxable years. In the case of a member of a consolidated return group (as defined in paragraph (a) of § 1.1502-1), section 503(c)(2) and paragraphs (b), (c), and (d) of this section shall be applied as if such member filed a separate return.

(d) *Revocation of election.* A valid election under section 503(c)(2) shall be binding upon the taxpayer unless consent to revoke the election is obtained from the Commissioner. The application to revoke such election must be made in writing to the Commissioner of Internal Revenue, Washington, D.C. 20224, not later than the 90th day after the date on which permanent regulations under section 636(a) are published in the FEDERAL REGISTER. Such application must set forth the reasons therefor and a recomputation of the tax reflecting such revocation for each prior taxable year affected by the revocation, whether or not the period of limitations for credit or refund or assessment and collection has expired with respect to such taxable year. Consent shall not be given in any case in which the revocation would result in an increase in the taxpayer's tax liability for a taxable year for which such period of limitations has expired unless the taxpayer waives his right to assert the statute of limitations.

(e) *Special rule.* (1) Except as provided in subparagraph (2) of this paragraph, in the case of a taxpayer who does not make the election provided in section 503(c)(2) of the Tax Reform Act of 1969, section 636 of the Code applies to production payments carved out during the taxable year which includes August 7, 1969, as provided in paragraph (a) of this section, only to the extent that the aggregate amount of such production payments exceeds the lesser of—

(i) The excess of—

(*a*) The aggregate amount of production payments carved out and sold by the taxpayer during the 12-month period immediately preceding his taxable year which includes August 7, 1969, over

(*b*) The aggregate amount of production payments carved out and sold before August 7, 1969, by the taxpayer during his taxable year which includes such date, or

(ii) The amount necessary to increase the amount of the taxpayer's gross income within the meaning of chapter 1 of subtitle A of the Code, for his taxable year which includes August 7, 1969, to an amount equal to the amount of his deductions (other than any deduction under section 172) allowable for such year under such chapter.

In applying the preceding sentence, production payments carved out for exploration or development are to be taken into account only to the extent, if any, that "gross income from the property" (for purposes of section 613) would have been realized by the taxpayer creating such production payment under the law existing at the time of the creation of such production payment, in the absence of section 636(a).

(a) Subparagraph (1) of this paragraph shall not apply for any taxable year for purposes of determining the amount of any deduction for cost or percentage depletion allowable under section 611 or the limitation on any foreign tax credit under section 904.

(3) The application of this paragraph may be illustrated by the following examples:

Example (1). (a) A, a calendar-year taxpayer who does not make the election provided in section 503(c)(2) of the Tax Reform Act of 1969, carves out and sells on December 31, 1968, a $500,000 production payment. Further, A carves out and sells on March 4, 1969, a $300,000 production payment, and on November 14, 1969, a $150,000 production payment. None of the production payments are carved out for exploration or development. During 1969, A has gross income of $600,000 (determined initially for this purpose by treating the $150,000 production payment carved out on November 14, 1969, as a loan) and allowable deductions of $700,000.

(b) The provisions of section 636 do not apply to a portion of the November 14, 1969, production payment for purposes other than section 611 and section 904 of the Code, determined as follows:

(1) Amount of production payment carved out in 1969 on or after August 7, 1969	$150,000
(2) Amount of production payment carved out during 1968	500,000
(3) Amount of production payment carved out during 1969 taxable year before August 7, 1969	300,000
(4) Item (2) minus item (3)	200,000
(5) Excess of allowable deductions over gross income for 1969	100,000
(6) Amount of production payment carved out in 1969 on or after August 7, 1969, to which section 636 does not apply (lesser of items (1), (4), and (5))	100,000

Thus, A will not treat $100,000 of the consideration received for the production payment carved out on November 14, 1969, as a loan and as a result his gross income for 1969 will be $700,000. However, in computing percentage depletion, A will not include the $100,000 in "gross income from property" and in computing cost depletion A will not include the mineral units attributable thereto. Nor, will A include the $100,000 in determining the limitation on foreign tax credit under section 904.

Example (2). Assume the same facts as in example (1) except that for taxable year 1969 A's gross income (determined initially for this purpose by treating the November 14, 1969, production payment as a loan) exceeds the amount of his allowable deductions under chapter 1 of subtitle A of the Code. The entire amount of the November 14, 1969, production payment is treated as a mortgage loan under section 636(a).

PAR. 2. Paragraph (b) of § 1.512(b)-1 is amended to read as follows:

§ 1.512(b)-1 Exceptions, additions, and limitations.

* * * * *

(b) *Royalties.* Royalties, including overriding royalties, and all deductions directly connected with such income shall be excluded in computing unrelated business taxable income. Mineral royalties shall be excluded whether measured by production or by gross or taxable income from the mineral property. However, where an organization owns a working interest in a mineral property, and is not relieved of its share of the development costs by the terms of any agreement with an operator, income received from such an interest shall not be excluded. To the extent not treated as a loan under section 636, payments in discharge of mineral production payments shall be treated in the same manner as royalty payments for the purpose of computing unrelated businesss taxable income. To the extent treated as a loan under section 636, the amount of any payment in discharge of a production payment which is the equivalent of interest shall be treated as interest for purposes of section 512(b)(1) and paragraph (a) of this section.

* * * * *

PAR. 3. Section 1.543-1 is amended by revising paragraph (b)(11)(ii) to read as follows:

§ 1.543-1 Personal holding company income.

* * * * *

(b) *Definitions.* * * *

(11) *Mineral, oil, or gas royalties.* * * *

(ii) The term "mineral, oil, or gas royalties" means all royalties, including overriding royalties and, to the extent not treated as loans under section 636, mineral production payments, received from any interest in mineral, oil, or gas properties. The term "mineral" includes those minerals which are included within the meaning of the term "minerals" in the regulations under section 611.

* * * * *

PAR. 4. Section 1.543–12 (as proposed and published in the FEDERAL REGISTER for September 5, 1968, 33 F.R. 12564) is amended by revising paragraph (e)(2), to read as follows:

§ 1.543–12 Definitions.

* * * * *

(e) *Adjusted income from mineral, oil, and gas royalties.* * * *

(2) *Definition of mineral, oil, and gas royalties.* For purposes of determining personal holding company income, the term "mineral, oil, and gas royalties" means all royalties, including overriding royalties and, to the extent not treated as loans under section 636, mineral production payments, received from any interest in mineral, oil, or gas properties. The term "mineral" includes those minerals which are included within the meaning of the term "minerals" in the regulations under section 611. The term "overriding royalties" includes amounts received from the sublessee by the operating company which leased and developed the natural resource property in respect of which such overriding royalties are paid.

PAR. 5. Paragraph (b)(1) of § 1.611–1 is amended to read as follows:

§ 1.611–1 Allowance of deduction for depletion.

* * * * *

(b) *Economic interest.* (1) Annual depletion deductions are allowed only to the owner of an economic interest in mineral deposits or standing timber. An economic interest is possessed in every case in which the taxpayer has acquired by investment any interest in mineral in place or standing timber and secures, by any form of legal relationship, income derived from the extraction of the mineral or severance of the timber, to which he must look for a return of his capital. For an exception in the case of certain mineral production payments, see section 636 and the regulations thereunder. A person who has no capital investment in the mineral deposit or standing timber does not possess an economic interest merely because through a contractual relation he possesses a mere economic or pecuniary advantage derived from production. For example, an agreement between the owner of an economic interest and another entitling the latter to purchase or process the product upon production or entitling the latter to compensation for extraction or cutting does not convey a depletable economic interest. Further, depletion deductions with respect to an economic interest of a corporation are allowed to the corporation and not to its shareholders.

* * * * *

PAR. 6. Paragraph (c)(5)(ii) of § 1.613–2 is amended to read as follows:

§ 1.613–2 Percentage depletion rates.

* * * * *

(c) *Rules for application of paragraph (a) of this section.* * * *

(5) * * *

(ii) If bonus payments have been paid in respect of the property in any taxable year or any prior taxable years, there shall be excluded in determining the "gross income from the property", an amount equal to that part of such payments which is allocable to the product sold (or otherwise giving rise to gross income) for the taxable year. For purposes of the preceding sentence, bonus payments include payments by the lessee with respect to a production payment which is treated as a bonus under section 636(c). Such a production payment is equally allocable to all mineral from the mineral property burdened thereby. The following examples illustrate the provisions of this subdivision:

Example (1). In 1956, A leases oil bearing lands to B, receiving $200,000 as a bonus and reserving a royalty of one-eighth of the proceeds of all oil produced and sold. It is estimated at the time the lease is entered into that there are 1,000,000 barrels of oil recoverable. In 1956, B produces and sells 100,000 barrels for $240,000. In computing his "gross income from the property" for the year 1956, B will exclude $30,000 (⅛ of $240,000), the royalty paid to A, and $20,000 (100,000 bbls. sold/1,000,000 bbls. estimated to be available × $200,000 bonus), the portion of the bonus allocable to the oil produced and sold during the year. However, in computing B's taxable income under section 63, the $20,000 attributable to the bonus payment shall not be either excluded or deducted from B's gross income computed under section 61. (See paragraph (a)(3) of § 1.612–3.)

Example (2). In 1971, C leases to D oil bearing lands estimated to contain 1,000,000 barrels of oil, reserving a royalty of one-eighth of the proceeds of all oil produced and sold and a $500,000 production payment payable out of 50 percent of the first oil produced and sold attributable to the seven-eighths operating interest. In 1972, D produces and sells 100,000 barrels of oil. In computing his "gross income from the property" for the year 1972, D will exclude, in addition to the royalty paid to C, $50,000 (100,000 bbls. sold/1,000,000 bbls. estimated to be available x $500,000 treated under section 636(c) as a bonus), the portion of the production payment allocable to the oil produced and sold during the taxable year. However, in computing D's taxable income under section 63, the $50,000 attributable to the retained production payment shall not be either excluded or deducted from D's gross income computed under section 61.

* * * * *

PAR. 7. Paragraph (a)(2) of § 1.614–1 is amended to read as follows:

§ 1.614–1 Definition of property.

(a) *General rule.* * * *

(2) The term "interest" means an economic interest in a mineral deposit. See paragraph (b) of § 1.611–1. The term includes working or operating interests, royalties, overriding royalties, net profits interests, and, to the extent not treated as loans under section 636, production payments.

* * * * *

[FR Doc.71-9392 Filed 7-1-71;8:49 am]

[26 CFR Part 1]

INCOME TAX

Minimum Tax for Tax Preferences

Proposed regulations under sections 56, 57, and 58 of the Internal Revenue Code of 1954, relating to the minimum tax for tax preferences appear in the FEDERAL REGISTER for December 30, 1970 (35 F.R. 19757) and June 23, 1971 (36 F.R. 11923).

A public hearing on the provisions of these proposed regulations will be held on Tuesday, August 10, 1971, at 10 a.m., e.d.s.t., in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC 20224.

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request directed to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202–964–3935. Under such § 601.601(a)(3), persons who have submitted written comments or suggestions within the time prescribed in the notice of proposed rule making and who desire to present oral comments should by July 27, 1971, submit an outline of the topics and the time they wish to devote to each topic. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

Persons who desire a copy of such written comments or suggestions or outlines and who desire to be assured of their availability on or before the beginning of such hearing should notify the Commissioner, in writing, at the above address by August 3, 1971. In such a case, unless time and circumstances permit otherwise, the desired copies are deliverable only at the above address. The charge for copies is twenty-five cents ($0.25) per page, subject to minimum charge of $1.

K. MARTIN WORTHY,
Chief Counsel.

[FR Doc.71-9509 Filed 7-1-71;10:39 am]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

CRATERS OF THE MOON NATIONAL MONUMENT, IDAHO

Visitor Use of Wilderness Area

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat.

535, as amended; 16 U.S.C. 3), section 5 of the Act of October 23, 1970 (84 Stat. 1106), section 4 of the Act of September 3, 1964 (78 Stat. 892; 16 U.S.C. 1133), 245 DM1 (27 F.R. 6395) as amended, and National Park Service Order No. 58 (36 F.R. 5627), it is proposed to amend Part 7 of Title 36 of the Code of Federal Regulations to add § 7.86 as set forth below.

The purpose of the amendment is to establish special regulations for visitor use in that area within the monument which has been set aside for administration as a part of the national wilderness preservation system.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to the Superintendent, Craters of the Moon National Monument, Arco, Idaho 83213, within 30 days of the publication of this notice in the FEDERAL REGISTER.

Section 7.86 is added as follows:

§ 7.86 Craters of the Moon National Monument.

(a) *Wilderness.* A map of the park portion designated as wilderness may be inspected at the Office of the Superintendent. Except in emergencies involving the health and safety of persons within the area, the following special regulations apply in the designated wilderness area:

(1) The possession or use of a motor vehicle, snowmobile, portable motor, or engine-driven equipment or machine is prohibited.

(2) The possession or use of any device moved by animal or by human power, on one or more wheels, in, upon, or by which any person or property is or may be transported or drawn on land, is prohibited.

Dated: June 8, 1971.

JOHN A. RUTTER,
Director,
Pacific Northwest Region.

[FR Doc.71-9419 Filed 7-1-71;8:51 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 915]

AVOCADOS GROWN IN FLORIDA

Approval of Expenses and Fixing of Rate of Assessment for the 1971–72 Fiscal Year

Consideration is being given to the following proposals submitted by the Avocado Administrative Committee, established under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915; 35 F.R. 16627), regulating the handling of avocados grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses which are reasonable and likely to be incurred by the Avocado Administrative Committee, during the period from April 1, 1971, through March 31, 1972, will amount to $15,260.

(2) That the rate of assessment for such period, payable by each handler in accordance with § 915.41 be fixed at $0.02 per bushel of avocados.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 10th 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 1.12(b)).

Dated: June 28, 1971.

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

[FR Doc.71-9329 Filed 7-1-71;8:46 am]

[7 CFR Part 958]

ONIONS GROWN IN IDAHO AND OREGON

Notice of Proposed Rule Making

Consideration is being given to the issuance of the limitation of shipments regulation, hereinafter set forth, which was recommended by the Idaho-Eastern Oregon Onion Committee, established pursuant to Marketing Agreement No. 130 and Order No. 958, both as amended (7 CFR Part 958), regulating the handling of onions grown in the production area defined therein. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with this proposal shall file the same with the Hearing Clerk, Room 112-A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Shipment of early transplant onions is expected to begin in this production area about the middle of July. The requirement that yellow and white varieties be "moderately cured" is necessary to prevent immature onions from being distributed in fresh market channels.

The proposal is as follows:

§ 958.316 Limitation of shipments.

During the period July 15, 1971, through August 31, 1971, no person may handle any lot of yellow or white varieties of onions unless such onions are harvested at a stage which will not result in the onions becoming soft or spongy and are at least "moderately cured." The term "moderately cured" means that the onions are definitely fairly well cured but need not be completely dry.

Other terms used in this section have the same meaning as when used in Marketing Agreement No. 130 and this part.

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

Dated: June 29, 1971.

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

[FR Doc.71-9415 Filed 7-1-71;8:50 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Dockets Nos. 16004; 18052]

FIELD STRENGTH CURVES AND MEASUREMENTS FOR FM AND TV BROADCAST STATIONS

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of §§ 73.333 and 73.699, field strength curves for FM and TV broadcast stations, Docket No. 16004; amendment of Part 73 of the rules regarding field strength measurements for FM and TV broadcast stations, Docket No. 18052.

1. The Further Notice of Proposed Rule Making (4–23–71) in the above entitled consolidated proceeding, which was adopted April 14, 1971, establishes deadlines of June 28, 1971, and July 15, 1971, as the respective deadlines for filing comments and reply comments.

2. Timely requests for a 90-day extension of the periods during which comments and reply comments may be filed have been received from two parties, the Association of Federal Communications Consulting Engineers (AFCCE), and Hubbard Broadcasting Co., Inc., licensee of UHF television station WTOG, St. Petersburg, Fla.

3. AFCCE states that adoption of rules of the nature proposed in the instant proceeding would have far reaching effects on many broadcasters. Members of the Association have been working with their clients in an attempt to assist them in preparing meaningful comments. Both for this purpose, for the preparation of comments by individual members, and the exploration of the feasibility of submitting an Association position, additional time appears necessary.

4. Hubbard is engaged in a study to determine how accurately, pursuant to the proposed rules, the limit of the Grade B quality service provided by WTOG may be predicted. It expects to file comments based on the results of these studies, but

additional time is needed to complete its work.

5. A grant of the extension requested, we believe, will result in the filing of more comprehensive and well-considered comments than would otherwise be the case, and that favorable action on the request is in the public interest.

6. *Accordingly, it is ordered,* That the time for filing comments in this proceeding is extended to September 28, 1971, and the time for filing reply comments is extended to October 15, 1971.

7. This section is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules and regulations.

Adopted: June 25, 1971.

Released: June 29, 1971.

[SEAL] FRANCIS R. WALSH,
Chief, Broadcast Bureau.

[FR Doc.71-9380 Filed 7-1-71;8:48 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 107]

MINORITY ENTERPRISE SMALL BUSINESS INVESTMENT COMPANIES

Notice of Proposed Rule Making

Notice is hereby given that pursuant to authority contained in section 308 of the Small Business Investment Act of 1958, Public Law 85-699, 72 Stat. 694, as amended (Act), it is proposed to amend, as set forth below, Part 107 of Subchapter B, Chapter I of Title 13 of the Code of Federal Regulations, revised as of January 1, 1971, by amending §§ 107.101, 107.301, 107.501, 107.1001, and 107.1002. Prior to final adoption of such amendments, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in triplicate, to the Office of the Associate Administrator for Operations and Investment, Small Business Administration, Washington, D.C. 20416, within a period of thirty (30) days of the date of publication of this notice in the FEDERAL REGISTER.

Information. The proposed amendment to § 107.101 would abolish for MESBIC's the diversification requirement of paragraph (c) thereof, except as to real estate (Major Group 65 of the Standard Industrial Classification Code). This would permit MESBIC's to concentrate their investments in any given field (other than real estate) and should encourage the formation of MESBIC's by persons with specialized expertise in such field.

Section 107.301 would be amended by reducing the minimum period for which investments, in disadvantaged small concerns only, may be made, from 5 years to 30 months, with a corresponding adjustment of the maximum amortization permissible. A Licensee, whether or not a MESBIC, would be permitted to maintain up to 50 percent of its portfolio in such shorter term investments. Compliance with this 50 percent limitation would be determined as of the end of a Licensee's fiscal year, but prepayments or similar events, if they are beyond the Licensee's control, would be disregarded in such determination. SBA expects this liberalization to make new funds available to disadvantaged small concerns, since it will reduce the duration of a Licensee's exposure to risk. Also, by increasing the portfolio turnover, the proposed amendment would permit a larger number of financings within the same time span.

A further amendment to § 107.301 would permit MESBIC's to invest up to 30 percent of their private capital in a single small concern. Section 306(a) of the Act permits SBA to approve investments in excess of the statutory limit of 20 percent. Experience has shown that the 20 percent limitation imposes a hardship on MESBIC's, and particularly the smaller ones, since it requires them to make smaller and therefore more numerous investments than their limited resources permit them to supervise effectively.

The proposed amendment to § 107.501 would make all lenders to MESBIC portfolio concerns eligible for loan guarantees. At present, only institutional lenders may receive such guarantees. This would facilitate loans from foundations, church groups, business and public-interest groups and thus increase the effectiveness and scope of MESBIC operations.

Another proposal would amend § 107.1001(g) to increase from 50 to 75 percent the amount of MESBIC funds which a portfolio concern could use to purchase goods and services from suppliers associated with the MESBIC. It is anticipated that this relaxation will encourage the formation of MESBIC's by franchisors, manufacturers, and others interested in obtaining additional distributors.

Finally, an amendment to § 107.1002 would exempt MESBIC's from the requirement of maintaining an unimpaired private capital. At present, a retained earnings deficit in excess of 50 percent of private capital is a violation of SBA's regulations. Instead, a MESBIC indebted to SBA would be prohibited from encumbering its assets when its retained earnings deficit exceeds 50 percent, and at the same time the MESBIC shall be deemed to have authorized a security interest in its assets in favor of SBA. Experience has shown that exclusive investment in disadvantaged small concerns causes a high rate of early losses. SBA believes that this modification will diminish the disproportionately harmful effect of this regulation on new MESBIC's, and will permit them to become established, early losses notwithstanding.

It is proposed that Part 107 be amended as follows:

1. By amending subparagraphs (1), (2), and (3) of § 107.101(c) by adding the following sentences at the end thereof:

§ 107.101 Operational requirements.

* * * * *

(c) *Diversified investment policy.* * * *

(1) *General rule.* * * * *Provided, however,* That (except with respect to Major Group 65) this subparagraph shall not apply in the case of a MESBIC.

(2) *Licensees other than real estate specialists.* * * * *Provided, however,* That (subject to subparagraph (1) of this paragraph) this subparagraph shall not apply in the case of a MESBIC.

(3) *Real estate specialists.* * * * *Provided, however,* That the limitation of this subparagraph shall not apply in the case of a MESBIC.

2. By substituting the following in lieu of the second sentence of § 107.301(a) and by adding a new paragraph (c)(4):

§ 107.301 General.

(a) *Minimum period of financing and maximum amortization.* * * * *Provided, however,* That financings which will contribute to a well-balanced national economy by facilitating ownership of small business concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages, may be made by a Licensee for a minimum period of 30 months, the aggregate outstanding amount of such financings under this proviso not to exceed 50 percent of such Licensee's portfolio at the end of any full fiscal year. Prepayments of outstanding financings or similar events beyond the control of the Licensee, occurring within the fiscal year, shall be disregarded for purposes of determining whether the Licensee meets the foregoing 50 percent requirement. Amortization during the first 5 years (or during the first 30 months in the case of a financing authorized for a minimum period of 30 months) shall not be required at a rate exceeding an accumulated average based on the straight line method of amortization.

* * * * *

(c) *Twenty (20%) percent limitation.* * * *

(4) In the case of a MESBIC the limitation of this subsection referred to also in paragraph (d) of this section as well as in §§ 107.501, 107.504, and 107.505, shall be thirty (30%) percent.

3. By inserting the following new sentence at the end of § 107.501:

§ 107.501 SBIC guarantee of loans.

* * * In the case of a MESBIC, the term "lending institutions" as used in this section shall be deemed to mean all lenders, incorporated and unincorporated, other than Associates of the MESBIC.

4. By adding a proviso at the end of § 107.1001(g) to read as follows:

§ 107.1001 Prohibited uses of funds.

* * * * *

(g) *Licensee associated supplier.* * * * *Provided, however,* That in the case of a MESBIC such limit shall be 75 percent.

5. By adding the following at the end of § 107.1002:

§ 107.1002 Capital impairment.

* * * * *

(d) In the case of a MESBIC an impairment of capital shall be deemed to exist when the retained earnings deficit equals or exceeds paid-in-capital and paid-in-surplus. Except with prior SBA written approval, no debtor MESBIC shall pledge, assign, hypothecate, or otherwise encumber any of its portfolio securities or other assets, or create or allow to be created any mortgage, lien, or other encumbrance thereon, while it has a retained earnings deficit of fifty (50) percent or more of its private paid-in-capital and paid-in-surplus. A debtor MESBIC with a retained earnings deficit of fifty (50) percent of its paid-in-capital and paid-in-surplus shall immediately notify SBA and shall be deemed to have authorized SBA to take such measures as may be appropriate to perfect a security interest in favor of SBA in its assets. SBA may direct the MESBIC to take such actions as SBA considers necessary to perfect such a security interest.

Dated: June 28, 1971.

THOMAS W. KLEPPE,
Administrator.

[FR Doc.71-9359 Filed 71-1-71;8:46 am]

[13 CFR Part 121]

[Revision 10]

SMALL BUSINESS SIZE STANDARDS

Definition of Small Business for Forestry Services for Purpose of Government Procurement; Extension of Time for Filing Comments

On May 20, 1971, there was published in the FEDERAL REGISTER (36 F.R. 9144) a notice of proposal to establish a new definition of small business for Forestry Services for the purpose of Government procurement. The final date for filing comments on such proposal is hereby extended to July 20, 1971.

Dated: June 25, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-9360 Filed 7-1-71;8:46 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 71-170]

SWISS FRANC

Foreign Currencies; Rates of Exchange

JUNE 21, 1971.

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Swiss franc between June 14 and June 18, 1971.

Treasury Decision 71-101 published as the rate of exchange for the Swiss franc for use during the calendar quarter beginning April 1 through June 30, 1971, $0.232800, as certified to the Secretary of the Treasury by the Federal Reserve Bank of New York under the provisions of section 522(c) of the Tariff Act of 1930, as amended (31 U.S.C. 372(c)).

For the dates listed below, the Federal Reserve Bank of New York certified rates for the Swiss franc which vary by 5 per centum or more from the rate $0.232800. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert Swiss currency into currency of the United States, conversion shall be at the daily rate certified by the Federal Reserve Bank of New York, as herewith published:

Swiss franc:	
June 14, 1971	$0.244495
June 15, 1971*	.232800
June 16, 1971	.244458
June 17, 1971*	.232800
June 18, 1971*	.232800

*Rate did not vary by 5 per centum or more from the rate of exchange published in T.D. 71-101 for use during calendar quarter beginning Apr. 1, 1971.

Rates of exchange certified for the Swiss franc which vary by 5 per centum or more from the rate $0.232800 during the balance of the calendar quarter ending June 30, 1971, will be published in a Treasury Decision for dates subsequent to June 18, 1971, and before July 1, 1971. (342.211)

[SEAL] EDWIN F. RAINS,
Acting Commissioner of Customs.

[FR Doc.71-9423 Filed 7-1-71;8:51 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

COOPERATING WITH AND ASSISTING THE UNITED SEAMEN'S SERVICE

Memorandum by the President

The following memorandum was directed to the Secretary of Defense by the President:

THE WHITE HOUSE
WASHINGTON

JUNE 10, 1971.

Memorandum for the Secretary of Defense.
Subject: Cooperating with and Assisting the United Seamen's Service.

I find it is necessary in the interests of the U.S. commitments abroad to provide facilities and services for U.S. merchant seamen in foreign areas.

Accordingly, in accordance with section 2604 of title 10, United States Code, I hereby authorize you, under such regulations as you may prescribe, to cooperate with and assist the United Seamen's Service in establishing and providing those facilities and services.

RICHARD NIXON.

MAURICE W. ROCHE,
Director, Correspondence and Directives Division, OASD (Administration).

[FR Doc.71-9364 Filed 7-1-71;8:47 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA

Notice of Partial Termination of Proposed Withdrawal and Reservation of Lands

JUNE 24, 1971.

Notice of a Bureau of Land Management, U.S. Department of the Interior, application, Sacramento 079389, for withdrawal and reservation of land for Recreation Sites was published as F.R. Doc. No. 65-3338 on page 4261 of the issue for April 1, 1965. The applicant agency has canceled its application insofar as it affects the following described land:

HUMBOLDT MERIDIAN

MIDWAY PRIMITIVE CAMP

T. 4 S., R. 1 E.,
Sec. 8, NW¼NE¼.

HORSE MOUNTAIN RECREATION SITE

T. 4 S., R. 1 E.,
Sec. 21, lot 1.

TOLKAN RECREATION SITE

T. 4 S., R. 1 E.,
Sec. 27, NE¼SW¼.

NADELOS RECREATION SITE

T. 5 S., R. 2 E.,
Sec. 18, lot 12.

WAILAKI RECREATION SITE

T. 5 S., R. 2 E.,
Sec. 18, lot 14.

The areas described aggregate approximately 199.61 acres in Humboldt County.

Therefore, pursuant to the regulations contained in 43 CFR Subpart 2350, such lands at 10 a.m. on August 3, 1971, will be relieved of the segregative effect of the above-mentioned application.

ELIZABETH H. MIDTBY,
Chief, Lands Adjudication Section.

[FR Doc.71-9416 Filed 7-1-71;8:50 am]

National Park Service

ROCK CREEK PARK

Notice of Intention To Negotiate Concession Contract

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Rock Creek Stables, Inc., authorizing it to provide concession facilities and services for the public within Rock Creek Park, National Capital Region, for a period of five (5) years from January 1, 1971, through December 31, 1975.

The foregoing concessioner has performed its obligations under the expiring contract to the satisfaction of the National Park Service, and therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. However, under the Act cited above, the Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Chief, Division of Concession Management, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Date: June 18, 1971.

EDWARD A. HUMMEL,
Assistant Director, National Park Service.

[FR Doc.71-9418 Filed 7-1-71;8:51 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[Marketing Agreement 146]

PEANUTS; 1971 CROP

Incoming and Outgoing Quality Regulations and Indemnification

Pursuant to the provisions of sections 5, 31, 32, 34, and 36 of the marketing agreement regulating the quality of domestically produced peanuts heretofore entered into between the Secretary of Agriculture and various handlers of peanuts (30 F.R. 9402) and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information it is hereby found that the appended "Incoming Quality Regulation—1971 Crop Peanuts", "Outgoing Quality Regulation—1971 Crop Peanuts" and the "Terms and Conditions of Indemnification—1971 Crop Peanuts", which modify or are in addition to the provisions of sections 5, 31, 32, and 36 of said agreement will tend to effectuate the objectives of the Agricultural Marketing Agreement Act of 1937, as amended, and of such agreement and should be issued.

The Peanut Administrative Committee has recommended that the appended "Incoming Quality Regulation—1971 Crop Peanuts", "Outgoing Quality Regulation—1971 Crop Peanuts" and the "Terms and Conditions of Indemnification—1971 Crop Peanuts", be issued so as to implement and effectuate the provisions of the aforementioned sections of the marketing agreement. The 1971 peanut crop year begins July 1 and procedures and regulations for operations under the agreement should be established thereby affording handlers maximum time to plan their operations accordingly. The handlers of peanuts who will be affected hereby have signed the marketing agreement authorizing the issuance hereof, they are represented on the Committee which has prepared and recommended these quality regulations and terms and conditions of idemnification for approval.

Upon consideration of the Committee recommendation and other available information the appended "Incoming Quality Regulation—1971 Crop Peanuts", "Outgoing Quality Regulation—1971 Crop Peanuts", and the "Terms and Conditions of Indemnification—1971 Crop Peanuts" are hereby approved this 29th day of June 1971.

Dated: June 29, 1971.

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

INCOMING QUALITY REGULATION—1971 CROP PEANUTS

The following modify section 5 of the peanut marketing agreement and modify or are in addition to the restrictions of section 31 on handler receipts or acquisitions of 1971 crop peanuts:

(a) *Modification of section 5, paragraphs (b), (c), and (d).* Paragraphs (b), (c), and (d) of section 5 of the peanut marketing agreement are modified as to 1971 crop farmers stock peanuts to read respectively as follows:

(b) *Segregation 1.* "Segregation 1 peanuts" means means farmers stock peanuts with not more than 2 percent damaged kernels nor more than 1 percent concealed damage caused by rancidity, mold or decay and which are free from visible *Aspergillus flavus.*

(c) *Segregation 2.* "Segregation 2 peanuts" means farmers stock peanuts with more than 2 percent damaged kernels or more than 1 percent concealed damage caused by rancidity, mold or decay and which are free from visible *Aspergillus flavus.*

(d) *Segregation 3.* "Segregation 3 peanuts" means farmers stock peanuts with visible *Aspergillus flavus.*

(b) *Moisture.* Except as provided under paragraph (e) *Seed peanuts,* no handler, shall receive or acquire peanuts containing more than 10 percent moisture: *Provided,* That peanuts of a higher moisture content may be received and dried to not more than 10 percent moisture prior to storing or milling. On farmers stock, such moisture determinations shall be rounded to the nearest whole number; on shelled peanuts, the determinations shall be carried to the hundredths place and shall not be rounded to the nearest whole number.

(c) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(d) *Loose shelled kernels.* Handlers may separate from the loose shelled kernels received with farmers stock peanuts, those sizes of whole kernels which ride screens with the following slot openings: Runner—$^{15}/_{64}$ x $^{3}/_{4}$ inch; Spanish and Valencia—$^{15}/_{64}$ x $^{3}/_{4}$ inch; Virginia—$^{15}/_{64}$ x 1 inch. If so separated, those loose shelled kernels which do not ride such screens, shall be removed from the farmers stock peanuts and shall be held separate and apart from other peanuts and disposed of as oil stock. If the whole kernels are not separated, the entire amount of loose shelled kernels shall be removed from farmers stock peanuts and shall be so held and so delivered or disposed of. The whole kernels which ride the screens may be included with shelled peanuts prepared by the handler for inspection and sale for human consumption. For the purpose of this regulation, the term "loose shelled kernels" means peanut kernels or portions of kernels completely free of their hulls and found in deliveries of farmers stock peanuts.

(e) *Seed peanuts.* A handler may acquire and deliver for seed purposes farmers stock peanuts which meet the requirements of Segregation 1 peanuts. If the seed peanuts are produced under the auspices of a State agency which regulates or controls the production of seed peanuts, they may contain up to 3 percent damaged kernels and have visible *Aspergillus flavus,* and, in addition, the following moisture content, as applicable:

(1) For seed peanuts produced in the Southeastern and Virginia-Carolina areas, they may contain up to 11 percent moisture except Virginia type peanuts which are not stacked at harvest time may contain up to 12 percent moisture; and

(2) For seed peanuts produced in the Southwestern area, they may contain up to 10 percent moisture.

However, any such seed peanuts with visible *Aspergillus flavus* shall be stored and shelled separate from other peanuts, and any residual not used for seed shall not be used or disposed of for human consumption unless it is determined to be wholesome by chemical assay for aflatoxin. Handlers may acquire from a seed sheller who has signed the marketing agreement peanuts residual from those shelled and disposed of for seed purposes. Any handler may also acquire such residuals from seed peanuts shelled by a producer or seed sheller who has not signed the marketing agreement but only upon the condition that they are held and milled separate and apart from other receipts or acquisitions of the handler and disposed of by sale to the Commodity Credit Corporation, by sale for oil stock or by crushing.

(f) *Oil stock.* Handlers who are crushers may acquire as oil stock, peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption. The provision of section 31 of the marketing agreement restricting such acquisitions to handlers who are crushers is hereby modified to authorize all handlers to act as accumulators and acquire Segregation 2 or 3 farmers stock peanuts for the sole purpose of delivery to crushers: *Provided,* That all such acquisitions shall be held separate and apart from Segregation 1 peanuts acquired for milling or from edible grades of shelled or milled peanuts and shall be disposed of only by crushing or by delivery to crushers and the consequent production of oil and meal.

(g) *Segregation 3 control.* To assure the removal from edible outlets of any lot of peanuts determined by the Federal or Federal-State Inspection Service to be Segregation 3, each handler shall inform each employee, country buyer, commission buyer, or like person through whom he receives peanuts, of the need to receive and withhold all lots of Segregation 3 peanuts from milling for edible use. If any lot of Segregation 3 farmers stock peanuts is not withheld but returned to the producer, the handler shall cause the Inspection Service to forward immediately a copy of the inspection certificate on the lot to the designated office of the handler and a copy to the Committee.

OUTGOING QUALITY REGULATION—1971 CROP PEANUTS

The following modify or are in addition to the peanut marketing agreement restrictions of section 32 on handler disposition of 1971 crop peanuts for human consumption:

(a) *Shelled peanuts.* No handler shall ship or otherwise dispose of shelled peanuts for human consumption or to another handler, except seed residuals as referred to in paragraph (e) of the Incoming Quality Regulation, with respect to which appropriate samples for pretesting have not been drawn in accordance with subparagraph (c) of this regulation, or which if of a category not eligible for indemnification are not certified "negative" as to aflatoxin, or which contain more than (1) a total of 1.25 percent unshelled peanuts and damaged kernels; (2) a total of 2 percent unshelled peanuts and damaged kernels and minor defects; (3) 9 percent moisture in the Southeastern and Southwestern areas, or 10 percent moisture in the Virginia-Carolina area; or (4) 0.10 percent foreign material in peanuts "with splits" and peanuts of U.S. grade other than U.S. splits, or 0.20 percent foreign material in U.S. splits and other edible quality peanuts not of U.S. grade. Fall through in such peanuts shall not exceed 4 percent except that fall through consisting of either split and broken kernels or whole kernels shall not exceed 3 percent and fall through of whole kernels in Runners, Spanish or Virginia "with splits" shall not exceed

2 percent. The term "fall through" as used herein, shall mean sound split and broken kernels and whole kernels which pass through specified screens. Screens use for determining fall through in peanuts covered by this subparagraph (a) shall be as follows:

Type	Screen openings	
	Split and broken kernals	Whole kernals
Virginia	13/64 inch round	15/64 x 1 inch slot.
Runner	13/64 inch round	13/64 x 3/4 inch slot.
Spanish and Valencia.	15/64 inch round	13/64 x 3/4 inch slot.

("With splits" means shelled peanuts which do not contain more than (a) 15 percent splits, (b) for Runner and Spanish 2 percent whole kernels which will pass through 15/64 x 3/4 slot screen and for Virginia a 15/64 x 1 slot screen, and (c) otherwise meet the specifications of the applicable U.S. No. 1 grade).

(b) *Cleaned inshell peanuts.* No handler shall ship or otherwise dispose of cleaned inshell peanuts for human consumption: (1) With more than 1 percent kernels with mold present unless a sample of such peanuts, drawn by an inspector of the Federal or Federal-State Inspection Service, was analyzed chemically by laboratories approved by the Committee or by a Consumer and Marketing Service laboratory (hereinafter referred to as "C&MS laboratory") and found to be wholesome relative to aflatoxin; (2) with more than 2 percent peanuts with damaged kernels; (3) with more than 10 percent moisture; or (4) with more than 0.50 percent foreign material.

(c) *Pretesting shelled peanuts.* Each handler shall cause appropriate samples of each lot of shelled peanuts to be drawn by an inspector of the Federal or Federal-State Inspection Service. The gross amount of peanuts drawn shall be large enough to provide for a grade analysis, for a grading check sample, and for two 24-pound samples for aflatoxin assay. Each 24-pound sample shall be ground by the Federal or Federal-State inspector, a C. & M.S. laboratory, or a designated laboratory in a "subsampling mill" approved by the Committee. Two subsamples of a size specified by the Committee shall be drawn from the ground portion of the sample diverted by the "subsampling mill" during the grinding process. The two resulting subsamples from one of the 24-pound samples shall be designated as "1–A" and "2–A". The two resulting subsamples from the other 24-pound sample shall be designated as "1–B" and "2–B". The subsamples designated "1–A" and "1–B" shall be sent as requested by the handler or buyer, for aflatoxin assay to a C. & M.S. laboratory or a laboratory listed on the most recent Committee list of approved laboratories. The subsamples designated as "2–A" and "2–B" shall be held as aflatoxin checksamples by the Federal or Federal-State Inspection Service, C. & M.S. laboratory or designated laboratory and shall be analyzed only in C. & M.S. or designated laboratories.

Subsamples "1–A" and "1–B" shall be accompanied by a notice of sampling, signed by the inspector, containing, at least, indentifying information as to the handler (shipper), the buyer (receiver) if known, and the positive lot identification of the shelled peanuts. A copy of such notice on each lot shall be sent to the Committee office. All subsamples shall be positive lot identified and subsamples "2–A" and "2–B" held for 30 days after delivery of subsamples "1–A" and "1–B" and delivered for assay upon call of the laboratory or the Committee and at the Committee's expense. The cost of drawing the two 24-pound samples and the preparation of the resultant subsamples and postage for mailing the subsamples "1–A" and "1–B" shall be borne by the handler. When the subsamples "1–A" and "1–B" have not been analyzed within 30 days from date of delivery of the "1–A" and "1–B" subsamples and a second set of "2–A" and "2–B" subsamples must be drawn, the cost of drawing samples and preparation and mailing the resultant subsamples shall be for the account of the holder of the peanuts. Cost of the assay on the "1–A" and "1–B" subsamples shall be for the account of the buyer of the lot and of the "2–A" and "2–B" subsamples for the Committee's account. If the handler elects to pay for the assay of the "1–A" and "1–B" subsamples, he shall charge the buyer when he invoices the peanuts and, if more than one buyer, on a pro rata basis. The results of each assay shall be reported to the buyer listed in the notice of sampling and, if the handler desires, to the handler.

If a buyer is not listed in the notice of sampling the results of the assay shall be reported to the handler who shall promptly cause notice to be given, to the buyer of the contents thereof and such handler shall not be required to furnish additional samples for assay.

(d) *Identification.* Each lot of shelled or cleaned inshell peanuts shipped or otherwise disposed of for human consumption shall be identified by positive lot identification procedures. For the purpose of this regulation, "positive lot identification" of a lot of shelled or inshell peanuts is a means of relating the inspection certificate to the lot covered so that there can be no doubt that the peanuts delivered are the same ones described on the inspection certificate. Such procedure on bagged peanuts shall consist of attaching a lot numbered tag bearing the official stamp of the Federal or Federal-State Inspection Service to each filled bag in the lot. The tag shall be sewed (machine sewed if shelled peanuts) into the closure of the bag except that in plastic bags the tag shall be inserted prior to sealing so that the official stamp is visible. Any peanuts moved in bulk or bulk bins shall have their lot identity maintained by sealing the conveyance and if in other containers by other means acceptable to the Federal or Federal-State inspectors and to the Committee. All lots of shelled or cleaned inshell peanuts shall be handled, stored, and shipped under positive lot identification procedures.

(e) *Reinspection.* Whenever the Committee has reason to believe that peanuts may have been damaged or deteriorated while in storage, the Committee may reject the then effective inspection certificate and may require the owner of the peanuts to have a reinspection to establish whether or not such peanuts may be disposed of for human consumption.

(f) *Interplant transfer.* Until such time as procedures permitting all interplant and cold storage movements are established by the Committee, any handler may transfer peanuts from one plant owned by him to another of his plants or to commercial storage, without having such peanuts positive lot identified and certified as meeting quality requirements, but such transfer shall be only to points within the same production area and ownership shall have been retained by the handler. Upon any transferred peanuts being disposed of for human consumption, they shall meet all the requirements applicable to such peanuts.

(g) *Loose shelled kernels, fall through and pickouts.* (1) Loose shelled kernels which do not ride screens with the following slot openings: Runner—13/64 x 3/4 inch; Spanish and Valencia—13/64 x 3/4 inch; Virginia—15/64 x 1 inch; shall be disposed of only by sale as oil stock or by crushing. Fall through may be sold, as to qualities acceptable to it, to the Commodity Credit Corporation and the balance shall be sold as oil stock or crushed. Pickouts shall be sold as oil stock or crushed. For the purpose of this regulation: the term "nonedible quality peanuts described in paragraph (g)(1)" means loose shelled kernels, fall through, and pickouts; the term "loose shelled kernels" means peanut kernels or portions of kernels completely free of their hulls, either as found in deliveries of farmers stock peanuts or those which fall to ride the screens (U.S. No. 1 screens) in removing whole kernels; the term "fall through" has the same meaning as in paragraph (a) of this regulation; and the term "pickouts" means those peanuts removed at the picking table, by electronic equipment, or otherwise during the milling process.

(2) All loose shelled kernels, fall through, and pickouts shall be kept separate and apart from other milled peanuts that are to be shipped into edible channels or delivered to the Commodity Credit Corporation. Each such category of peanuts shall be bagged separately in suitable new or clean, sound, used bags, or placed in bulk containers acceptable to the Committee. Such peanuts shall be inspected by Federal or Federal-State inspectors in lots of not more than 100,000 pounds and a certification made as to moisture and foreign material content.

(3) Each category of nonedible quality peanuts described in paragraph (g)(1)

shall be identified by positive lot identification procedures set forth in paragraph (d) but using a red tag. Such peanuts may be disposed of only by crushing into oil and meal or destroyed, unless other disposition is authorized by the Committee and all dispositions shall be reported to the Committee on such forms and at such times as it prescribes. Such peanuts shall be deemed to be "restricted" peanuts and the meal produced therefrom shall be used or disposed of as fertilizer or other nonfeed use. To prevent use of restricted meal for feed, handlers shall either denature it or restrict its sale to licensed or registered U.S. fertilizer manufacturers or firms engaged in exporting who will export such meal for nonfeed use or sell it to the aforesaid fertilizer manufacturers. However, peanuts other than pickouts and meal from peanuts other than pickouts in specifically identified lots of not more than 50 tons each, may be sampled by Federal or Federal-State inspectors, or by the area association if authorized by the Committee, and tested for aflatoxin by laboratories approved by the Committee or operated by Consumer and Marketing Service, at handler's or crusher's expense, and if such meet Committee standards, the meal may be disposed of for feed use.

(4) Notwithstanding any other provision of this regulation or of the Incoming Quality Regulation applicable to 1971 crop peanuts, a handler may transfer such "restricted" peanuts to another plant within his own organization or transfer or sell such peanuts to a crusher for crushing. Sales or transfer of restricted peanuts to persons not handlers under the agreement shall be made only on the condition that they agree to comply with the terms of this paragraph (g) including the reporting requirements.

TERMS AND CONDITIONS OF INDEMNIFICATION—1971 CROP PEANUTS

For the purpose of paying indemnities on a uniform basis pursuant to section 36 of the peanut marketing agreement effective July 12, 1965, each handler shall promptly notify or arrange for the buyer to notify the Manager, Peanut Administrative Committee of any lot of cleaned inshell or shelled peanuts, milled to the outgoing quality requirements and into one of the categories listed in the final paragraph of these terms and conditions, on which the handler has withheld shipment or storage or the buyer, including the user divison of a handler, has withheld usage due to a finding as to aflatoxin content as shown by the results of chemical assay. To be eligible for indemnification, such a lot of peanuts shall have been inspected and certified as meeting the quality requirements of the agreement, shall have met all other applicable regulations issued pursuant thereto, including the pretesting requirements in (a) and (c) of the "Outgoing Quality Regulation—1971 Crop Peanuts", and the lot identification shall have been maintained. If the Committee concludes, based on assays to date or further assays, that the lot is so high in aflatoxin that it should be handled pursuant to these Terms and Conditions and such is concurred in by the Consumer and Marketing Service, the lot shall be accepted for indemnification. If the lot is covered by a sales contract, the lot may be rejected to the handler.

In an effort to make such eligible peanuts suitable for human consumption, and to minimize indemnification costs, the Committee and the Consumer and Marketing Service shall, prior to disposition, by delivery to the CCC for disposal under the 1971 Crop Peanut Price Support Program, or for crushing cause all suitable lots to be remilled or custom blanched or both.

"Customs blanching" means the process which involves blanching peanuts, and the subsequent removal of damaged peanuts for the purpose of eliminating aflatoxin from the lot. The process may be applied to either an original lot or the new lot which results from remilling. Custom blanching shall be performed only by those firms determined by the Committee to have the capability to remove the aflatoxin and who agree to such terms, conditions and rates of payment as the Committee may find to be acceptable.

If the Committee and the Consumer and Marketing Service conclude that such lot is not suitable for remilling or custom blanching, the lot shall be declared to crushing and shall be disposed of by delivery to the Committee at such point as it may designate. The indemnification payment for peanuts in such a lot shall be the indemnification value of the peanuts, as hereinafter provided, plus actual costs of any necessary temporary storage and of transportation (excluding demurrage) from the handler's plant or storage to the point within the Continental United States where the rejection occurred and from such point to a delivery point specified by the Committee. Payment shall be made to the handler as soon as practicable after delivery of the peanuts to the Committee. The salvage value for peanuts declared for crushing shall be paid to, and retained by, the Committee to offset indemnification expenses.

If it is concluded that the lot should be remilled or custom blanched, expenses shall be paid by the Committee on those lots which, on the basis of the inspection occurring prior to shipment, contained not more than 1 percent damaged kernels other than minor defects. Lots with damage in excess of 1 percent on such inspection shall be remilled without reimbursement from the Committee for milling, freight, or temporary storage and handling but otherwise shall be indemnifiable the same as lots with not more than 1 percent damage.

The indemnification value of peanuts delivered to the Committee for indemnification shall be the sales contract (including transfer) price established to the satisfaction of, and acceptable to, the Committee or if the lot is unsold the applicable market price determined by the Committee based on quotations in the most recent "Peanut Market News" report published by C. & M.S.

The indemnification payment on peanuts declared for remilling, and which contain not more than 1 percent damaged kernels other than minor defects, shall be the indemnification value referable to the weights of peanuts lost in the remilling process and not cleared for human consumption, plus temporary storage and transportation costs from origin to destination and return to point of remilling, except as hereinafter restricted, plus an allowance for remilling of one cent per pound on the original weight, less 1½ percent of the foregoing contract or market price multiplied by the original weight. However, the 1½ percent deduction shall not apply to peanuts whose appropriate samples for pretesting, drawn and assayed in accordance with paragraph (c) of the "Outgoing Quality Regulation—1971 Crop Peanuts," were determined to be not indemnifiable as to aflatoxin. On lots on which the remilling is not successful in making the lot wholesome as to aflatoxin, the indemnification payment shall be reduced by an additional 4 percent of the foregoing contract or market price multiplied by the original weight if the lot is declared for custom blanching, or 2 percent of such value if the lot is to be delivered to CCC in lieu of custom blanching. If such unsuccessfully remilled peanuts are not declared for custom blanching, the lot shall be delivered at the direction of the Committee to the Commodity Credit Corporation for disposal under the 1971 crop peanut Price Support Program and the indemnification payment for such peanuts shall be the difference between the CCC price received by the handler for such peanuts and the sales contract (including transfer) price established to the satisfaction of, and acceptable to, the Committee less 1.25 cents per pound on the amount of peanuts delivered to CCC or if the lot is unsold the applicable market price determined by the Committee based on quotations in the most recent "Peanut Market News" report published by C&MS less 1.25 cents per pound on the amount of peanuts delivered to CCC. If such peanuts are declared for custom blanching after remilling, the indemnification payment shall be the blanching cost, plus any temporary storage, the transportation costs from origin (whether handler or buyer premises) to point of blanching and on unsold lots from point of blanching to handler's premises and the value of the weight of reject peanuts removed from the lot. On lots which are custom blanched without remilling, the indemnification payment shall be determined in the same manner but it shall be reduced by 1½ percent of the foregoing contract or market price multiplied by the original weight. However, the 1½ percent deduction shall not apply to peanuts whose appropriate samples for pretesting, drawn and assayed in accordance with paragraph (c) of the "Outgoing Quality Regulation—1971 Crop Peanuts," were determined to be not indemnifiable as to aflatoxin. Moreover, no indemnification payments shall be paid

on any lot of peanuts where the Committee determines that the custom blanched peanuts from such a lot has been sold at a price lower than the contract price or the prevailing market price on the original red skin lot at the time the indemnification claim was filed with the Committee.

Payment shall be made to the handler claiming indemnification or receiving the rejected lot as soon as practicable after receipt by the Committee of such evidence of remilling or custom blanching and clearance of the lot for human consumption as the Committee may require and the delivery of the peanuts not cleared for human consumption to the delivery point designated by the Committee. If a suitable reduction in the aflatoxin content is not achieved on any lot which is remilled or custom blanched or both, the Committee shall declare the entire lot for indemnification. However, the Committee shall refuse to pay indemnification on any lot(s) where it has reason to believe that the rejection of the peanuts arises from failure of the handler to use reasonable measures to receive and withhold from milling for edible use those Segregation 3 peanuts tendered to him either directly by a producer or by a country buyer, commission buyer or other like person.

Remilling may occur on the premises of any handler signatory to the marketing agreement or at such other plant as the Committee may determine. However, if the Committee orders remilling of a lot which has been found to contain aflatoxin prior to shipment from the locality of original milling, the Committee shall not pay freight costs should the handler move said lot to another locality for remilling. Where a lot has been shipped and the Committee orders remilling, the Committee will pay actual freight charges to the place of remilling but not in excess of the return freight from destination to the origin of the shipment.

Claims for indemnification on peanuts of the 1971 crop shall be filed with the Committee at least 60 days prior to December 31, 1972.

Each handler shall include, directly or by reference, in his sales contract the following provisions:

Should buyer find peanuts subject to indemnification under this contract to be so high in aflatoxin as to provide possible cause for rejection, he shall promptly notify the seller and the Manager, Peanut Administrative Committee, Atlanta, Ga. Upon a determination of the Peanut Administrative Committee, confirmed by the Consumer and Marketing Service, authorizing rejection, such peanuts, and title thereto, if passed to the buyer, shall be returned to the seller. Seller shall not be precluded from replacing such peanuts if he so elects.

Seller shall, prior to shipment of a lot of shelled peanuts covered by this sales contract, cause appropriate samples to be drawn by the Federal or Federal-State Inspection Service from such lot, shall cause the sample(s) to be sent to a C. & M.S. laboratory or if designated by the buyer, a laboratory listed on the most recent Committee list of approved laboratories to conduct such assay, for an aflatoxin assay and cause the laboratory, of the results of the assay to the buyer. The laboratory costs shall be for the account of the buyer and buyer agrees to pay them when invoiced by the laboratory or, in the event the seller has paid them, by the seller.

Any handler who fails to include such provisions in his sales contract shall be ineligible for indemnification payments with respect to any claim filed with the Committee on 1971 crop peanuts covered by the sales contract.

In addition, should any handler enter into any oral or written sales contract which fixes the level of aflatoxin at which rejection may be made and hence conflicts with these terms and conditions, the handler doing so will not be eligible for indemnification payments with respect to any claim filed with the Committee on 1971 crop peanuts on or after the filing date of a claim under such contract, except upon the Committee's finding that acceptance of such contract was inadvertent; and for purposes of this provision a claim shall be deemed to be filed when notice of possible rejection is first given to the Committee.

Categories eligible for indemnification are the following:

Cleaned inshell peanuts—
(1) U.S. jumbos.
(2) U.S. fancy handpicks.
(3) Valencia—roasting stock.[1]

U.S. Grade shelled peanuts—
(1) U.S. No. 1.
(2) U.S. splits.
(3) U.S. Virginia extra-large.
(4) U.S. Virginia medium.

Shelled peanuts "with splits"—
(1) Runners with splits meeting outgoing quality requirements.
(2) Spanish with splits meeting outgoing quality requirements.
(3) Virginias with splits meeting outgoing quality requirements.

[FR Doc.71-9411 Filed 7-1-71;8:50 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. A-574]

JERRY V. ENGEL

Notice of Loan Application

Jerry V. Engel, Post Office Box 856, Homer, AK 99603, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 31 feet in length, to engage in the fishery for halibut, salmon, crabs, Pacific cod, shrimp, rockfish, and sablefish.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

JAMES F. MURDOCK,
Chief, Division of Financial Assistance.

[FR Doc.71-9390 Filed 7-1-71;8:48 am]

[1] Inshell peanuts with not more than 25 percent having shells damaged by discoloration, which are cracked or broken, or both.

DEPARTMENT OF COMMERCE

Office of the Secretary

[Dept. Organization Order 25-2; Amdt. 1]

MARITIME ADMINISTRATION

Organization and Functions

Subject: The following amendment to the order was issued by the Secretary of Commerce on June 18, 1971. This material amends the material appearing at 36 F.R. 9789 of May 28, 1971.

Department Organization Order 25-2, dated May 12, 1971, is hereby amended as follows:

1. SEC. 5. *Office of Policy and Plans.*—This section is amended to read:

The Office of Policy and Plans shall develop and recommend long-range marine affairs policies and plans, including plans for the revitalization of the U.S. Merchant Marine; direct and coordinate the development and maintenance of plans for carrying out the Administration's responsibilities and functions in the event of mobilization for war or other national emergency; conduct economic studies and operations research activities in support of the planning functions and recommend solutions to problems affecting shipping; develop and maintain the Planning - Programing - Budgeting System; formulate, recommend, and interpret budgetary policies and procedures; collaborate with operating officials in the development of fiscal plans and budget estimates, develop and present budget requests and justifications; allocate and maintain budgetary control of funds available; review status of funds and program performance in relation to fiscal plans; and review and evaluate operating programs to determine their effectiveness in accomplishing established goals and objectives."

2. SEC. 13. *Office of the Assistant Administrator for Maritime Aids.* Paragraph .01 is amended to read:

.01 The Office of Subsidy Administration shall process applications for construction-differential subsidy, operating-differential subsidy, Federal Ship Mortgage and/or Loan Insurance, trade-in allowances, and other forms of Government aid to shipping; conduct negotiations with applicants, obtain comments of other offices and within delegated authority, approve or recommend approval or disapproval, and take other actions in relation to the award and the administration of aid contracts; administer Con-

struction Reserve Funds; approve with the concurrence of the Chief, Office of Finance, actions relating to the administration of Special and Capital Reserve Funds of subsidized operators; collect, analyze, and evaluate costs of operating ships under United States and foreign registry; calculate and recommend operating-differential subsidy rates; analyze and recommend trade route structure and service requirements of the ocean-borne commerce of the United States, and extent of foreign flag competition on essential trade routes; and collect, maintain, analyze, and disseminate statistical data on cargo and commodity movements in the ocean-borne commerce of the United States, composition of world's merchant fleets, and utilization of U.S.-flag ships. The Office of Subsidy Administration has the following divisions: Division of Subsidy Contracts, Division of Mortgage-Insurance Contracts, Division of Subsidy Rates, Division of Trade Studies, and Division of Statistics.

3. A new section 14 is added to read:

SEC. 14. *Office of International Activities.* The Office of International Activities shall plan, conduct, and coordinate Maritime Administration's participation in intergovernmental and international organizations concerned with shipping matters; keep abreast of developments in the United States and foreign countries with a foreign relations impact that may affect the U.S. merchant marine; take and/or coordinate action to establish and present Maritime Administration's position in these matters. Within this Office are personnel responsible for representing the Maritime Administration in international activities, as assigned, for development of maritime foreign cost data, and other technical maritime activities in foreign countries.

4. Present sections 14 and 15 are renumbered sections 15 and 16 respectively.

5. The organization chart of May 12, 1971, attached as Exhibit 1 to DOO 25-2, is superseded by the chart attached to this amendment. A copy of the organization chart is on file with the original of this document with the Office of the Federal Register.

Effective date: June 18, 1971.

LARRY A. JOBE,
Assistant Secretary for Administration.

[FR Doc.71-9391 Filed 7-1-71;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-164; NADA 9-015V]

S. E. MASSENGILL CO.

Kerаspray; Order Withdrawing Approval of New Animal Drug Application

On December 2, 1970, there was published in the FEDERAL REGISTER, 35 F.R. 18349, a Notice of Opportunity for Hearing in which the Commissioner of Food and Drugs proposed to issue an order under the provisions of section 512(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 360b(e)] withdrawing approval of new animal drug application No. 9-015V for Keraspray, and all amendments and supplements thereto, on the ground that information before him with respect to this drug evaluated together with the evidence available to him when the application was approved, shows there is a lack of substantial evidence that the drug has the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

S. E. Massengill Co., 527 Fifth Street, Bristol, TN 37620, holder of NADA No. 9-015V for Keraspray on December 31, 1970, filed a letter requesting an extension of time to complete the studies described in its letter or a hearing pursuant to the December 2, 1970 publication. Submitted with the letter was a preliminary report of a study on keratoconjunctivitis in cattle and a protocol for a clinical evaluation in cats and dogs and reasons why the firm contends that a hearing is in order.

This presentation has been considered, and the Commissioner of Food and Drugs concludes that there is no genuine and substantial issue of fact requiring a hearing and that the legal arguments offered are insubstantial, all as explained in more detail below.

I. *The drug, its rationale and claims.* Keraspray is a fixed combination powder, containing neomycin sulfate 0.25 percent (as base 0.175 percent), phenylmercuric nitrate 0.005 percent, sulfanilamide 86.25 percent, sulfisoxazole 10 percent, tetracaine hydrochloride, 0.5 percent and methylene blue 0.25 percent or 0 percent. It is presently recommended for use in the treatment of superficial wounds in dogs, and has been recommended for the treatment of bovine keratitis (pink eye) and for topical application to open wounds in all domestic animals. The request for a hearing goes to all the above labeling claims. The recommended directions are to apply the powder daily or more often as indicated. The rationale is that this is a fixed combination containing bacteriocidal and bacteriostatic agents useful in mixed infections.

II. *Clinical evidence to support the claims of effectiveness.* The medical documentation offered consists primarily of a preliminary report entitled Infectious Bovine Keratoconjunctivitis: Treatment with Keraspray, and a report compiled from a group of veterinarians who used the product in their daily practice.

The National Academy of Sciences-National Research Council's (NAS-NRC) Veterinary Drug Efficacy Study Panels for Dermatology and Ophthalmology reviewed the scientific documentation and literature for this drug. The Ophthalmology Panel reported that the scientific documentation was inadequate, the amount of neomycin sulfate may be insufficient to obtain the desired result, tetracaine should not be used topically, powders should not be used in eyes, and that there is no evidence that this drug is efficacious against the specific bacteria of pink eye. The Dermatology Panel stated that sulfonamide topical application is no longer supported because of the high incidence of sensitivity, and that the scientific literature submitted by S. E. Massengill relates to the effectiveness of the basic ingredients in the product but included no data to prove the effectiveness of the combination (Keraspray) when used on animal wounds.

A review of S. E. Massengill's submission follows: (a) Infectious Bovine Keratoconjunctivitis: Treatment with Keraspray, Neal, F. C., Preliminary Report. Examination of the study clearly shows that it was not an adequate and well controlled investigation, for the following reasons:

(1) It is only a preliminary report;

(2) The investigator found that healing in moderate to severe corneal ulcerations was difficult to evaluate and where severe bilateral lesions occurred in one cow and only one eye was treated, the healing process in both eyes was apparently the same (p. 4);

(3) The investigator makes no definite evaluation of the clinical response;

(4) No data were provided to show that each active ingredient contributes to the efficacy or safety of the product; and

(5) The study for safety is not sufficient since no tissue (histopathological) study was done to determine the effect the product had on corneal tissue.

(b) Massengill, in its December submission, offered a protocol for a clinical evaluation of Keraspray using a placebo of calcium phosphate dibasic. The Agency has received nothing else concerning this proposed study.

(c) The allegedly controlled clinical studies on dogs and cats referred to in the December letter are merely reports from five veterinarians who used Keraspray in their daily practice. This is at best a partially controlled investigation, and is not sufficient to raise a genuine and substantial issue of fact.

III. *Legal objections.* The legal objections urged by Massengill have been resolved in Pfizer v. Richardson, 434 F.2d 536 (C.A. 2, 1970); Upjohn v. Finch, 422 F.2d 944 (C.A. 6, 1970); Pharmaceutical Manufacturers Association v. Richardson, 318 F. Supp. 301 (D. Del., 1970). The contention that this drug is not subject to efficacy review because of the 1963 and 1968 letters in which the Division of Veterinary Medicine of the Food and Drug Administration expressed an opinion that the drug was no longer a new drug is insubstantial. The letters have been revoked. Keraspray was subject to a new drug-application on October 9, 1962, and the application was "deemed approved" subject to withdrawal at a later time upon a finding there was a lack of substantial evidence of effectiveness.

Therefore the Commissioner, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act [Section 512(e), 52 Stat. 1053, as amended; 21 U.S.C.

360b(e)], and under authority delegated to him (21 CFR 2.120), finds that, on the basis of information before him with respect to Keraspray NADA 9-015V, evaluated together with the evidence available to him when the application was approved, that there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

For the foregoing reasons, approval of new-drug application No. 9-015V, and all amendments and supplements thereto, is withdrawn effective on the date of the signature of this document.

Dated: June 23, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc. 71-9368 Filed 7-1-71;8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

SOUTHEAST ASIAN INTERNATIONAL FIELD OFFICE AT MANILA, REPUBLIC OF THE PHILIPPINES

Notice of Relocation

Notice is hereby given that on or about June 30, 1971, the Southeast Asian International Field Office at Manila, Republic of the Philippines, will be relocated at Agana, Territory of Guam, U.S.A. Services to the aviation public of Burma, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, South Vietnam, and Thailand, formerly provided by this office, will be expanded to include the Republic of Nauru, the Trust Territory of the Pacific Islands, and the Territory of Guam; and, will be provided by the Southeast Asian International Field Office at Agana, Guam. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Honolulu, Hawaii, on June 15, 1971.

JOHN H. HILTON,
Acting Director, Pacific Region.

[FR Doc.71-9362 Filed 7-1-71;8:46 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-301]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Order Extending Completion Date

Wisconsin Electric Power Co. and Wisconsin Michigan Power Co. have filed a request dated June 4, 1971, for an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-47, for construction of a 1,518 megawatts (thermal) pressurized water nuclear reactor, designated as the Point Beach Nuclear Plant Unit No. 2, at the applicant's site in the town of Two Creeks, Manitowoc County, Wis.

Good cause having been shown for extension of said date pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55 of the Commission's regulations:

It is hereby ordered that the latest completion date is extended from June 30, 1971, to January 1, 1972.

Date of issuance: June 24, 1971.

For the Atomic Energy Commission.

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

[FR Doc.71-9389 Filed 7-1-71;8:48 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23404]

CONDOR FLUGDIENST G.m.b.H

Notice of Prehearing Conference and Hearing

Application of Condor Flugdienst G.m.b.H. for amendment and extension of its foreign air carrier permit.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on August 10, 1971, at 10 a.m., local time, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Richard M. Hartsock.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before August 3, 1971.

Dated at Washington, D.C., June 29, 1971.

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

[FR Doc.71-9405 Filed 7-1-71;8:50 am]

[Docket No. 23567; Order 71-6-142]

CONNECTICUT AIR FREIGHT, INC.

Order of Suspension and Investigation

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

By tariff revision[1] filed May 26, and marked to become effective July 2, 1971, Connecticut Air Freight, Inc. (Connecticut), an air freight forwarder, proposes to increase its excess valuation charge from 15 to 20 cents for each $100, or fraction thereof, by which the declared value of a shipment exceeds 50 cents per pound of $50 per shipment, whichever is higher. No complaints have been received.

Most major forwarders currently have in effect an excess value charge of 15 cents per $100 on their domestic traffic. The Board has suspended, pending investigation, a number of previous proposals to increase excess valuation charges above this level where no showing has been made that existing excess value revenues do not cover the amount of claim expense stemming from declarations of excess value.[2] Connecticut has not submitted any data on the relationship between its excess value revenues and losses attributable to declarations of excess valuation or any other statement supporting its proposal.

Upon consideration of all relevant factors, the Board finds that the proposed excess valuation charges may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. We further conclude that the proposed charge should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002 thereof,

It is ordered, That:

1. An investigation be instituted to determine whether the charge and provisions in Rule No. 75 on Original Page 9 of Connecticut Air Freight, Inc.'s CAB No. 8, and rules, regulations, or practices affecting such charge and provisions are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful charge and provisions, and rules, regulations, or practices affecting such charge and provisions;

2. Pending hearing and decision by the Board, Rule No. 75 on Original Page 9 of Connecticut Air Freight, Inc.'s, CAB No. 8 and Connecticut Air Freight, Inc.'s, CAB No. 8 so far as it proposes to cancel Rule No. 75 on Original Page 10 of Connecticut Air Freight, Inc.'s, CAB No. 6 are suspended and their use deferred to and including September 29, 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 proceeding herein designated as Docket 23567, be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated; and

4. Copies of this order shall be filed with the tariffs and served upon Connecticut Air Freight, Inc., who is hereby made a party to this proceeding.

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[1] Tariff CAB No. 8 issued by Connecticut Air Freight, Inc.

[2] E.g., Orders 71-6-25, dated June 4, 1971, 71-4-53, dated April 9, 1971, and prior orders cited therein. All of the above-suspended increased excess value charges have been canceled and the investigations have been dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-9406 Filed 7-1-71;8:50 am]

[Docket No. 23405]

PANINTERNATIONAL FOREIGN AIR CARRIER PERMIT FOR CHARTER FOREIGN AIR TRANSPORTATION

Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on July 15, 1971, at 10 a.m., local time, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before Examiner Louis N. Sornson.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before July 12, 1971.

Dated at Washington, D.C., June 29, 1971.

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

[FR Doc.71-9407 Filed 7-1-71;8:50 am]

[Docket No. 23302]

HARRISON AIRWAYS LTD.

Notice of Postponement of Hearing

Notice is hereby given that the hearing is postponed until July 8, 1971, at 10 a.m., e.d.s.t., in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., June 28, 1971.

[SEAL] RICHARD M. HARTSOCK,
Hearing Examiner.

[FR Doc.71-9408 Filed 7-1-71;8:50 am]

[Docket No. 17398; Order 71-6-130]

ISLAND MAIL, INC.

Order To Show Cause Regarding Establishmennt of Service Mail Rates

Issued under delegated authority June 25, 1971.

The final service mail rate established by Order E-23880 in Docket 17398 for the transportation of mail by aircraft between Anacortes, Washington, and the Post Offices at Lopez Island, Shaw Island, East Sound, Friday Harbor, Blakely Island, Waldron Island, Decatur Island, Sinclair Island and Stuart Island is currently in effect for Island Mail, Inc. (Island), an air taxi operator under 14 CFR Part 298.

On April 30, 1971, Island filed a petition requesting the Board to fix a new final service mail rate for its route in Docket 17398. On June 10, 1971, the Postmaster General filed an answer to Island's petition. The Postmaster General states when this service was initiated, the Postal Service did not require detailed cost analyses which operators are now required to provide. On the basis of available information and using the cost base supplied in Island's petition and attachment thereto, the Postal Service has identified experienced increases on an item-by-item basis. The present rate for this service by Island is an annual rate of $47,292.10 equivalent to 41.50 cents per great circle aircraft mile. Island petitioned for a new annual rate of $57,618.60 equivalent to 50.50 cents per great circle aircraft mile. The Postmaster General believes that an annual rate is no longer suitable, takes the position that a new rate of 47.94 cents per great circle aircraft mile can be justified and would not object if such a rate were to be fixed by the Board for Island's services as set forth above.

The Board finds it is in the public interest to determine, adjust and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the petition, answer of the Postmaster General, and other matters officially noticed, it is proposed to issue an order[1] to include the following findings and conclusions:

On and after April 30, 1971, the fair and reasonable final service mail rate per great circle aircraft mile to be paid in its entirety by the Postmaster General to Island Mail, Inc., pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between Anacortes, Washington, and the Post Offices at Lopez Island, Shaw Island, East Sound, Friday Harbor, Blakely Island, Waldron Island, Decatur Island, Sinclair Island and Stuart Island, shall be 47.94 cents per great circle aircraft mile.

Accordingly, pursuant to the Federal Aivation Act of 1958 and particularly sections 204(a) and 406 thereof, and the Board's Regulations, 14 CFR Part 302, 14 CFR Part 298 and the authority duly delegated by the Board in its Organization Regulations, 14 CFR 385.16(f),

It is ordered, That:

1. Island Mail, Inc., the Postmaster General, 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 for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, as the fair and reasonable rate of compensation to be paid to Island Mail, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, as specified in the attached appendix; and

3. This order shall be served upon Island Mail, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.

APPENDIX

1. Further procedures related to the attached order shall be in accordance with 14 CFR Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed therein, shall be filed within ten days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

2. If notice of objection is not filed within ten days after service of this order, or if notice is filed and answer is not filed within 30 days after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed therein and fix and determine the final rate specified therein;

3. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307).

[FR Doc.71-9409 Filed 7-1-71;8:50 am]

[Docket No. 19923 etc.]

LIABILITY AND CLAIM RULES AND PRACTICES INVESTIGATION

Notice of Postponement of Prehearing Conference

Upon consideration of the requests of the National Industrial Traffic League; Univac Division, Sperry Rand Corp.; The Flying Tiger Line, Inc.; and United Air Lines, Inc., the request for information and evidence and proposed statement of issues from all parties other than the Bureau of Economics, now due to be filed June 28, 1971; and the prehearing conference in this matter now scheduled for July 8, 1971, are postponed as follows:

Request for information and evidence and proposed statements of issues (other than the Bureau of Economics), July 12, 1971.
Prehearing Conference, July 27, 1971.

The prehearing conference will be at 10 a.m., e.d.s.t., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC. All requests for information and evidence and proposed statements of issues shall be served so as to be received no later than the date indicated above.

Dated at Washington, D.C., June 28, 1971.

[SEAL] JOHN E. FAULK,
Hearing Examiner.

[FR Doc.71-9410 Filed 7-1-71;8:50 am]

[1] As this Order to Show Cause is not a final action but merely provides for interested persons to be heard on these matters, it is not regarded as subject to the review provisions of Part 385 (14 CFR Part 385). These provisions will be applicable to final action taken by the staff under authority delegated in § 385.16(g).

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19274; FCC 71-678]

ACTION RADIO, INC.

Order Designating Application for Hearing on Stated Issues and Notice of Apparent Liability

In regard application of Action Radio, Inc., for renewal of license of radio station KTLK, Denver, Colo., File No. BR-1969.

1. The Commission has before it for consideration (a) the captioned application and (b) its inquiries into the operations of Station KTLK.

2. Information obtained through the above-mentioned inquiries raises serious questions as to whether the applicant possesses the qualifications to remain or to be licensee of the captioned station. In view of these questions, the Commission is unable to find that grant of the renewal application would serve the public interest, convenience and necessity, and must, therefore, designate the application for hearing.

3. *Accordingly, it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned application is designated for hearing at a place and time to be specified in a subsequent Order, upon the following issues:

(1) To determine whether applicant prearranged or predetermined, in whole or in part, the outcome of a purportedly bona fide contest of chance with intent to deceive the listening public, in violation of section 509 of the Communications Act of 1934, as amended.

(2) To determine whether applicant broadcast an advertisement of or information concerning a lottery, in violation of section 1304, title 18, U.S.C.

(3) To determine whether applicant engaged in deliberate falsification of news by broadcasting fictitious temperatures during weather reports.

(4) To determine whether the applicant, through its program manager, left its transmitter unattended by a first-class radiotelephone operator, in violation of § 73.93(a) of the Commission's rules and regulations and section 318 of the Communications Act.

(5) To determine whether applicant staged a contest on the marquee of a Denver theater with the intention of creating traffic congestion or other public disorder requiring diversion of police from other duties, and whether the contest in fact had such results, in violation of the Commission's policies as set forth in its public notice of February 4, 1966, 2 FCC 2d, 464.

(6) To determine whether applicant gave adequate supervision of contests and promotions to assure that they would be conducted lawfully and in accordance with the public interest and the Commission's policies.

(7) To determine whether the licensee violated § 73.112 of the Commission's rules by failing to enter as commercial matter in its program logs certain announcements in connection with the contest cited in (1) supra, and the play of certain musical records in connection with a promotion titled "Lakeside Dollar Days."

(8) To determine whether, in violation of the Commission's oftenstated policies, the licensee, in connection with the "Lakeside Dollar Days" promotion, selected program matter to serve its private interest rather than the public interest.

(9) To determine whether, in its responses to the Commission's inquiries on the above matters, the licensee made misrepresentations or was lacking in candor.

(10) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the captioned applicant would serve the public interest, convenience and necessity.

4. *It is further ordered*, That the Chief, Broadcast Bureau, is directed to serve upon the captioned licensee within thirty (30) days of the release of this order, a Bill of Particulars with respect to Issues (1) through (9).

5. *It is further ordered*, That, if it is determined that the hearing record does not warrant an order denying the captioned application for renewal of license for Station KTLK, it shall also be determined whether applicant has violated section 509(a)(4) of the Communications Act or title 18, U.S.C., section 1304, or has willfully or repeatedly violated sections 318 and 509(a)(3) of the Communications Act or §§ 73.93(a) and 73.112 of the Commission's rules[1] and, if so whether an order of forfeiture pursuant to section 503(b) of the Communications Act as amended, in the amount of $10,000 or some lesser amount, should be issued.

6. *It is further ordered*, That this document constitutes a notice of apparent liability for forfeiture for violation of title 18, U.S.C., section 1304, and sections 318 and 509(a) (3) and (4) of the Communications Act and §§ 73.93 and 73.112 of the Commission's rules. The Commission has determined that, in every case designated for hearing involving revocation or denial of renewal of license for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we stress that inclusion of this notice is; not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is, of course to be made on the facts of each case.

7. *It is further ordered*, That the Broadcast Bureau proceed with the initial presentation of the evidence with respect to Issues (1) through (9), and the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be a licensee of the Commission and that a grant of its application would serve the public interest, convenience and necessity.

[1] See Bill of Particulars for specific dates of each violation.

8. *It is further ordered*, That to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.221 of the Commission's rules, in person or by attorney shall file with the Commission, within twenty (20) days of the mailing of this order, a written appearance in triplicate, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

9. *It is further ordered*, That the applicant herein, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by § 1.594 of the rules.

10. *It is further ordered*, That the Secretary of the Commission send copies of this order by certified airmail—return receipt requested to Action Radio, Inc.

Adopted: June 24, 1971.

Released: June 29, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[2]

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

[FR Doc.71-9382 Filed 7-1-71;8:48 am]

[Docket No. 19271; FCC 71-668]

MARTHA TRANQUILLI ET AL.

Order Instituting a Hearing

In the matter of complaint of Mrs. Martha Tranquilli, Mound Bayou, Miss., against Mississippi Telephone and Communications, Inc.; Mound Bayou Telephone Co., Marion, La.; Central Telephone and Electronics Corp., Monroe, La.

1. For the reasons set forth below the Commission is, on its own motion, hereby instituting a formal investigation into several matters set forth in an informal complaint of Mrs. Tranquilli to which adequate response has not been received from the telephone company involved.[1] The complaint of Mrs. Tranquilli, which was forwarded to the telephone company on January 12, 1971, alleged among other items, that the telephone company applications for service form which she was given by the company has blanks for indicating the race of the applicant; that the company sent her a disconnection notice for a bill which had been paid; that she had been charged for long distance calls which she had not made, and that she experienced very noisy circuits when making long distance calls. In its

[2] Commissioners Robert E. Lee, Johnson, and Houser absent.

[1] The informal complaint addressed to Mississippi Telephone & Communications, Mound Bayou was answered by a Vice President of Central Telephone and Electronics Corp., Monroe, La., while the bill enclosed with the complaint bore both a symbolic CTE and the words Mound Bayou Telephone Co., Marion, La. For convenience we will hereinafter refer to "the telephone company" and we will require a description of the corporate interrelationships of the various companies involved.

response of January 29, 1971, the telephone company stated that it was not aware of the racial designation on the form, that the form was not "the one used by our companies, but one that was obtained from a neighboring company that had borrowed some forms from the Bell Company" and that race classification was not required of Mrs. Tranquilli and the company did not know her race. In regard to the misbilled calls the company stated that most of the challenged calls were dialed direct and automatically ticketed by South Central Bell Telephone Co.'s automatic ticketing equipment so that "it could have been made only by her telephone." In regard to the disconnection notice, the company stated that the notice was sent on December 1, 1970, despite her payment of the bill because payment had only been received on November 30 so that there was insufficient time to post the payment. Finally, concerning the noisy circuits, the company admitted it was possible, but contended that it makes every effort to prevent such difficulties.

2. The Commission's staff found it necessary to request the telephone company to clarify its response and provide further information. Accordingly, a letter was sent to the company on February 22, 1971, requesting answers to certain questions within 30 days. When no response was received, a followup letter was sent on April 22, and a second followup on May 17. To date, the company has still not responded to the February 22, letter. Nor has the company or its attorney ever responded to letters to its attorney on April 23, and August 13, 1970, which requested further information relative to Mrs. Tranquilli's first informal complaint.

3. The questions presented by this complaint are of sufficient importance that they must be resolved by the Commission. Unfortunately, it appears that the carrier here is unwilling to cooperate in resolving them through the informal complaint procedures. We therefore deem it necessary to institute a formal investigation into this matter in order that the questions do not go unresolved for want of the carriers voluntary cooperation.

4. Our specific interests in this matter arise from the following:

a. The racial designation on the application form. The telephone company's response that the form is "not the one used by our companies" is unresponsive to the staff's request that it provide "all details as to the use of this form by your company and the purpose thereof." Since the form was admittedly used as late as December 1969 for Mrs. Tranquilli, it appears likely that it was also used for other subscribers. Also, the company states that race classification was not required of Mrs. Tranquilli, however, the portion of the form involved is clearly labeled to be filled out by a telephone company employee, thus service applicants would not necessarily even be aware that such information was taken. Further, if the forms were used in the past it is possible that race of customers was noted at the time and that this information is still on file with this or any other telephone company using the form.

b. In regard to the disconnection notice, it is not clear when the service in question was originally billed, since the copies of the bills forwarded by Mrs. Tranquilli all are dated December 1, 1970, although related to charges for long distance calls made in October. Since Mrs. Tranquilli stated that she received and paid the bill on November 30, 1970, the reasonableness of sending the disconnection notice at that time is questionable. (Her statement as to receipt was made in a letter of March 2, 1971, commenting on the telephone company's initial response.) Moreover, the bills present on their face a more serious question in that in addition to containing a column marked "amount now due" which carries the figure 26.47, two other columns read "After this date 12/10/70 You Pay 28.42." This language raises the question of whether the telephone company is imposing a penalty charge for late payment on interstate calls. Since no such charge is shown for interstate calls in American Telephone and Telegraph Co.'s Tariff FCC No. 263, the imposition of a penalty charge would constitute a violation of section 203(c) of the Communications Act.

c. The company's explanation of the misbilling complaint is deficient in two respects. First, it assumes that all directly dialed calls are correctly billed and apparently makes no further investigation of a disputed call once it is determined that it was directly dialed. Secondly, this explanation was only made as to "most of the calls denied by Mrs. Tranquilli" and no explanation of any kind is given for disputed calls not directly dialed from her number. This latter failing is despite her specific complaint about a call to Houston, billed from Cambridge, Miss., with which place she was unfamiliar and could not even find on a map (nor can we).

5. Since it is necessary to commence a formal investigation concerning the above described practices of the telephone company, we think it is also appropriate at this time to consider whether a notice of liability to forfeiture should be issued for the company's disconnection in 1969 of Mrs. Tranquilli's service because she refused to pay the Federal excise tax on her telephone bill. During the processing of that informal complaint it was determined that while the tax is charged on the customer's bill, the Internal Revenue Service does not hold the telephone company responsible for the amount, but upon notification of the refusal by the telephone company, will proceed directly against the subscriber. (See IRS Procedural Rules, section 601.403(c)(2).) In this situation it cannot be considered that the tax is a "sum due the telephone company", within the meaning of section 2.4.3 of American Telephone & Telegraph Co.'s Tariff FCC No. 263 which provides for disconnection of service upon nonpayment. Therefore, a serious question is raised as to whether the disconnection was not a denial of interstate telephone service in violation of the tariff and therefore of section 203(e)(3).

6. *Accordingly, it is ordered*, That, pursuant to sections 201, 202, 203, 208, and 403 of the Communications Act of 1934, as amended, a hearing shall be held in this proceeding at the Commission's Offices in Washington, D.C. at a time to be specified, and that an examiner to be designated to preside at the hearing shall upon the closing of the record prepare an initial decision which shall be subject to the submittal of execptions and requests for oral argument as provided in 47 CFR 1.276 and 1.277, after which the Review Board shall issue its decision as provided in 47 CFR 0.365

7. *It is further ordered*, That, without in anyway limiting the scope of the proceeding, it shall include inquiry into the following:

1. Whether the use of the application form given to Mrs. Tranquilli was part of an unjust or unreasonable practice in violation of section 201 (a) or (b) of the Act or demonstrates that Mississippi Telephone and Communications, Inc., and its affiliates are or have been engaged in unjust and unreasonable discrimination in violation of section 202(a) of the Act;

2. Whether Mrs. Tranquilli has been incorrectly billed for interstate telephone service and whether the telephone company has failed to make reasonable investigation into her complaints relating thereto, in violation of sections 201(b), 202(a), and 203(c) of the Act;

3. Whether the sending of the disconnection notice to Mrs. Tranquilli was unreasonable under the circumstances so as to constitute a violation of section 201(b) of the Act or was unjustly discriminatory contrary to section 202(a) of the Act;

4. Whether the telephone company or any of its affiliates has, by imposing a late payment penalty charge, imposed a charge on interstate communications other than that set forth in the appropriate filed tariff in violation of section 203(c) of the Act;

5. Whether the disconnection of service to Mrs. Tranquilli in 1969 because of her refusal to pay the Federal telephone excise tax was a violation of section 203(c) of the Act.

8. *It is further ordered*, That, Mississippi Telephone and Communications, Inc., Mound Bayou Telephone Co., Central Telephone and Electronics Corp., and the Chief, Common Carrier Bureau are made parties to the proceedings.

9. *It is further ordered*, That, the Secretary of the Commission shall send copies of this order by certified mail, return receipt requested to Central Telephone and Electronics Corp., Mississippi Telephone and Communciations, Inc.,

and Mound Bayou Telephone Co., and shall cause a copy to be published in the FEDERAL REGISTER.

Adopted: June 24, 1971.

Released: June 29, 1971.

FEDERAL COMMUNCIATIONS COMMISSION,[2]

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

[FR Doc.71-9381 Filed 7-1-71;8:48 am]

[Dockets Nos. 19272, 19273; FCC 71-670]

WVOC, INC., AND MICHIGAN BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of WVOC, Inc., Battle Creek, Mich., requests: 95.3 mcs, No. 237; 3 kw.(H); 3 kw.(V); 161 feet; Docket No. 19272, File No. BPH-7005; and Michigan Broadcasting Co., Battle Creek, Mich., requests: 95.3 mcs, No. 237; 3 kw.(H); 3 kw.(V); 265 feet, Docket No. 19273, File No. BPH-7045; for construction permits.

1. The Commission has under consideration the above-captioned and described applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference.

2. Michigan Broadcasting has filed a "Petition for Waiver of the Multiple Ownership Rule" which would have barred ownership of a full-time AM station and an FM station in the same market. Now that the Commission has set aside this portion of the new multiple-ownership rules, waiver is no longer required, and the petition will be dismissed as moot.

3. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive FM service of 1 mv/m or greater intensity, together with the availability of other primary aural services in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

4. A comparison of the programing proposals is warranted when one applicant proposes predominantly specialized programing and the other, general market programing—Ward L. Jones, FCC 67-82 (1967); Policy Statement on Comparative Broadcast Hearings, 1 FCC 2d 393, footnote 9 at 397 (1965). In this case, WVOC, Inc., proposes substantial amounts of religious programing and Michigan Broadcasting, general market programing. Therefore, the need for specialized programing as against the need for general market programing may be compared under the standard comparative issue.

5. Michigan Broadcasting proposes to locate its main studio outside the city limits of Battle Creek at a point other than the transmitter site. The proposed main studio location would be convenient to Battle Creek and raises no problem regarding de facto relocation of the proposed station. Under these circumstances, we believe that adequate justification has been provided for use of this studio location if this application is granted.

6. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

7. *It is ordered*, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine in the light of the evidence adduced pursuant to the foregoing issue, which of the applications for construction permit should be granted.

8. *It is further ordered*, That if the Michigan Broadcasting application is granted, it may establish the main studio outside the city limits of Battle Creek, Mich., at the location now proposed.

9. *It is further ordered*, That, the "Petition for Waiver of the Multiple Ownership Rule", filed by Michigan Broadcasting is dismissed as moot.

10. *It is further ordered*, That to avail themselves of the opportunity to be heard, the applicants, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty (20) days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

11. *It is further ordered*, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: June 24, 1971.

Released: June 29, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[1]

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

[FR Doc.71-9383 Filed 7-1-71;8:48 am]

[2] Commissioners Robert E. Lee, Johnson, and Houser absent.

[1] Commissioners Robert E. Lee, Johnson, and Houser absent.

FEDERAL POWER COMMISSION

[Docket No. E-7637]

BUCKEYE POWER, INC.

Notice of Proposed Rate Schedule Changes

JUNE 28, 1971.

Take notice that on June 7, 1971, Buckeye Power, Inc. (Buckeye), filed rate schedule supplements proposing to change existing rates for service to its 28 wholesale cooperative customers effective July 1, 1971.

The existing rates which Buckeye proposes to change are designated A-5 and S-2. Changes in both A-5 and S-2 involve raising demand and energy charges. Buckeye estimates that the proposed rate changes would result in increased charges of $2,175,267 to its member cooperatives for the 12-month period beginning July 1, 1971.

As justification for the increase, Buckeye states that operation under present rates has been at a steadily growing financial loss and unless this increase is granted, cumulative deficits will continue to grow and net worth will deteriorate. According to Buckeye, changes in its seasonal load pattern have resulted in inadequate revenues.

Copies of the filing have been served on customers and the interested State regulatory agency. Waiver of the 60-day notice was requested.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 27, 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, *Secretary.*

[FR Doc.71-9373 Filed 7-1-71;8:47 am]

[Docket No. RP71-134]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Existing Curtailment Procedures

JUNE 23, 1971.

Take notice that on May 17, 1971, Great Lakes Gas Transmission Co. (Great Lakes) 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 "* * * does not expect to curtail deliveries to any customers."

While Great Lakes does not anticipate making curtailments below contract demand, it states that its FPC Gas Tariff, Original Volume No. 1, provides in § 10.3 of the General Terms and Conditions thereof the method for apportioning among its customers the available gas supply during periods of a gas shortage on its system. Section 10.3 reads as follows:

10.3 If due to any cause whatsoever the capacity for deliveries from Seller's transmission line is impaired so that Seller is unable to deliver to Buyer the total volume of natural gas provided for in the executed Service Agreement, then Buyer shall be entitled to such proportion of the total impaired deliveries from such line as said total volume bears to the total quantities of gas delivered from such line (including deliveries into Seller's other lines and its compressor stations) immediately prior to such impairment.

Great Lakes states in its report that it does not make direct sales either on a firm or interruptible basis.

Although Great Lakes' 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 Great Lakes' existing tariff provisions governing curtailments of service should on or before July 16, 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. Great Lakes' report, submitted pursuant to Order No. 431, is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-9377 Filed 7-1-71;8:47 am]

[Dockets Nos. CP71-305, CP71-306]

MICHIGAN CONSOLIDATED GAS CO. AND MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Applications

JUNE 28, 1971.

Take notice that on June 21, 1971, Michigan Consolidated Gas Co. (Consolidated), One Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP71-305 a motion for a continuation of exemption under section 1(c) of the Natural Gas Act, and Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin), One Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP71-306 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of existing facilities for the exchange of natural gas on a best efforts basis with Consolidated, all as more fully set forth in the respective applications which are on file with the Commission and open to public inspection.

Consolidated states that it has contracted with independent producers for the purchase of newly discovered natural gas reserves in the upper portion of Michigan's lower peninsula and that it is constructing gathering systems to connect these reserves with its Traverse City and Alpena systems. Consolidated explains that it will utilize these reserves to meet the requirements of the market areas served by these two systems but that it expects production will soon exceed these market requirements. To make these additional volumes of natural gas available to other noncontiguous areas of its system, Consolidated states that it has entered into an agreement with Michigan Wisconsin providing for the exchange of natural gas on a best efforts basis for a limited term extending to November 1, 1972. Because Consolidated's natural gas operations are entirely intrastate in nature, it is exempt from the provisions of the Natural Gas Act under section 1(c) thereof, as heretofore found by the Commission on February 3, 1955, in Docket No. G-6507 (14 FPC 535). Consolidated seeks herein to maintain this exemption. Consolidated submits that the proposed exchange is within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70).

Michigan Wisconsin proposes to receive natural gas at the southern termini of Consolidated's Traverse City and Alpena systems and to redeliver equivalent volumes to Consolidated at an existing delivery point at Consolidated's Austin-Detroit Sales Station located in Mecosta County, Mich., or at other mutually agreeable points of delivery. Michigan Wisconsin states that the exchange proposed herein will require the construction of no new facilities by either party and that it will realize a savings of approximately $35,000 on an annual basis in compressor fuel.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 20, 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 in Docket No. CP71-306 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,
Secretary.

[FR Doc.71-9374 Filed 7-1-71;8:47 am]

[Docket No. CP71-298]

NORTHERN NATURAL GAS CO.

Notice of Application

JUNE 28, 1971.

Take notice that on June 14, 1971, Northern Natural Gas Co. (applicant), 2223 Dodge Street, Omaha, NE 68102, filed in Docket No. CP71-298 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain natural gas gathering facilities and pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of certain existing 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 certain gathering facilities located in Ochiltree and Val Verde Counties, Tex., which have been used to receive natural gas purchased from El Paso Natural Gas Co. (El Paso). El Paso has plugged and is presently seeking authorization to abandon the J. W. Daniel Unit No. 1, the J. W. Daniel "B" Unit No. 1 and the Ridgeway and Morrison C. S. McGarraugh No. 1 wells located in Ochiltree County, Tex., and the Western A. Cauthorn 1 and Western A. Cauthorn 2 wells located in Val Verde County, Tex. Applicant states that the facilities employed to receive gas purchased from these wells are no longer necessary and seeks permission and approval to abandon two 4-inch side valves located in Ochiltree County, and to abandon and remove approximately 2 miles of 4-inch-gathering line and appurtenances located in Val Verde County. The estimated cost for the removal of these pipeline facilities is $6,100.

Applicant also seeks authorization to operate an existing 4-inch-side valve on its gathering system at a connection with the facilities of El Paso at the Cotton Petroleum-Jines No. 1 well located in Ochiltree County, Tex. Applicant states that El Paso has volumes of natural gas

available for delivery and exchange, and applicant seeks a certificate of public convenience and necessity to operate the facilities necessary to receive this gas. This exchange of natural gas will be made pursuant to El Paso's FPC Gas Rate Schedule No. 2–1.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 19, 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 and 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,
Secretary.

[FR Doc.71-9375 Filed 7-1-71;8:47 am]

TEXACO, INC.

[Docket No. RI71-1137]

Order Providing for Hearing on and Suspension of Proposed Change in Rate, and Allowing Rate Change To Become Effective Subject to Refund

JUNE 23, 1971.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

The Commission orders:

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto [18 CFR, Chapter I], and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

APPENDIX A

Docket No.	Respondent	Rate schedule No.	Supplement No.	Purchaser and producing area	Amount of annual increase	Date filing tendered	Effective date unless suspended	Date suspended until—	Cents per Mcf*		Rate in effect subject to refund in dockets Nos.
									Rate in effect	Proposed increased rate	
RI71-1137	Texaco, Inc.	348	4	Transcontinental Gas Pipe Line Corp. (Big Foot Field, Frio County, Tex., RR. District No. 1).	$	5-24-71		7-25-71	15.767375	16.7846	RI67-331,

*The pressure base is 14.65 p.s.i.a.

The proposed increased rate of Texaco, Inc., for a sale in an area outside southern Louisiana does not exceed the corresponding rate limitation for increased rates in southern Louisiana and is therefore suspended for a period ending 61 days from the date of filing.

Texaco's proposed increased rate and charge exceeds the applicable area price level for increased rates as set forth in the Commission's statement of general policy No. 61–1, as amended (18 CFR 2.56).

[FR Doc.71-9378 Filed 7-1-71;8:48 am]

[Docket No. CP71-303]

TRUNKLINE GAS CO. AND UNITED FUEL GAS CO.

Notice of Application

JUNE 28, 1971.

Take notice that on June 21, 1971, Trunkline Gas Co. (Trunkline), Post Office Box 1642, Houston, TX 77001, and United Fuel Gas Co. (United), Post Office Box 1273, Charleston, WV 25325, jointly filed in Docket No. CP71–303 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas between Applicants at three processing plants located in the State of Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they have entered into an agreement for the exchange of natural gas between the parties. United, under the provisions of this agreement, is to advance to Trunkline an average daily quantity of 85,000 Mcf of natural gas during the period from May 24, 1971, to and including October 31, 1971. Trunkline will repay United an equivalent volume of natural gas at a maximum rate of 25,000 Mcf per day by deliveries commencing November 1, 1972, and continuing through May 12, 1974. The deliveries to the respective parties are to be effected on the outlet side of three processing plants in southern Louisiana where each applicant presently receives natural gas. These plants are: The Continental Oil Co.'s Egan Plant located in Acadia Parish; the Shell Oil Co.'s Calumet Plant in St. Mary Parish; and the Humble Oil and Refining Co.'s Garden City Plant also located in St. Mary Parish.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 29, 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,
Secretary.

[FR Doc.71-9376 Filed 7-1-71;8:47 am]

[Docket No. CP71-289]

COLUMBIA LNG CORP., AND CONSOLIDATED SYSTEM LNG CORP.

Amended Notice of Amendment of Application

JUNE 29, 1971.

The notice of amendment to application issued June 25, 1971, in the above-titled proceedings is hereby amended to provide that all persons who have been or will be permitted to intervene in the joint application of Columbia LNG Corp. and Consolidated System LNG Corp. and Docket No. CP71-289 will be deemed interveners in the amendment to that application noticed herein. New issues raised by the amendment to Docket No. CP71-289 were the subject of testimony already presented and cross-examined during hearings now in progress in Columbia LNG Corp. et al., Docket No. CP71-68 et al.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-9479 Filed 7-1-71;8:51 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs. Temporary Reg. G-10]

CHAIRMAN, ATOMIC ENERGY COMMISSION

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Chairman, Atomic Energy Commission, to represent the consumer interests of the civilian executive agencies of the Federal Government in a proceeding involving a newly proposed freight classification rating.

2. *Effective date.* This regulation is effective June 25, 1971.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Chairman, Atomic Energy Commission, to represent the consumer interests of the civilian executive agencies of the Federal Government before the Interstate Commerce Commission in a proceeding involving a newly proposed freight classification rating issued by the National Motor Freight Traffic Association, Inc.

b. The Chairman, Atomic Energy Commission, may redelegate this authority to any officer, official, or employee of the Atomic Energy Commission.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ROBERT L. KUNZIG,
Administrator of General Services.

JUNE 25, 1971.

[FR Doc.71-9357 Filed 7-1-71;8:46 am]

[Federal Property Management Regs. Temporary Reg. F-109]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a natural gas rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the interests of the executive agencies of the Federal Government before the Public Service Commission of Utah in a proceeding (Docket No. 6369) involving natural gas rates of the Mountain Fuel Supply Co.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ROBERT L. KUNZIG,
Administrator of General Services.

JUNE 25, 1971.

[FR Doc.71-9396 Filed 7-1-71;8:49 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

JUNE 29, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42235—*Canned Goods from and to Western Trunk Line Territory.* Filed by Western Trunk Line Committee, agent (No. A-2643), for interested rail carriers. Rates on canned goods and related articles, in carloads, as described in the application, between specified points in Colorado and Wyoming, on the one hand, and points in various territories, on the other.

Grounds for relief—Market competition, modified short-line distance formula and grouping.

Tariff—Supplement 59 to Western Trunk Line Committee, agent, tariff

ICC A–4674. Rates are published to become effective on August 10, 1971.

By the Commission.

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

[FR Doc.71-9399 Filed 7-1-71;8:49 am]

[Notice 322]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 28, 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 124211 (Sub-No. 189 TA), filed June 20, 1971. Applicant: HILT TRUCK LINE, INC., Post Office Box 988, Downtown Station, Omaha, NE 68101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, commodities in bulk, in tank vehicles) from the plantsite or storage facilities of Illini Beef Packers, Inc., at or near Joslin, Ill., to points in Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Nebraska, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Illini Beef Packers, Inc., Joslin, Ill. (G. James Bonnette). Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 705 Federal Office Building, Omaha, Nebr. 68102.

No. MC 126305 (Sub-No. 32 TA), filed June 20, 1971. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., Route 1, Clayton, Ala. 36016. Applicant's representative: George A. Olsen, 69 Tonnelle Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Seatings and tables*, from the plantsite of American Bleacher Corp., at or Baton Rouge, La., to points in the United States (except Alaska and Hawaii), for 150 days. Supporting shipper: American Bleacher Corp., Post Office Box 336, Baton Rouge, LA 70821. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 127339 (Sub-No. 1 TA), filed June 20, 1971. Applicant: EUGENE W. KETTELSON, doing business as KETTELSON CARTAGE, 4301 Lilley Road, Wayne, MI 48184. Applicant's representative: Robert D. Schuler, Suite 1700, 1 Woodward Avenue, Detroit, MI 48226. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wooden doors*, in shipper-owned trailers, from the plantsite of Nationwide Door Co. at Walled Lake, Mich., to points in Illinois, Indiana, Ohio, New York, Pennsylvania, Wisconsin, with return shipments of *materials supplies and equipment* used or useful in the manufacture of wooden doors, for 180 days. Supporting shipper: Nationwide Door Co., 1080 Welch Road, Post Office Box 445, Walled Lake, MI 48088. Send protests to: District Supervisor Melvin F. Kirsch, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell, Detroit, MI 48226.

No. MC 127689 (Sub-No. 44 TA), filed June 21, 1971. Applicant: PASCAGOULA DRAYAGE COMPANY, INC., 701 East Pine Street, Post Office Box 987, Hattiesburg, MS 39401. Applicant's representative: Wally Fondaw (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood*, from the plantsite of Sumter Plywood Corp., near Livington, Ala., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, and Tennessee, for 180 days. Supporting shipper: George R. Johansen, Traffic Analyst, U.S. Plywood-Champion Papers, Inc., Knightsbridge Drive, Hamilton, Ohio 45011. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 129039 (Sub-No. 5 TA), filed June 18, 1971. Applicant: JACOBY TRANSPORT SYSTEM, INC., 4757 James Street, Philadelphia, PA 19137. Applicant's representative: Lee Burgher (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fiberboard*, plain or with decorative and protective covering and *accessories and supplies* used in the installation thereof, from the plantsite and warehouse sites of the Masonite Corp., in Bellmawr, N.J., to points in Maine, Vermont, New Hampshire, Connecticut, Rhode Island, Massachusetts, New York, Pennsylvania, Maryland, New Jersey, Delaware, Virginia, West Virginia, North Carolina, and the District of Columbia, for 150 days. Supporting shipper: Masonite Corp., 29 North Wacker Drive, Chicago, IL 60606. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1518 Walnut Street, Room 1600, Philadelphia, PA 19102.

No. MC 129350 (Sub-No. 13 TA), filed June 20, 1971. Applicant: CHARLES E. WOLFE, doing business as EVERGREEN EXPRESS, Post Office Box 212, 410 North 10th Street (59101), Billings, MT 59103. Applicant's representative: J. F. Meglen, Post Office Box 1581, Billings, MT 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds and ingredients*, from Cozad, Nebr.; Dawson and Thief River Falls, Minn.; and Sheldon, Iowa; to points in Wyoming, and from West Fargo, LaGrange, and Grandin, N. Dak.; DeSmet, S. Dak.; Denver, Greeley, and Lucerne, Colo.; Sweetwater, Lufkin, and El Paso, Tex.; Casa Grande and Phoenix, Ariz.; to points in Montana and Wyoming, for 180 days. Supporting shipper: Bertolino Feed and Equipment, 404 South 24th Street, Billings, MT 59101. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 251, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 135693 (Sub-No. 1 TA), filed June 20, 1971. Applicant: SOUTHERN CEMENT TRANSPORT, INC., Post Office Box 188, Okay, AR 71854. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Defluorinated phosphate feed supplements*, in bulk, in sacks, from North Little Rock, Ark., to points in Louisiana, Mississippi, Missouri, Kansas, Kentucky, Illinois, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shipper: Olin, Post Office Box 991, Little Rock, AR 72203. 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 135700 TA, filed June 18, 1971. Applicant: HAMMOND TRUCKING, INC., 2561 Geary Street, Redding, CA 96001. Applicant's representative: George M. Carr, 351 California Street, Suite 1215, San Francisco, CA 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aggregate and asphalt paving products*, from points in Nevada and Placer Counties, Calif., to Incline Village and Incline, Nev., and points within a radius of 4 miles of said points, for 180 days. Supporting shipper: J. F. Shea Co., Inc., 1290 Smith Road, Red-

ding, CA. Send protests to: District Supervisor Wm. E. Murphy, Interstate Commerce Commission, Bureau of Operation, 450 Golden Gate Avenue, Box 36004, San Francisco, CA 94102.

By the Commission.

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

[FR Doc.71-9401 Filed 7-1-71;8:49 am]

[Notice 323]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 29, 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 21445 (Sub-No. 22 TA) (Correction), filed June 10, 1971, published FEDERAL REGISTER, issue June 22, 1971, corrected and, republished in part as corrected this issue. Applicant: GENE MITCHELL CO., 1106 Division Street, West Liberty, IA 52776. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. NOTE: The purpose of this partial republication is to reflect the correct (Sub-No. 22 TA). The rest of the application remains the same.

No. MC 28142 (Sub-No. 2 TA), filed June 22, 1971. Applicant: SHANAHAN'S EXPRESS, INC., 126 Prospect Street, Merchantville, NJ 08109. Applicant's representative: Raymond A. Thistle, Jr., Suite 1012, Four Penn Center Plaza, Philadelphia, PA 19103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Radios, phonographs, tape recorders televisions citizen band equipment, stereos hi-fi's component parts of all of the foregoing, electronic test equipment, records, tapes, tools, and accessories used in connection with said items*, from the plantsite of Allied Radio Shack, Division of Tandy Corp., Delair, N.J., to points in Pennsylvania, Delaware, Maryland, North Carolina, Virginia, and the District of Columbia, for 150 days. Supporting shipper: Allied Radio Shack, Division of Tandy Corp., Derousse Avenue, Delair, N.J. 08110. Send protests to: Raymond T. Jones, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, NJ 08608.

No. MC 61048 (Sub-No. 11 TA), filed June 22, 1971. Applicant: LEONARD EXPRESS, INC., Post Office Box 610, Jamison Avenue, Greensburg, PA 15601. Applicant's representative: Robert R. Kolthoff (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, and except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Nassau County, N.Y., and the terminal site of Printer Bros., Inc., at Deer Park (Suffolk County), N.Y., for 180 days. NOTE: Applicant states it does intend to tack the authority in MC 61048. Supporting shipper: Leonard Express, Inc., Jamison Avenue, Post Office Box 610, Greensburg, PA 15601. Send protests to: John J. England, District Suprevisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 104523 (Sub-No. 45 TA), filed June 23, 1971. Applicant: HUSTON TRUCK LINE, INC., Friend, NE 68359. Applicant's representative: David R. Parker, 300 NSEA Building, Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Store fixtures, equipment, and supplies*, from the plantsite of Maytex Manufacturing Co., in Terrell, Tex., to points in Washington, Oregon, California, Nevada, Utah, Idaho, and Montana, for 180 days. Supporting shipper: Mr. Don Clontz, Traffic Manager, Maytex Manufacturing Co., 1220 Airport Road, Terrell, TX 75160. Send protests to: Max H. Johnston, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 320 Federal Building and U.S. Courthouse, Lincoln, Nebr. 68508.

No. MC 114533 (Sub-No. 231 TA), filed June 22, 1971. Applicant: BANKERS DISPATCH CORPORATION, 4970 South Archer Avenue, Chicago, IL 60632. Applicant's representative: Stanley Komosa (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exposed and processed film and prints, complimentary replacement film and incidental dealer handling supplies* (except motion picture film and materials and supplies used in connection with commercial and television motion pictures), (A) between Kansas City, Kans., on the one hand, and, on the other, points in Missouri, (B) between St. Louis, Mo., on the one hand, and, on the other, Miami, Okla., (C) between Parsons, Kans., on the one hand, and, on the other, points in Ottawa, Delaware, and Tulsa Counties, Okla., for 180 days. Supporting shippers: Rainbow Photo, Inc., 2019 North 18 Street, Kansas City, KS 66104.; Stanley Photo Service, 2838 Market Street, St. Louis, MO 63103.; Dwayne's Photo Service, 415 South 32d Street, Post Office Box 274, Parsons, KS 67357. Send protests to: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 117589 (Sub-No. 18 TA), filed June 23, 1971. Applicant: PROVISIONER'S FROZEN EXPRESS, INC., 2535 Airport Way South, Seattle, WA 98134. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen ice cream novelties*, from Logan, Utah, to Seattle, Wash., for 180 days. Supporting shipper: Harris Ice Cream Co., Box 1272, Bellevue, WA 98009. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 127100 (Sub-No. 7 TA), filed June 23, 1971. Applicant: B & B MOTOR LINES, INC., 911 Summit Street, Toledo, OH 43604. Applicant's representative: Earl F. Boxell, Ninth Floor, Toledo Trust Building, Toledo, Ohio 43604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt* (beer and ale) *beverages*, in containers, from St. Paul, Minn., to Lima, Ohio, and *empty containers on return*, for 150 days. Supporting shipper: Shawnee Distributors, Inc., Lima, Ohio. Sent protests to: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5234 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 127871 (Sub-No. 4 TA), filed June 21, 1971. Applicant: TRANS-SUPPLY, INC., Post Office Box 210, 207 North Main Street, Mercersburg, Franklin County, PA 17236. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Waste products, including fly ash and bottom ash*, in bulk, from the plantsite of Potomac Electric Power Co., at or near Dickerson, Montgomery County, Md., to points in Berkeley, Jefferson, Mineral and Grant Counties, W. Va., and Somerset County, Pa., Restricted to transportation to be performed under a continuing contract with PBS Coals, Inc., for 150 days. Supporting shipper: PBS Coals Inc., Box 210, Mercersburg, PA 17236. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building,

228 Walnut Street, Post Office Box 869, Harrisburg, PA 17108.

No. MC 128030 (Sub-No. 30 TA), filed June 23, 1971. Applicant: THE STOUT TRUCKING CO. INC., Post Office Box 177, RR. No. 1, Urbana, IL 61801. Applicant's representative: Robert Stout (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bumpers and parts thereof*, from Flex-N-Gate Sales, Urbana, Ill., to points in California, Colorado, Idaho, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, South Dakota, North Dakota, Oregon, Utah, Washington, Wisconsin, and Wyoming, for 180 days. Supporting shipper: Mr. Gayle Bartell, Flex-N-Gate Sales, Inc., Urbana, Ill. Send protests to: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 134653 (Sub-No. 3 TA), filed June 23, 1971. Applicant: STERRITT TRUCKING, INC., Post Office Box 367, West Coxsackie, NY 12192. Applicant's representative: Alfred C. Purello, 451 State Street, Albany, NY 12203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pre-stress, pre-cast concrete*, for account of Unistress Corp., from Pittsfield, Mass., to Cobleskill, N.Y., for 150 days. Supporting shipper: Unistress Corp., Box 1145, Pittsfield, MA 01201. Send protests to: Charles F. Jacobs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 135612 (Sub-No. 1 TA), filed June 23, 1971. Applicant: DECATUR PETROLEUM HAULERS, INC., 161 First Avenue, NE, Post Office Box 1784, Decatur, AL 35601. Applicant's representative: D. Harry Markstein, Jr., Room 512 Massey Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, in tank trailers, from Birmingport, Ala., to points in Georgia, Mississippi, and Tennessee, for 180 days. Supporting shipper: Chevron Asphalt Co., Post Office Box 1069, Mobile, AL 36601. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, Ala. 35203.

By the Commission.

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

[FR Doc.71-9402 Filed 7-1-71;8:49 am]

[Notice 709]

MOTOR CARRIER TRANSFER PROCEEDINGS

JUNE 29, 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-72662. By order of June 22, 1971, the Motor Carrier Board approved the transfer to Carrier Van Service, Inc., Kansas City, Mo., of the operating rights in Certificate No. MC-103967 (Sub-No. 1), issued October 14, 1943, to John Walls, doing business as New Way Transfer, Kansas City, Mo., authorizing the transportation of household goods, as defined in Practices of Motor Common Carriers of Household Goods, 17 M.C.C. 467, between Kansas City, Mo., and points within 25 miles of Kansas City, on the one hand, and, on the other, points in Kansas, Nebraska, Iowa, Missouri, and Illinois. Tom B. Kretsinger, 450 Professional Building, 1103 Grand Avenue, Kansas City, MO 64106, attorney for applicants.

No. MC-FC-72952. By order of June 24, 1971, the Motor Carrier Board approved the transfer to M. G. Henninger & Son, Inc., Berrysburg, Pa., of the operating rights in Certificate No. MC-112212 issued January 16, 1961, to Ward Roadcap, Jr., Inc., Spring Glen, Pa., authorizing the transportation of lumber, from Baltimore, Md., to points in Dauphin, Mifflin, and Centre Counties, Pa.; feed, fertilizer, and fertilizer materials, from Harrison, N.J., and Baltimore, Md., to Elizabethville, Pa., and points within 10 miles of Elizabethville; flour, from Elizabethville, Pa., and points within 10 miles thereof, to New York, N.Y., and Baltimore, Md.; rock wool, from Wharton, N.J., and points within 1 mile thereof, and Stanhope, N.J., to Millersburg and Lewisburg, Pa.; spray materials and insecticides, from Irvington and Newark, N.J., to points in Cumberland, Dauphin, Luzerne, Northumberland, Schuylkill, and Perry Counties, Pa., and fertilizer, from Baltimore, Md., to points in Northumberland, Dauphin, and Schuylkill Counties, Pa., within 20 miles of Hebe, Pa. Kenneth R. Davis, 999 Union Street, Taylor, PA 18517, registered practitioner for applicants.

No. MC-FC-72955. By order of June 24, 1971, the Motor Carrier Board approved the transfer to Direct Transport, Inc., Richmond, Va., of the operating rights in Permit No. MC-95983 issued July 11, 1942, to Jesse T. Dyson, doing business as J. T. Dyson, Hanover, Va., authorizing the transportation of lumber from Richmond, Va., and points in Virginia within 60 miles of Richmond, to points in the District of Columbia, Maryland, Delaware, New Jersey, and that part of Pennsylvania within 90 miles of Reading, Pa. W. R. Gambill, Post Office Box 8408, 536 Granite Avenue, Richmond, VA 23226, attorney for applicants.

No. MC-FC-72961. By order of June 24, 1971, the Motor Carrier Board approved the transfer to Dean Jones and Kenny Winstead, a partnership, doing business as Sneedville Freight Line, Sneedville, Tenn. 37869, of the certificate of registration in No. MC-96930 (Sub-No. 1) issued October 24, 1969, to Donald O. Trent, doing business as Trent's Freight Line, Sneedville, Tenn. 37869, evidencing a right to engage in transportation as a motor carrier in interstate or foreign commerce corresponding in scope to the authority granted in Certificate No. 965 dated August 10, 1951, and Certificate No. 965-A dated October 23, 1956, transferred and embraced by order dated May 24, 1966, issued by the Tennessee Public Service Commission.

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

[FR Doc.71-9403 Filed 7-1-71;8:49 am]

PARKHILL TRUCK CO. ET AL.

Assignment of Hearings

JUNE 29, 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 106497 Sub 48, Parkhill Truck Co., continued to July 7, 1971, at Washington, D.C., at the Offices of the Interstate Commerce Commission.

MC 115841 Sub 386, Colonial Refrigerated Transportation, Inc., now assigned July 19, 1971, at Sioux City, Iowa, postponed indefinitely.

MC 115841 Sub 387, Colonial Refrigerated Transportation, Inc., now assigned July 26, 1971, Sioux City, Ia., postponed indefinitely.

MC 120098 Sub 19, Uintah Freightways, now being assigned September 13, 1971, at Denver, Colo., in Room 1430, Federal Building, 1961 Stout Street.

MC-9115 Sub 59, O.N.C. Motor Freight System, now assigned October 4, 1971, in Room 1057, Federal Building, 909 First Avenue, Seattle, WA.

MC-52953 Sub 37, E T & W N C Transportation Co., application dismissed.

MC 107576 Sub 20, Silver Wheel Freight Lines, Inc., now assigned September 13, 1971, in Room 101, Public Service Building, Court and Chanekta Street, Salem, Oreg.

MC-110581 Sub 5, G & H Motor Freight Lines, Inc., now being assigned hearing September 13, 1971, in Room 707, Federal Building, 210 Walnut Street, Des Moines, IA.

MC 111545 Sub 144, Home Transportation Co., Inc., now assigned July 16, 1971, at Chicago, Ill., is canceled and the application is dismissed.

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

[FR Doc.71-9400 Filed 7-1-71; 8:49 am]

CUMULATIVE LIST OF PARTS AFFECTED—JULY

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FRIDAY, JULY 2, 1971
WASHINGTON, D.C.
Volume 36 ▪ Number 128

PART II

ENVIRONMENTAL PROTECTION AGENCY

▪

Exhaust Emission Standards and Test Procedures

Title 45—PUBLIC WELFARE

Chapter XII—Environmental Protection Agency

PART 1201—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Oxides of Nitrogen Exhaust Emission Standard and Test Procedures

On February 27, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 3825) which set out the text of proposed amendments to the regulations in this part to provide for an oxides of nitrogen exhaust emission standard and test procedures to become applicable to new light duty vehicles beginning with the 1973 model year.

Pursuant to the above notice, a number of comments have been received from representatives of domestic and foreign manufacturers and from other interested parties. Due consideration has been given to all relevant matter presented and a number of amendments have been made to the regulations as proposed.

Changes have been made to the proposed regulations to provide for a better description of the NO_2 converter, a method of determining the efficiency of the NO_2 converter, and an NO_x background level correction factor. The special allowance for off-road utility vehicles had been extended to cover NO_x as well as hydrocarbons and carbon monoxide.

In addition, the final rule contains other amendments, largely technical and clarifying modifications.

The oxides of nitrogen exhaust emission standard, as proposed for the 1975 model year, is not included in these regulations but is included in the final rule for exhaust emission standards applicable to 1975 and later model years (proposed in 36 F.R. 3528 and 36 F.R. 9469).

The amendments to Part 1201 set forth below are hereby adopted effective on publication in the FEDERAL REGISTER (7-2-71) and are applicable to new light duty vehicles beginning with the 1973 model year.

The current regulations which appear at Part 1201 will remain in effect for the purpose of their applicability to earlier model year vehicles.

(Sec. 301(a), 81 Stat. 504; 42 U.S.C. 1857g (a), as amended by sec. 15(c)(2), Public Law 91-604, 84 Stat. 1713)

Dated: June 23, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

Part 1201 of Chapter XII, Title 45 of the Code of Federal Regulations is amended as follows:

1. In § 1201.1 a new subparagraph is added as follows:

§ 1201.1 Definitions.

(a) * * *

(32) "Oxides of Nitrogen" means the sum of the nitric oxide and nitrogen dioxide contained in a gas sample as if the nitric oxide were in the form of nitrogen dioxide.

2. In § 1201.2 four new abbreviations are added as follows:

§ 1201.2 Abbreviations.

* * * * *

C.—Centigrade.
NO—Nitric Oxide.
NO_2—Nitrogen Dioxide.
NO_x—Oxides of Nitrogen.

* * * * *

3. In § 1201.21, paragraph (a) is revised to read as follows:

§ 1201.21 Standards for exhaust emissions.

(a) Exhaust emissions from 1973 and 1974 model year vehicles shall not exceed:

(1) Hydrocarbons—3.4 grams per vehicle mile.

(2) Carbon monoxide—39.0 grams per vehicle mile.

(3) Oxides of nitrogen—3.0 grams per vehicle mile.

* * * * *

4. In § 1201.70, paragraph (b) is revised to read as follows:

§ 1201.70 Introduction.

* * * * *

(b) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide and oxides of nitrogen mass emissions while simulating an average trip in an urban area of 7.5 miles from a cold start. The test consists of engine startup and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix A to this part. A proportional part of the diluted exhaust emissions is collected continuously, for subsequent analysis, using a constant volume (variable dilution) sampler.

* * * * *

5. In § 1201.74, paragraph (b)(1) is revised to read as follows:

§ 1201.74 Evaporative emission collection procedure.

* * * * *

(b) *Running loss test.* (1) The vehicle shall be placed on the dynamometer and the fuel tank thermocouple reconnected. The fuel temperature and the ambient air temperature shall be recorded at a chart speed of approximately 12 inches per hour (or equivalent record).

* * * * *

6. In § 1201.75, paragraph (b) is revised to read as follows:

§ 1201.75 Dynamometer driving schedule.

* * * * *

(b) A speed tolerance of ±2 m.p.h. and a time tolerance of ±1 second (or an algebraic combination of the two) from either the speed-time relationship prescribed in Appendix A or as printed on a driver's aid chart approved by the Administrator are acceptable. Speed tolerances greater than 2 m.p.h. (such as occur when shifting manual transmission vehicles) are acceptable provided they occur for less than 2 seconds on any one occasion. Speeds lower than those prevehicle is operated at maximum available power during such occurrences. Further, speed deviations from those prescribed due to stalling are acceptable provided the provisions of § 1201.80(f) are adhered to.

7. In § 1201.76, paragraph (a) is revised to read as follows:

§ 1201.76 Dynamometer procedure.

(a) The vehicle shall be tested from a cold start. Engine startup and operation over the driving schedule make a complete test run. Exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during the entire test run. The composite sample, collected in a bag, is analyzed for hydrocarbon, carbon monoxide, and oxides of nitrogen emissions. A parallel sample of the dilution air is similarly analyzed.

* * * * *

8. In § 1201.80, paragraphs (a) and (b)(1) are revised to read as follows:

§ 1201.80 Engine starting and restarting.

(a) The engine shall be started according to the manufacturer's recommended starting procedures. The initial 20-second-idle period shall begin when the engine starts.

(b) Choke operation:

(1) Vehicles equipped with automatic chokes shall be operated according to the manufacturer's operating or owner's manual including choke setting and "kick-down" from cold fast idle. If choke "kick-down" time is not specified, it shall be performed 13 seconds after the engine starts. The transmission shall be placed in gear 15 seconds after the engine is started. If necessary, braking may be employed to keep the drive wheels from turning.

* * * * *

9. Section 1201.81 is revised to read as follows:

§ 1201.81 Sampling and analytical system (exhaust emissions).

(a) *Schematic drawings.* The following figures (Figs. 1a and 1b) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations

in this part. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

In particular, the HC and CO instruments may be connected in series instead of in parallel.

(b) *Component description (exhaust gas sampling system).* The following components will be used in the exhaust gas sampling system for testing under the regulations in this part. See Figure 1a. Other types of constant volume samplers may be used if shown to yield equivalent results.

(1) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream. The filters shall be of sufficient capacity and the duct which carries the dilution air to the point where the exhaust gas is added shall be of sufficient size so that the pressure at the mixing point is less than 1 inch of water pressure below ambient when the constant volume sampler is operating at its maximum flow rate.

(2) A flexible, leak-tight connector and tube to the vehicle tailpipe. The flexible tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±1 inch of water of the static pressure variations measured during a dynamometer driving cycle with no connections to the tailpipe(s).

(3) A heating system to preheat the heat exchanger to within ±10° F. of its operating temperature before the test begins.

(4) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to ±10° F. as measured at a point immediately ahead of the positive displacement pump.

(5) A positive displacement pump to pump the dilute exhaust mixture. The pump capacity (300 to 350 c.f.m. is sufficient for testing most vehicles) shall be large enough to virtually eliminate water condensation in the system. See Appendix C for flow calibration techniques.

(6) Temperature sensor (T1) with an accuracy of ±2° F. to allow continuous recording of the temperatures of the dilute exhaust mixture entering the positive displacement pump. (see § 1201.83 (1)).

(7) Gauge (G1) with an accuracy of ±3 mm. Hg to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

(8) Gauge (G2) with an accuracy of ±3 mm. Hg to measure the pressure increase across the positive displacement pump.

(9) Sample probes (S1 and S2) pointed upstream to collect samples from the dilution air stream and the dilute exhaust mixture. Additional sample probes may be used, for example, to obtain continuous concentration traces of the dilute exhaust stream. In such case the sample flow rate, in standard cubic feet per test, must be added to the calculated dilute exhaust volume. The position of the sample probe in Figure 1a is pictorial only.

(10) Filters (F1 and F2) to remove particulate matter from dilution air and dilute exhaust samples prior to entering sample collection bags.

(11) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(12) Flow control valves (N1 and N2) to regulate flows to sample collection bags, at constant flow rates. The minimum sample flow rate shall be 5 c.f.h.

(13) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(14) Three-way solenoid valves (V1 and V2) to direct sample streams to either their respective bags or overboard.

(15) Quick-connect leak-tight fittings (C1 and C2), with automatic shutoff on bag side, to attach sample bags to sample system.

(16) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(17) A revolution counter to count the revolutions of the positive displacement pump while the test is in progress and samples are being collected.

(c) *Component description (exhaust gas analytical system).* The following components will be used in the exhaust gas analytical system for testing under the regulations in this part. The analytical system provides for the determination of hydrocarbon concentrations by flame ionization detector (FID) analysis, the determination of carbon monoxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentration by chemiluminescence (C1) analysis in dilute exhaust samples. The chemiluminescence method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. See Appendix E. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure 1b.

(1) Quick-connect leak-tight fitting (C3) to attach sample bags to analytical system.

(2) Filter (F3) to remove any residual particulate matter from the collected samples.

(3) Pump (P3) to transfer samples from the sample bags to the analyzers.

(4) Selector valves (V3, V4, and V5) for directing samples, span gases or zeroing gas to the analyzers.

(5) Flow control valves (N3, N4, N5, N6, N7, N8, N9, N10, and N11) to regulate the gas flow rates.

(6) Flowmeters (FL3, FL4, and FL5) to indicate gas flow rates.

(7) Manifold (M1) to collect the expelled gases from the analyzers.

(8) Pump (P4) to transfer expelled gases from the collection manifold to a vent external to the test room (optional).

(9) Analyzers to determine hydrocarbon, carbon monoxide and oxides of nitrogen concentrations.

(10) An oxides of nitrogen converter to convert any NO_2 present in the samples to NO before analysis.

(11) Selector valves (V6 and V7) to allow the sample, span, calibrating or zeroing gases to bypass the converter.

(12) Recorders (R1, R2, and R3) to provide permanent records of calibration, spanning and sample measurements.

10. Figures 1a and 1b of § 1201.81 are revised as follows:

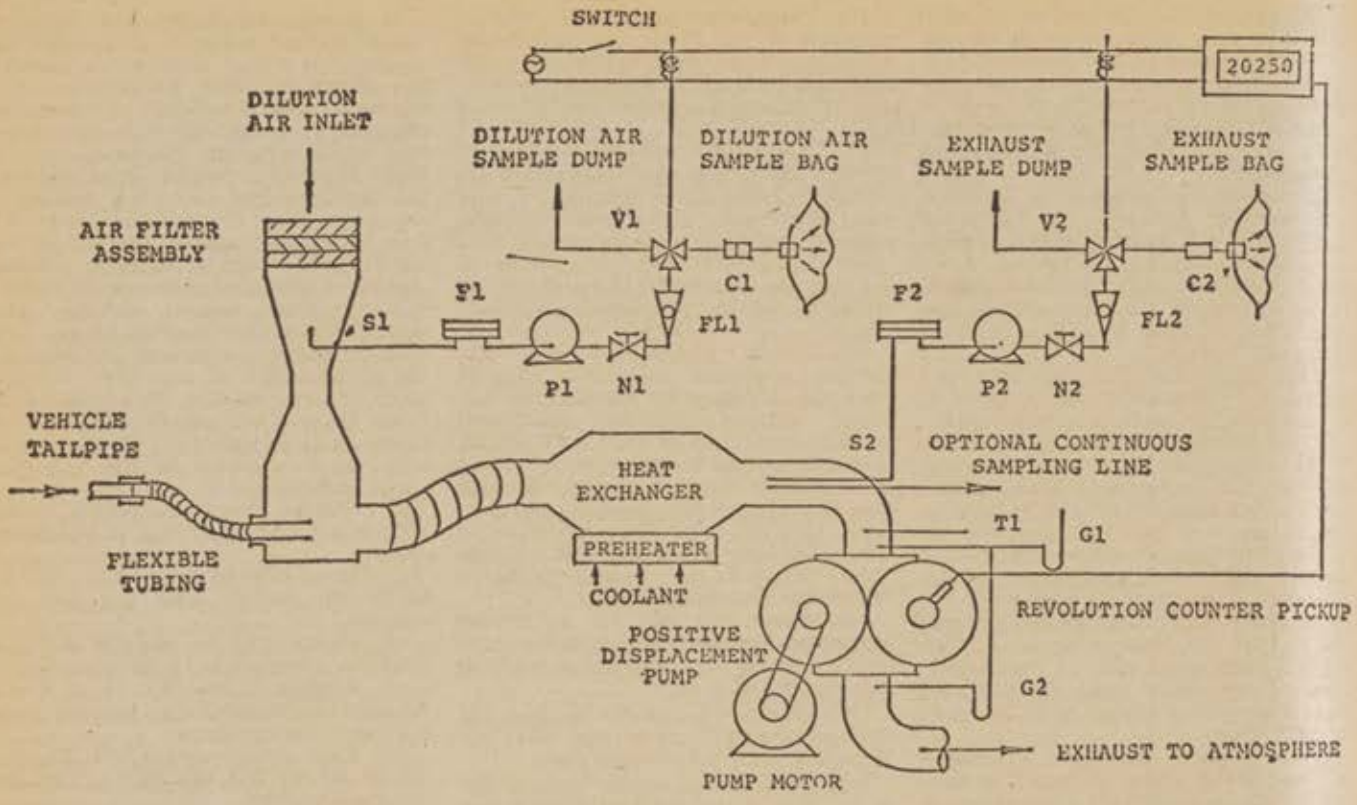


Figure 1a. Exhaust Gas Sampling System

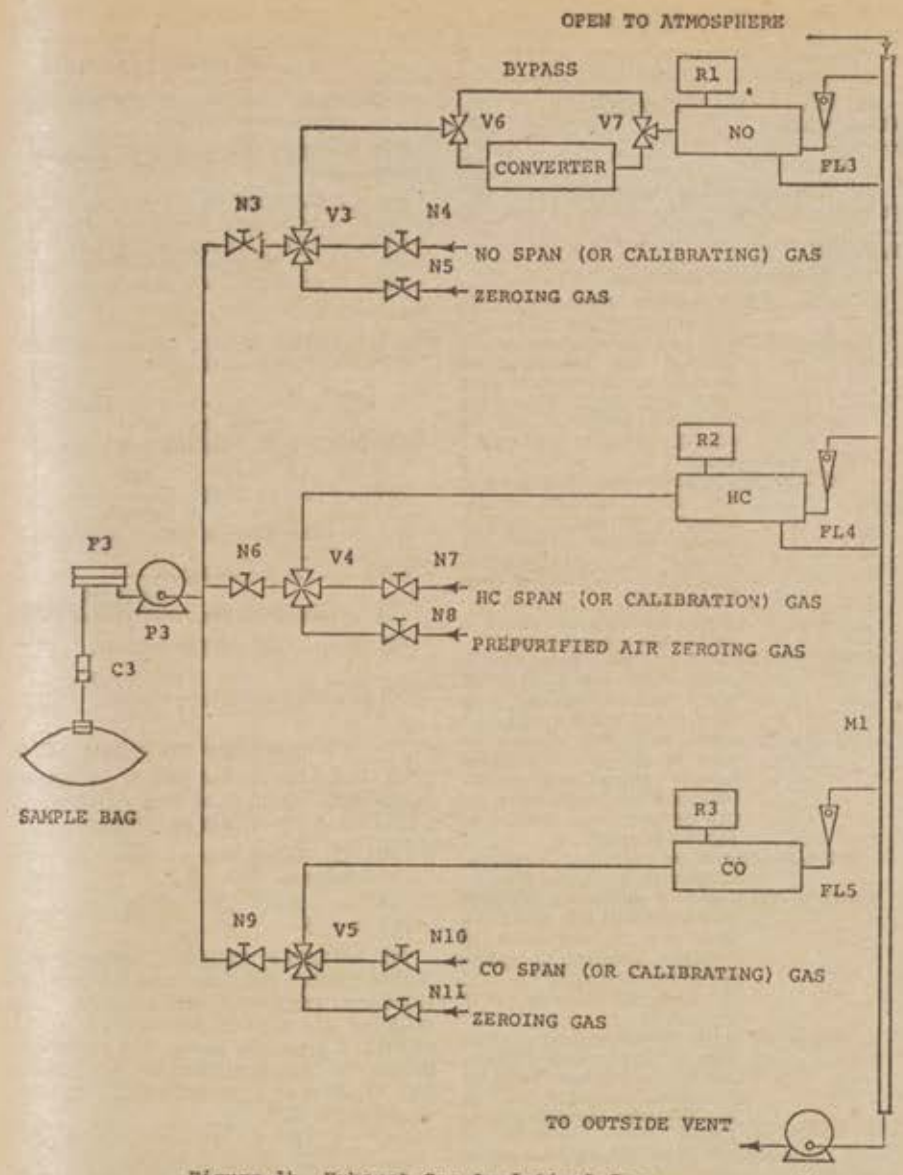


Figure 1b. Exhaust Gas Analytical System

§ 1201.83 [Amended]

11. In § 1201.83, the number "±5" in paragraph (e) is revised to read "±5%".

12. Section 1201.84 is revised and a new Figure 1c is added as follows:

§ 1201.84 Analytical system calibration and sample handling.

(a) Calibrate the analytical assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance.

(2) Zero the hydrocarbon analyzer with zero grade air and the carbon monoxide and oxides of nitrogen analyzers with either zero grade air or nitrogen. The allowable zero gas impurity concentrations should not exceed 1 p.p.m. equivalent carbon response, 1 p.p.m. carbon monoxide, and 0.1 p.p.m. nitric oxide.

(3) Set the CO analyzer gain to give the desired range. Select desired attenuation scale of the HC analyzer and set the sample capillary flow rate, by adjusting the back pressure regulator, to give the desired range. Select the desired scale of the NO_x analyzer and adjust the phototube high voltage supply to give the desired range. The operating range of the analyzers shall be such that the analyzer deflection which indicates an emission level equivalent to the respective standard is in the upper two-thirds of the scale.

(4) Calibrate the HC analyzer with propane (air diluent) gases having nominal concentrations of 50 and 100 percent of full scale. Calibrate the CO analyzer with carbon monoxide (nitrogen diluent) gases having nominal concentrations equal to 10, 25, 40, 50, 60, 70, 85, and 100 percent of full scale. Calibrate the NO_x analyzer with nitric oxide (nitrogen diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. The actual concentrations should be known to within ±2 percent of the true values.

(5) Compare values obtained on the CO analyzer with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curves for data reduction.

(6) Check the NO_x to NO converter efficiency by the following procedure:

(i) Fill a sample bag (one not previously used to collect exhaust gas samples) with air (or oxygen) and NO span gas in proportions which result in a mix in the operating range of the analyzer. Provide enough oxygen for substantial conversion of NO to NO_2.

(ii) Knead bag and immediately connect the bag to the sample inlet and alternately measure the NO and NO_x concentration at 1-minute intervals by alternately passing the sample through the converter and the bypass (close valves N8 and N9 to minimize pump down rate of bag). After several minutes of operation, the recording of NO and NO_x will resemble Figure 1c if the converter is efficient. Even though the amount of NO_2 increases with time, the total NO_x ($NO+NO_2$) remains constant. A decay of NO_x with time indicates the converter is not essentially 100 percent efficient and the cause should be determined before the instrument is used.

(iii) The converter efficiency should be checked at least once weekly and preferably once daily.

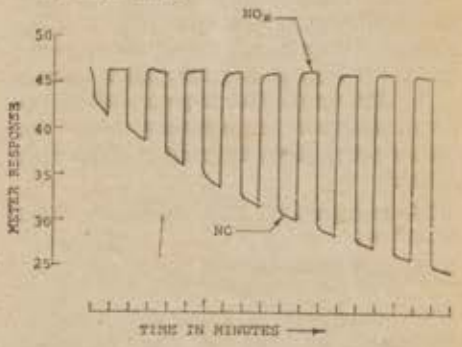


Figure 1c. Converter Efficiency Check Response

(b) HC, CO, and NO_x measurements: Allow a minmum of 20 minutes warmup for the HC analyzer and 2 hours for the CO and NO_x analyzers. (Power is normally left on infrared and chemiluminescence analyzers; but when not in use,

the chopper motor of the infrared analyzer is turned off and the phototube high voltage supply of the chemiluminescence analyzer is placed in the standby position.) The following sequence of operations should be performed in conjunction with each series of measurements:

(1) Zero the analyzers. Obtain a stable zero on each amplifier meter and recorder. Recheck after test.

(2) Introduce span gases and set the CO analyzer gain, the HC analyzer sample capillary flow rate and the NO_x analyzer high voltage supply to match the calibration curves. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test samples. Span gases should have concentrations equal to approximately 80 percent of full scale. If gain has shifted significantly on the CO analyzer, check tuning. If necessary, check calibration. Recheck after test. Show actual concentrations on chart.

(3) Check zeroes; repeat the procedure in subparagraphs (1) and (2) of this paragraph if required.

(4) Check flow rates and pressures.

(5) Measure HC, CO, and NO_x concentrations of samples. Prevent moisture from condensing in the sample collection bag.

(6) Check zero and span points.

(c) For the purposes of this paragraph, the term "zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

13. Section 1201.86 is revised to read as follows:

§ 1201.86 Chart reading.

(a) Determine the HC, CO, and NO_x concentrations of the dilution air and dilute exhaust sample bags from the instrument deflection or recordings making use of appropriate calibration charts.

(b) Determine the average dilute exhaust mixture temperature from the temperature recorder trace if a recorder is used.

14. Section 1201.87 is revised to read as follows:

§ 1201.87 Calculations (exhaust emissions).

The final reported test results shall be computed by use of the following formulae:

(a) For light duty vehicles, excluding off-road utility vehicles:

(1) Hydrocarbon Mass:

$$HC_{mass} = V_{mix} \times Density_{HC} \times \frac{HC_{conc}}{1{,}000{,}000}$$

(2) Carbon Monoxide Mass:

$$CO_{mass} = V_{mix} \times Density_{CO} \times \frac{CO_{conc}}{100}.$$

(3) Oxides of Nitrogen Mass:

$$NOx_{mass} = V_{mix} \times Density_{NO_2} \times \frac{NOx_{conc}}{1{,}000{,}000}$$

(b) For off-road utility vehicles:

(1) $HC_{mass} = V_{mix} \times Density_{HC} \times \frac{HC_{conc} \times 0.85}{1{,}000{,}000}$.

(2) $CO_{mass} = V_{mix} \times Density_{CO} \times \frac{CO_{conc} \times 0.85}{100}$.

(3) $NOx_{mass} = V_{mix} \times Density_{NO_2} \times \frac{NOx_{conc} \times 0.85 \times K_H}{1{,}000{,}000}$

(c) Meaning of symbols:

HC_{mass} = Hydrocarbon emissions, in grams per vehicle mile.

$Density_{HC}$ = Density of hydrocarbons in the exhaust gas, assuming an average carbon to hydrogen ratio of 1:1.85, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (16.33 gm./cu. ft.).

HC_{conc} = Hydrocarbon concentration of the dilute exhaust sample minus hydrocarbon concentration of the dilution air sample, in p.p.m. carbon equivalent i.e., equiavlent propane × 3.

CO_{mass} = Carbon monoxide emissions, in grams per vehicle mile.

$Density_{CO}$ = Density of carbon monoxide in grams per cubic foot at 68° F. and 760 mm. Hg pressure (32.97 gm./cu. ft.).

CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample minus the carbon monoxide concentration of the dilution air sample, in volume percent.

NOx_{mass} = Oxides of nitrogen emissions, in grams per vehicle mile.

$Density_{NO_2}$ = Density of oxides of nitrogen in the exhaust gas, assuming they are in the form of nitrogen dioxide, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (54.16 gm./cu. ft.).

NOx_{conc} = Oxides of nitrogen concentration of the dilute exhaust sample minus the oxides of nitrogen concentration of the dilution air sample, in p.p.m.

V_{mix} = Total dilute exhaust volume in cubic feet per mile, corrected to standard conditions (528°R and 760 mm. Hg).

$$V_{mix} = K_1 \times V_o \times N \times \frac{P_p}{T_p}$$

where:

$$K_1 = \frac{528°R}{760 \text{ mm. Hg} \times 7.5 \text{ miles}} = 0.09263.$$

V_o = Volume of gas pumped by the positive displacement pump, in cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N = Number of revolutions of the positive displacement pump during the test while samples are being collected.

P_p = Absolute pressure of the dilute exhaust entering the positive displacement pump, in mm. Hg, i.e., barometric pressure minus the pressure depression below atmospheric of the mixture entering the positive displacement pump.

T_p = Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.

K_H = Humidity correction factor.

$$K_H = \frac{1}{1 - 0.0047\,(H - 75)}$$

where:

H = Absolute humidity in grains of water per pound of dry air.

(d) Example calculation of mass emission values:

Assume $V_o = 0.265$ cu. ft. per revolution; $N = 20{,}250$ revolutions; $H = 85$ grains per lb. of dry air; $P_p = 730$ mm. Hg; $T_p = 550°R$; $HC_{conc} = 160$ p.p.m. carbon equivalent; $CO_{conc} = 0.09\%$; and $NOx_{conc} = 70$ p.p.m.

Then:

$$V_{mix} = (0.09263)\ (0.265)\ (20{,}250)\ (730/550) = 659.8 \text{ cu. ft. per mile.}$$

$$K_H = \frac{1}{1 - 0.0047\,(85 - 75)} = 1.049.$$

(1) For a 1972 light-duty vehicle.

$$HC_{mass} = 659.8 \times 16.33 \times \frac{160}{1{,}000{,}000} = 1.72 \text{ grams per vehicle mile.}$$

$$NO_{x\,mass} = 659.8 \times 54.16 \times \frac{70}{1{,}000{,}000} \times 1.049 = 2.62 \text{ grams per vehicle mile.}$$

(2) For a 1972 utility vehicle.

$$CO_{mass} = 659.8 \times 32.97 \times \frac{0.09 \times 0.85}{100} = 16.6 \text{ grams per vehicle mile.}$$

15. In § 1201.92, the second sentence of paragraph (c) (1) is revised. As amended, § 1201.92(c) (1) reads as follows:

§ 1201.92 Compliance with emission standards.

* * * * *

(c) * * *

(1) Separate emission deterioration factors shall be determined from the emissions results of the durability data vehicles for each engine-system combination. A separate factor shall be established for the combination for exhaust HC, exhaust CO, exhaust NO_x, and fuel evaporative HC.

* * * * *

16. A new appendix, Appendix E, is added as follows:

APPENDIX E—OXIDES OF NITROGEN ANALYTICAL SYSTEM

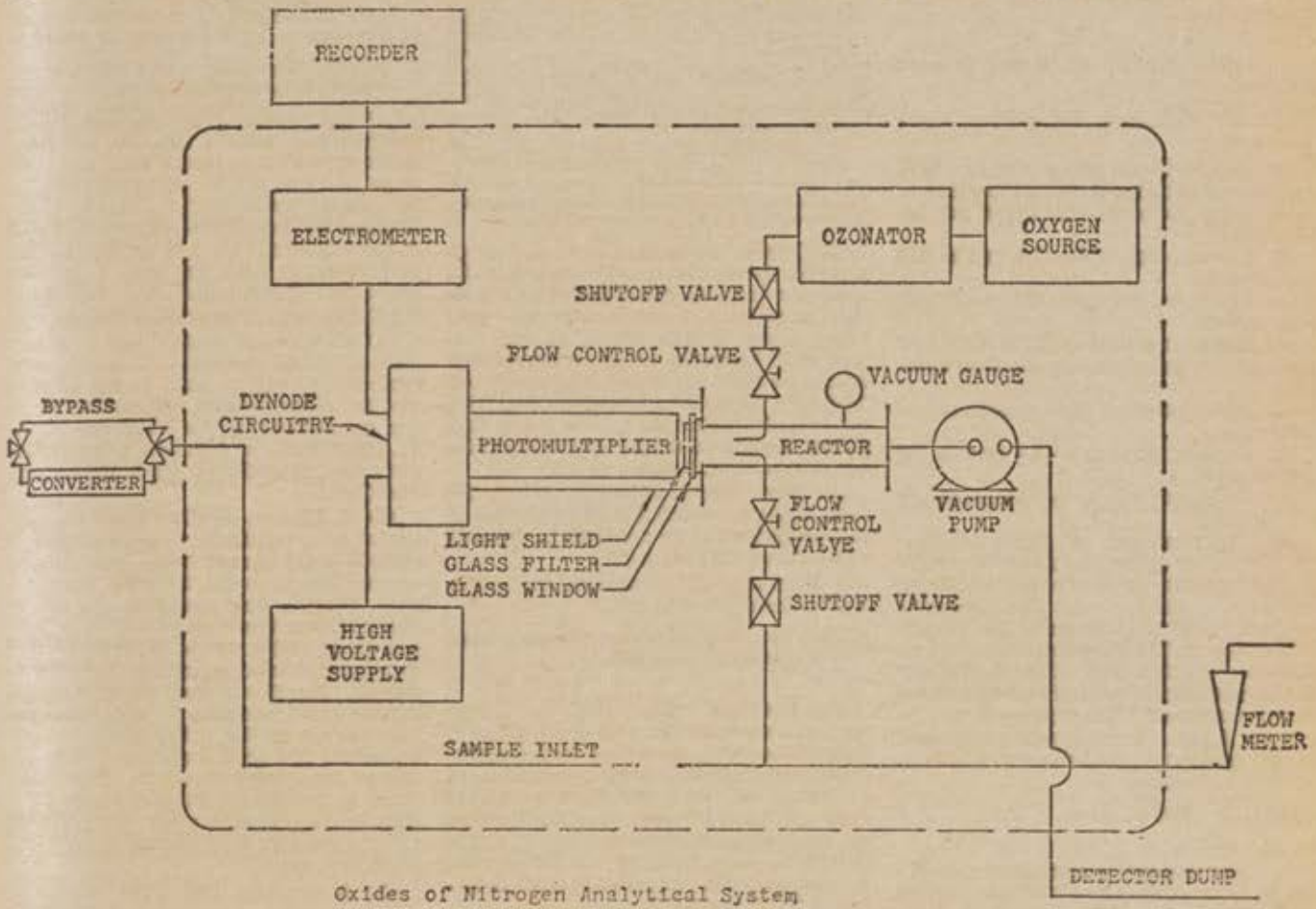
The chemiluminescence method utilizes the principle that nitric oxide (NO) reacts with ozone (O_3) to give nitrogen dioxide (NO_2) and oxygen (O_2). Approximately 10 percent of the NO_2 is electronically excited. The transition of excited NO_2 to the ground state yields a detectable light emission (590–630 nanometer region) at low pressures. The intensity of this emission is proportional to the mass flow rate of NO into the reactor. The light emission can be measured utilizing a photomultiplier tube and associated electronics.

The method also utilizes the principle that the thermal decomposition of NO_2 ($2NO_2 \rightarrow 2NO + O_2$) is complete at about 600° C. The rate of constant for the dissociation of NO_2 at 600° C. is approximately 10^6 (liters/mole-second). A 6-foot length of one-eighth inch outside diameter, 0.028 wall thickness, flawless stainless steel tubing resistance heated using a low voltage, high current power supply to a temperature of 650° C. (1200° F.) provides sufficient residence time at a sample flow rate of 700 cc. per minute (1.5 c.f.h.) for essentially complete conversion of nitrogen dioxide to nitric oxide. Other converter

designs may be used if shown to yield essentially 100 percent conversion of NO_2 to NO.

The method permits continuous monitoring of NO_x concentrations over a wide range. Response time (2 to 4 seconds is typical) is primarily dependent on the mechanical pumping rate at the operating pressure of the reactor. The operating pressure of the reactor is generally less than 5 torr.

The following figure is a flow schematic illustrating one configuration of the major components required for the oxides of nitrogen analytical system.



Oxides of Nitrogen Analytical System

[FR Doc.71-9307 Filed 7-1-71;8:45 am]

PART 1201—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Exhaust Emission Standards Applicable to 1975 and Later Model Year Light Duty Vehicles

On February 26, 1971, a notice of proposed rule making was published (36 F.R. 3528) which set out the text of proposed amendments to the regulations in this part to provide for more stringent exhaust emission standards for hydrocarbons and carbon monoxide to become applicable to new light duty vehicles beginning with the 1975 model year. On May 25, 1971, a notice of proposed rule making was published (36 F.R. 9469) which proposed a more stringent exhaust emission standard for oxides of nitrogen to become applicable to such vehicles beginning with the 1976 model year.

Pursuant to the above notices, a number of comments have been received from representatives of domestic and foreign manufacturers and from other interested parties. Due consideration has been given to all relevant matter presented, and a number of amendments have been made to the regulations as proposed.

Based upon air quality data, the test procedures have been modified to include both hot and cold start tests which are then weighted to better represent emissions that should be measured to meet air quality requirements. In addition, some modifications have been made to the analytical system for carbon monoxide and a procedure has been established to determine and compensate for dilution air background levels. Further, since it is anticipated that lead-free gasoline will be generally available by July 1, 1974 (see the advance notice of proposed rule making on this subject in 36 F.R. 1486) the fuel specifications have been revised to provide for use of lead-free gasoline as a test fuel.

In addition, the final rule contains other amendments, largely technical and clarifying modifications. These regulations also include the oxides of nitrogen exhaust emission standard proposed for the 1975 model year in 36 F.R. 3825.

The amendments to Part 1201 set forth below are hereby adopted effective on publication in the FEDERAL REGISTER (7-2-71) and are applicable to new light duty vehicles beginning with the 1975 model year.

The current regulations which appear at Part 1201 will remain in effect for the purpose of their applicability to earlier model year vehicles.

(Sec. 6, Public Law 91-604; 84 Stat. 1690)

Dated: June 23, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

Part 1201 of Chapter XII, Title 45 of the Code of Regulations is amended as follows:

1. In § 1201.1, paragraph (a)(3) is revised as follows:

§ 1201.1 Definitions.

(a) * * *

(3) "Model year" means the manufacturer's annual production period (as

determined by the Administrator) which includes January 1 of such calender year: *Provided*, That if the manufacturer has no annual production period, the term "model year" shall mean the calendar year.

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2. Section 1201.21 is revised to read as follows:

§ 1201.21 Standards for exhaust emissions.

(a) Exhaust emissions from 1975 model year vehicles shall not exceed:

(1) Hydrocarbons—0.41 gram per vehicle mile.

(2) Carbon monoxide—3.4 grams per vehicle mile.

(3) Oxides of nitrogen—3.0 grams per vehicle mile.

(b) Exhaust emissions from 1976 and later model year vehicles shall not exceed:

(1) Hydrocarbons—0.41 gram per vehicle mile.

(2) Carbon monoxide—3.4 grams per vehicle mile.

(3) Oxides of nitrogen—0.4 gram per vehicle mile.

(c) The standards set forth in paragraphs (a) and (b) of this section refer to the exhaust emitted over a driving schedule as set forth in the applicable sections of "Test Procedures for Vehicle Exhaust and Fuel Evaporative Emissions (Gasoline Fueled Light Duty Vehicles)" of this part and measured and calculated in accordance with those procedures.

3. In § 1201.70, paragraphs (b) and (c)(2) are revised. As amended, § 1201.70 reads as follows:

§ 1201.70 Introduction.

* * * * *

(b) The exhaust emission test is designed to determine hydrocarbon, carbon monoxide, and oxides of nitrogen mass emissions while simulating an average trip in an urban area of 7.5 miles. The test consists of engine startups and vehicle operation on a chassis dynamometer through a specified driving schedule, as described in Appendix A to this part. A proportional part of the diluted exhaust emissions is collected continuously, for subsequent analysis, using a constant volume (variable dilution) sampler.

(c) * * *

(2) Running losses from the fuel tank and carburetor resulting from a simulated trip on a chassis dynamometer; and

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4. Section 1201.71 is revised to read as follows:

§ 1201.71 Gasoline specifications.

(a) Fuel having the following specifications or substantially equivalent specifications approved by the Administrator, shall be used in exhaust and evaporative emission testing. The lead content and octane rating of the fuel shall be in the range recommended by the vehicle or engine manufacturer.

Item	ASTM designation	Specifications
Distillation range	D 86	
IBP, ° F		75–95
10 percent point, ° F		120–135
50 percent point, ° F		200–230
90 percent point, ° F		300–325
EP, ° F (max.)		415
Sulfur, wt. percent, max	D 1266	0.10
Phosphorous, theory		0.0
RVP,[1] lb	D 323	8.7–9.2
Hydrocarbon composition	D 1319	
Olefins, percent, max		10
Aromatics, percent, max		35
Saturates		Remainder

[1] For testing which is unrelated to fuel evaporative emission control, the specified range is 8.0–9.2.

(b) Fuels representative of commercial fuels which will generally be available through retail outlets shall be used in mileage accumulation. The lead content and octane rating of the fuel used shall be in the range recommended by the vehicle or engine manufacturer. The Reid Vapor Pressure of the fuel used shall be characteristic of the motor fuel during the season during which the mileage accumulation takes place.

(c) The specification range of the fuels to be used under paragraph (b) of this section shall be reported in accordance with § 1201.51(b)(3).

5. In § 1201.73, paragraph (c) is revised to read as follows:

§ 1201.73 Vehicle preconditioning (fuel evaporative emissions).

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(c) The test vehicle shall be placed on the dynamometer and operated over a simulated trip, according to the applicable requirements and procedures of §§ 1201.75–1201.80 except that the engine need not be cold when starting the run on the dynamometer and only a single trip of 7.5 miles shall be run. During the run the ambient temperature shall be between 68° F. and 86° F.

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6. In § 1201.76, paragraph (a) is revised and a new paragraph (i) is added. As amended § 1201.76 reads as follows:

§ 1201.76 Dynamometer procedure.

(a) The dynamometer run consists of two tests, a "cold" start test after a minimum 12-hour soak according to the provisions of §§ 1201.73–1201.74, and a "hot" start test with a 10-minute soak between the two tests. Engine startup, operation over the driving schedule, and engine shutdown make a complete cold start test. Engine startup and operation over the first 505 seconds of the driving schedule complete the hot start test. The exhaust emissions are diluted with air to a constant volume and a portion is sampled continuously during each test. The composite samples collected in bags are analyzed for hydrocarbons, carbon monoxide, carbon dioxide, and oxides of nitrogen. A parallel sample of the dilution air is similarly analyzed for hydrocarbon, carbon monoxide, and oxides of nitrogen.

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(i) If the dynamometer has not been operated during the 2-hour period immediately preceding the test it shall be warmed up for 15 minutes by operating it at 30 m.p.h. using a nontest vehicle.

7. Section § 1201.81 is revised to read as follows:

§ 1201.81 Sampling and analytical system (exhaust emissions).

(a) *Schematic drawings.* The following figures (Figs. 1a and 1b) are schematic drawings of the exhaust gas sampling and analytical systems which will be used for testing under the regulations in this part. Additional components such as instruments, valves, solenoids, pumps, and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) *Component description (exhaust gas sampling system).* The following components will be used in the exhaust gas sampling system for testing under the regulations in this part. See Figure 1a. Other types of constant volume samplers may be used if shown to yield equivalent results.

(1) A dilution air filter assembly consisting of a particulate (paper) filter to remove solid matter from the dilution air and thus increase the life of the charcoal filter; a charcoal filter to reduce and stabilize the background hydrocarbon level; and a second particulate filter to remove charcoal particles from the air stream. The filters shall be of sufficient capacity and the duct which carries the dilution air to the point where the exhaust gas is added shall be of sufficient size so that the pressure at the mixing point is less than 1 inch of water pressure below ambient when the constant volume sampler is operating at its maximum flow rate.

(2) A flexible, leak-tight connector and tube to the vehicle tailpipe. The flexible tubing shall be sized and connected in such a manner that the static pressure variations in the vehicle tailpipe(s) remain within ±1 inch of water of the static pressure variations measured during a dynamometer driving cycle with no connections to the tailpipe(s).

(3) A heating system to preheat the heat exchanger to within ±10° F. of its operating temperature before the test begins.

(4) A heat exchanger capable of limiting the gas mixture temperature variation during the entire test to ±10° F. as measured at a point immediately ahead of the positive displacement pump.

(5) A positive displacement pump to pumps dilute exhaust mixture. The pump capacity (300 to 350 c.f.m. is sufficient for testing most vehicles) shall be large enough to virtually eliminate water condensation in the system. See Appendix C for flow calibration techniques.

(6) Temperature sensor (T1) with an accuracy of ±2° F. to allow continuous recording of the temperature of the

dilute exhaust mixture entering the positive displacement pump. (See § 1201.83 (1).)

(7) Gauge (G1) with an accuracy of ±3 mm. Hg to measure the pressure depression of the dilute exhaust mixture entering the positive displacement pump, relative to atmospheric pressure.

(8) Gauge (G2) with an accuracy of ±3 mm. Hg to measure the pressure increase across the positive displacement pump.

(9) Sample probes (S1 and S2) pointed upstream to collect samples from the dilution air stream and the dilute exhaust mixture. Additional sample probes may be used, for example, to obtain continuous concentration traces of the dilute exhaust stream. In such case the sample flow rate, in standard cubic feet per test phase, must be added to the calculated dilute exhaust volume. The position of the sample probe in Figure 1a is pictorial only.

(10) Filters (F1 and F2) to remove particulate matter from dilution air and dilute exhaust samples prior to entering sample collection bags.

(11) Pumps (P1 and P2) to pump the dilution air and dilute exhaust into their respective sample collection bags.

(12) Flow control valves (N1 and N2) to regulate flows to sample collection bags, at constant flow rates. The minimum sample flow rate shall be 10 c.f.h.

(13) Flowmeters (FL1 and FL2) to insure, by visual observation, that constant flow rates are maintained throughout the test.

(14) Three-way solenoid valves (V1, V2, and V3) to direct sample streams to either their respective bags or overboard.

(15) Quick-connect leak-tight fittings (C1, C2, and C3), with automatic shutoff on bag side, to attach sample bags to sample system.

(16) Sample collection bags for dilution air and exhaust samples of sufficient capacity so as not to impede sample flow.

(17) Revolution counters to count the revolutions of the positive displacement pump while each test phase is in progress and samples are being collected.

(c) *Component description (exhaust gas analytical system).* The following components will be used in the exhaust gas analytical system for testing under the regulations in this part. The analytical system provides for the determination of hydrocarbon concentrations by flame ionization detector (FID) analysis, the determination of carbon monoxide and carbon dioxide concentrations by nondispersive infrared (NDIR) analysis and the determination of oxides of nitrogen concentrations by chemiluminescence (CL) analysis in dilute exhaust samples. The chemiluminescence method of analysis requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. See Appendix E. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator. See Figure 1b.

(1) Quick-connect leak-tight fitting (C4) to attach sample bags to analytical system.

(2) Filter (F3) to remove any residual particulate matter from the collected sample.

(3) Pump (P3) to transfer samples from the sample bags to the analyzers.

(4) Selector valves (V4, V5, V6, V7, and V8) for directing samples, span gases or zeroing gases to the analyzers.

(5) Flow control valves (N3, N4, N5, N6, N7, N8, N9, N10, N11, N12, and N13) to regulate the gas flow rates.

(6) Flowmeters (FL3, FL4, and FL5) to indicate gas flow rates.

(7) Manifold (M1) to collect the expelled gases from the analyzers.

(8) Pump (P4) to transfer expelled gases from the collection manifold to a vent external to the test room (optional).

(9) Analyzers to determine hydrocarbon, carbon monoxide, carbon dioxide and oxides of nitrogen concentrations.

(10) An oxides of nitrogen converter to convert any NO_2 present in the samples to NO before analysis.

(11) Selector valves (V9 and V10) to allow the sample, span, calibrating or zeroing gases to bypass the converter.

(12) Water trap (T1) to partially remove water and a valve (V11) to allow the trap to be drained.

(13) Sample conditioning columns to remove remainder of water (WR1 and WR2 containing indicating $CaSO_4$) and carbon dioxide (CDR1 and CDR2 containing ascarite) from the CO analysis stream.

(14) Selector valves (V12 and V13) to permit switching from exhausted absorbing columns to fresh columns.

(15) Water bubbler (W1) to allow saturation of the CO_2 span gas to check efficiency of absorbing columns.

(16) Recorders (R1, R2, R3, and R4) to provide permanent records of calibration, spanning and sample measurements.

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8. In § 1201.81, Figures 1a and 1b are revised as follows:

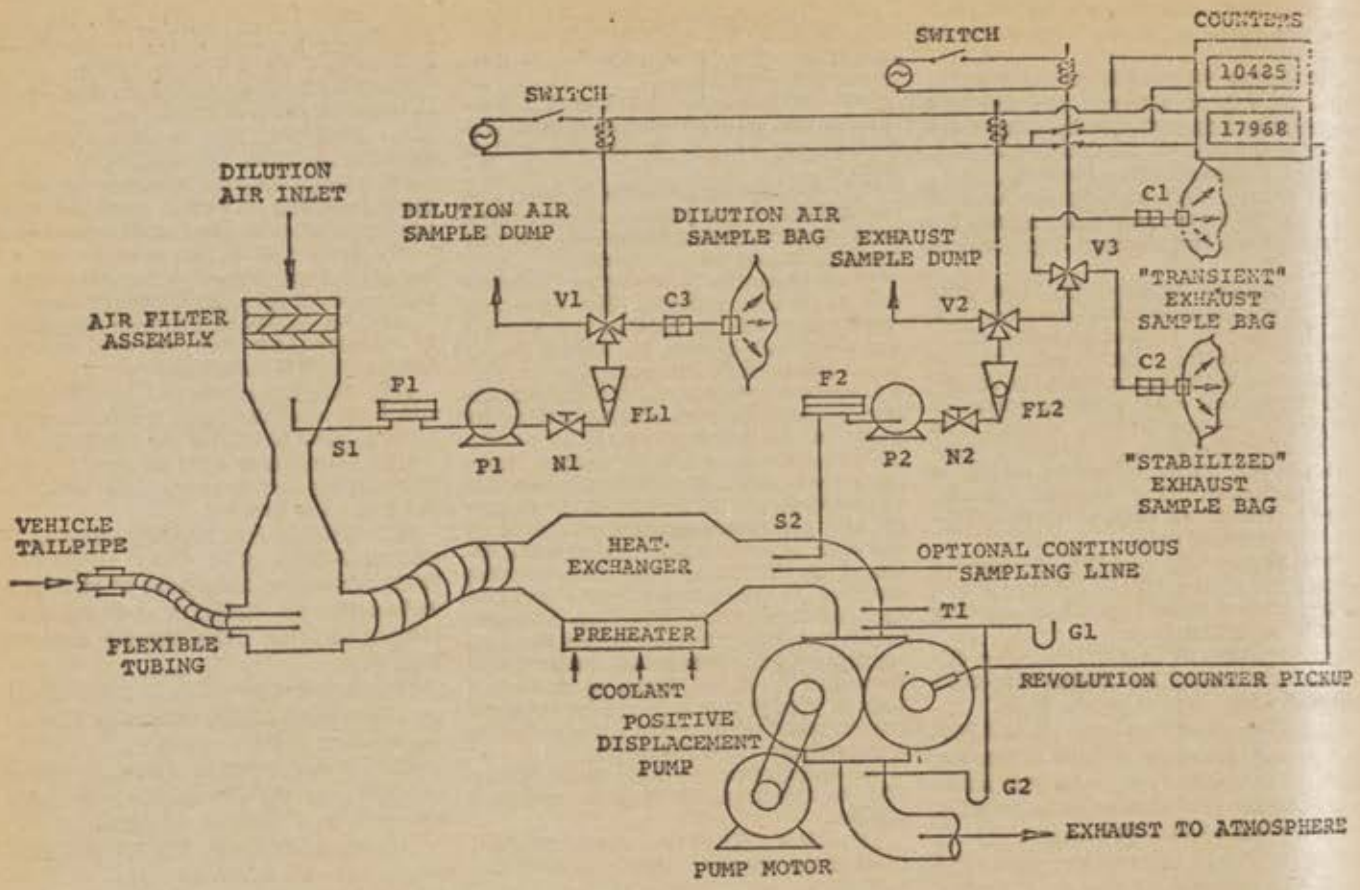

Figure 1a. Exhaust Gas Sampling System

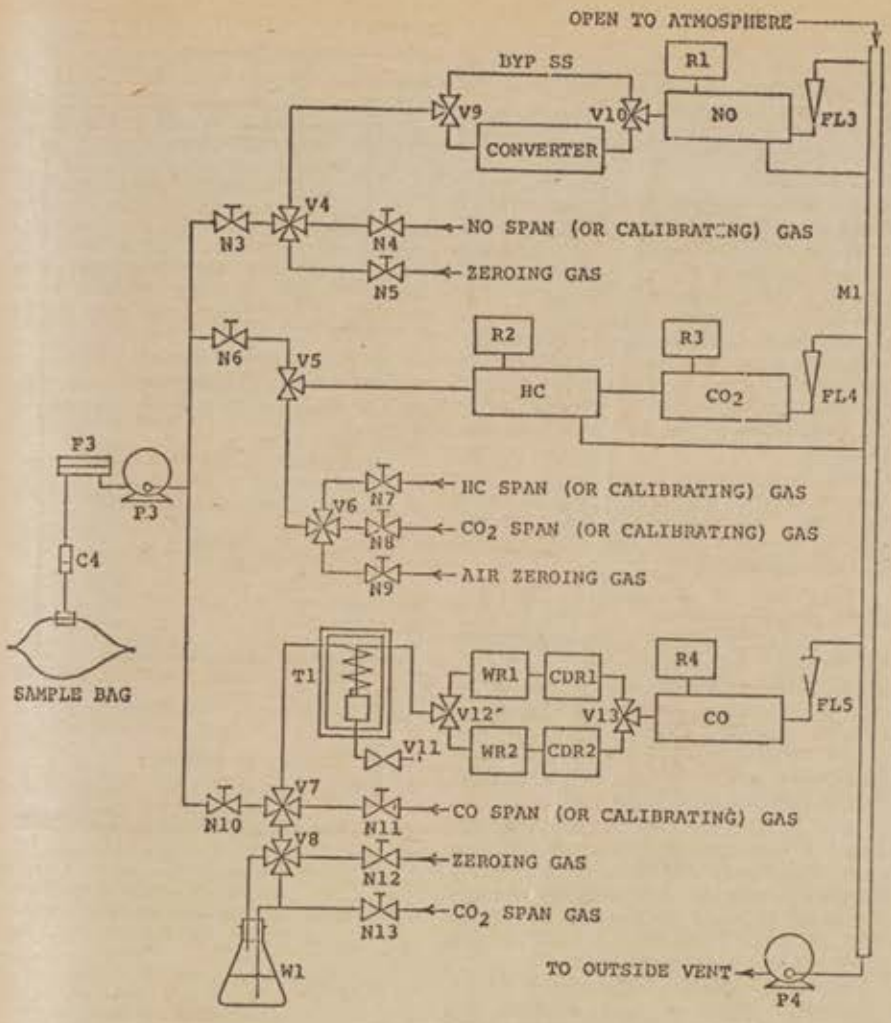

Figure 1b. Exhaust Gas Analytical System

9. In § 1201.83, a new paragraph (n) is added as follows:

§ 1201.83 Information to be recorded.

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(n) The humidity of the dilution air.

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10. Section 1201.84 is revised to read as follows:

§ 1201.84 Analytical system calibration and sample handling.

(a) Calibrate the analytical assembly at least once every 30 days. Use the same flow rate as when analyzing samples.

(1) Adjust analyzers to optimize performance.

(2) Zero the hydrocarbon analyzer with zero grade air and the carbon monoxide, carbon dioxide, and oxides of nitrogen analyzers with zero grade nitrogen. The allowable zero gas impurity concentrations should not exceed 1 p.p.m. equivalent carbon response, 1 p.p.m. carbon monoxide, 300 p.p.m. (0.03 mole percent) carbon dioxide, and 0.1 p.p.m. nitric oxide.

(3) Set the CO and CO_2 analyzer gains to give the desired ranges. Select the desired attenuation scale of the HC analyzer and set the sample capillary flow rate, by adjusting the back pressure regulator, to give the desired range. Select the desired scale of the NO_x analyzer and adjust the phototube high voltage supply to give the desired range.

(4) Calibrate the HC analyzer with propane (air diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. Calibrate the CO analyzer with carbon monoxide (nitrogen diluent) gases and the CO_2 analyzer with carbon dioxide (nitrogen diluent) gases having nominal concentrations equal to 10, 25, 40, 50, 60, 70, 85, and 100 percent of full scale. Calibrate the NO_x analyzer with nitric oxide (nitrogen diluent) gases having nominal concentrations equal to 50 and 100 percent of full scale. The actual concentrations should be known to within ±2 percent of the true values.

(5) Compare values obtained on the CO and CO_2 analyzers with previous calibration curves. Any significant change reflects some problem in the system. Locate and correct problem, and recalibrate. Use best judgment in selecting curves for data reduction.

(6) Check the NO_x to NO converter efficiency by the following procedure:

(i) Fill a new (not previously used to collect exhaust gas samples) sample bag with air (or oxygen) and NO span gas in proportions which result in a mix in the operating range of the analyzer. Provide enough oxygen for substantial conversion of NO to NO_2.

(ii) Knead bag and immediately connect the bag to the sample inlet and alternately measure the NO and NO_x concentration at 1-minute intervals by alternately passing the sample through the converter and the bypass (close valves N6 and N10 to minimize pump down rate of bag). After several minutes of operation, the recording of NO and NO_x will resemble Figure 1c if the converter is efficient. Even though the amount of NO_2 increases with time, the total NO_x ($NO+NO_2$) remains constant. A decay of NO_x with time indicates the converter is not essentially 100 percent efficient and the cause should be determined before the instrument is used.

(iii) The converter efficiency should be checked at least once weekly and preferably once daily.

(b) HC, CO, CO_2, and NO_x measurements: Allow a minimum of 20 minutes warmup for the HC analyzer and 2 hours for the CO, CO_2 and NO_x analyzers. (Power is normally left on infrared and chemiluminescence analyzers; but when not in use, the chopper motors of the infrared analyzers are turned off and the phototube high voltage supply of the chemiluminescence analyzer is placed in the standby position.) The following sequence of operations should be performed in conjunction with each series of measurements:

(1) Zero the analyzers. Obtain a stable zero on each amplifier meter and recorder. Recheck after tests.

(2) Introduce span gases and set the CO and CO_2 analyzer gains, the HC analyzer sample capillary flow rate and the NO_x analyzer high voltage supply to match the calibration curves. In order to avoid corrections, span and calibrate at the same flow rates used to analyze the test samples. Span gases should have concentrations equal to approximately 80 percent of full scale. If gain has shifted significantly on the CO or CO_2 analyzers, check tuning. If necessary, check calibration. Recheck after test. Show actual concentrations on chart.

(3) Check zeros; repeat the procedure in subparagraphs (1) and (2) of this paragraph if required.

(4) Check flow rates and pressures.

(5) Measure HC, CO, CO_2, and NO_x concentrations of samples. Care should be exercised to prevent moisture from condensing in the sample collection bag.

(6) Check zero and span points.

(c) For the purposes of this section, the term "zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

11. Section 1201.85 is revised to read as follows:

§ 1201.85 Dynamometer test runs.

(a) The vehicle shall be allowed to stand with the engine turned off for a period of not less than 12 hours before the cold start exhaust emission test, at an ambient temperature as specified in

§§ 1201.73 and 1201.74. The vehicle shall be stored prior to the emission tests in such a manner that precipitation (e.g. rain or dew) does not occur on the vehicle. The complete dynamometer test consists of a cold start drive of 7.5 miles and simulates a hot start drive of 7.5 miles. The vehicle is allowed to stand on the dynamometer during the 10-minute time period between the cold and hot start tests. The cold start test is divided into two periods. The first period, representing the cold start "transient" phase, terminates at the end of the deceleration which is scheduled to occur at 505 seconds of the driving schedule. The second period, representing the "stabilized" phase, consists of the remainder of the driving schedule including engine shutdown. The hot start test similarly consists of two periods. The first period, representing the hot start "transient" phase, terminates at the same point in the driving schedule as the first phase of the cold start test. The second period of the hot start test, "stabilized" phase, is assumed to be identical to the second period of the cold start test. Therefore, the hot start test terminates after the first period (505 seconds) is run. During the tests the ambient temperature shall be between 68° F. and 86° F.

(b) The following steps shall be taken for each test:

(1) Place drive wheels of vehicle on dynamometer without starting engine.

(2) Open the vehicle engine compartment cover and start the cooling fan.

(3) With the sample solenoid valves in the "dump" position connect evacuated sample collection bags to the two dilute exhaust sample connectors and the dilution air sample line connector.

(4) Start the positive displacement pump, the sample pumps and the temperature recorder. (The heat exchanger of the constant volume sampler should be preheated to its operating temperature before the test begins.)

(5) Adjust the sample flow rates to the desired flow rate (minimum of 10 c.f.h.) and set the revolution counters to zero.

(6) Attach the flexible exhaust tube to the vehicle tailpipe(s).

(7) Simultaneously start the revolution counter for the positive displacement pump, position the sample solenoid valves to direct the sample flows into the "transient" exhaust sample bag and the dilution air sample bag, and start cranking the engine.

(8) Fifteen seconds after the engine starts, place the transmission in gear.

(9) Twenty seconds after the engine starts, begin the initial vehicle acceleration of the driving schedule.

(10) Operate the vehicle according to the dynamometer driving schedule (§ 1201.75).

(11) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously switch the dilute exhaust sample flow from the "transient" bag to the "stabilized" bag, switch off revolution counter No. 1 and start counter No. 2. Immediately disconnect the "transient" sample bag, transfer to the analytical system and process according to § 1201.84 as soon as practical and in no case longer than 10 minutes after the end of this portion of the test.

(12) Turn the engine off 2 seconds after the end of the last deceleration (at 1,369 seconds).

(13) Five seconds after the engine stops running, simultaneously turn off revolution counter No. 2 and position the sample solenoid valve to the "dump" position. Immediately disconnect the "stabilized" exhaust and dilution air sample bags, transfer to analytical system and process samples according to § 1201.84 as soon as practicable and in no case longer than 10 minutes after the end of this portion of the dynamometer test.

(14) Immediately after the end of the sample period, disconnect the exhaust tube from the tailpipe(s), turn off the cooling fan and close the engine compartment cover.

(15) Turn off the positive displacement pump.

(16) Repeat the steps in subparagraphs (2) through (10) of this paragraph for the hot start test except only one evacuated sample bag is required for sampling exhaust gas. The step in subparagraph (7) of this paragraph shall begin 9 and 11 minutes after the end of the sample period for the cold start test.

(17) At the end of the deceleration which is scheduled to occur at 505 seconds, simultaneously turn off the No. 1 revolution counter and position the sample solenoid valve to the "dump" position. (Engine shutdown is not part of the hot start test sample period.)

(18) Immediately disconnect the "transient" exhaust and dilution air sample bags, transfer to analytical system and process samples according to § 1201.84 as soon as practicable and in no case longer than 10 minutes after the end of this portion of the dynamometer test.

(19) Disconnect the exhaust tube from the vehicle tailpipe(s) and remove vehicle from dynamometer.

(20) Turn off the positive displacement pump.

12. Section 1201.86 is revised to read as follows:

§ 1201.86 Chart reading.

(a) Determine the HC, CO, CO_2 and NO_x concentrations of the dilution air and dilute exhaust sample bags from the instrument deflections or recordings making use of appropriate calibration charts.

(b) Determine the average dilute exhaust mixture temperatures from the temperature recorder trace if a recorder is used.

13. Section 1201.87 is revised to read as follows:

§ 1201.87 Calculations (exhaust emissions).

The final reported test results shall be computed by use of the following formulae:

(a) For light duty vehicles:

$$Y_{wm} = (0.43\ Y_{ct} + 0.57\ Y_{ht} + Y_s)/7.5$$

where:

Y_{wm} = Weighted mass emissions of each pollutant, i.e. HC, CO, or NO_x, in grams per vehicle mile.

Y_{ct} = Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.

Y_{ht} = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.

Y_s = Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

(b) The mass of each pollutant for each phase of both the cold start test and the hot start test is determined from the following:

(1) Hydrocarbon Mass:

$$HC_{mass} = V_{mix} \times Density_{HC} \times \frac{HC_{conc}}{1{,}000{,}000}$$

(2) Oxides of nitrogen Mass:

$$NO_{x_{mass}} = V_{mix} \times Density_{NO_2} \times \frac{NO_{x_{conc}}}{1{,}000{,}000} \times K_H$$

(3) Carbon monoxide Mass:

$$CO_{mass} = V_{mix} \times Density_{CO} \times \frac{CO_{conc}}{1{,}000{,}000}$$

(c) Meaning of symbols:

HC_{mass} = Hydrocarbon emissions, in grams per test phase.

$Density_{HC}$ = Density of hydrocarbons in the exhaust gas, assuming an average carbon to hydrogen ratio of 1:1.85, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (16.33 gm./cu. ft.).

HC_{conc} = Hydrocarbon concentration of the dilute exhaust sample corrected for background, in p.p.m. carbon equivalent, i.e. equivalent propane × 3.

$$HC_{conc} = HC_e - HC_d\ (1 - 1/DF)$$

where:

HC_e = Hydrocarbon concentration of the dilute exhaust sample as measured, in p.p.m. carbon equivalent.

HC_d = Hydrocarbon concentration of the dilution air as measured, in p.p.m. carbon equivalent.

$NO_{x_{mass}}$ = Oxides of nitrogen emissions, in grams per test phase.

$Density_{NO_2}$ = Density of oxides of nitrogen in the exhaust gas, assuming they are in the form of nitrogen dioxide, in grams per cubic foot at 68° F. and 760 mm. Hg pressure (54.16 gm./cu. ft.).

$NO_{x_{conc}}$ = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background, in p.p.m.

$$NO_{x_{conc}} = NO_{x_e} - NO_{x_d}\ (1 - 1/DF)$$

where:

NO_{x_e} = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in p.p.m.

NO_{x_d} = Oxides of nitrogen concentration of the dilution air as measured, in p.p.m.

CO_{mass} = Carbon monoxide emissions, in grams per test phase.

$Density_{CO}$ = Density of carbon monoxide in grams per cubic foot at 68° F. and 760 mm. Hg pressure (32.97 gm./cu. ft.).

CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor and CO_2 extraction, in p.p.m.

$$CO_{conc} = CO_e - CO_d\ (1 - 1/DF)$$

where:

CO_e = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in p.p.m. The calculation assumes the hydrogen = carbon ratio of the fuel is 1.85:1.

$$CO_e = (1 - 0.01925\ CO_{2_e} - 0.000323\ R)\ CO_{e_m}$$

where:

CO_{e_m} = Carbon monoxide concentration of the dilute exhaust sample as measured, in p.p.m.

CO_{2_e} = Carbon dioxide concentration of the dilute exhaust sample, in mole percent.

R = Relative humidity of the dilution air, in percent.

CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in p.p.m.

$$CO_d = (1 - 0.000323\ R)\ CO_{d_m}$$

where:

CO_{d_m} = Carbon monoxide concentration of the dilution air sample as measured, in p.p.m.

$$DF = \frac{13.4}{CO_{2_e} + (HC_e + CO_e) \times 10^{-4}}$$

V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528°R and 760 mm. Hg).

$$V_{mix} = V_o \times N\ (P_p/760\ mm.\ Hg)\ (528°R/T_p)$$

where:

V_o = Volume of gas pumped by the positive displacement pump, in cubic cubic feet per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

P_p = Absolute pressure of the dilute exhaust entering the positive displacement pump, in mm. HG, i.e. barometric pressure minus the pressure depression below atmospheric of the mixture entering the positive displacement pump.

T_p = Average temperature of dilute exhaust entering positive displacement pump during test while samples are being collected, in degrees Rankine.

K_H = Humidity correction factor.

$$K_H = \frac{1}{1 - 0.0047\ (H - 75)}$$

where:

H = Absolute humidity in grains of water per pound of dry air.

(d) Example calculation of mass emission values:

(1) For the "transient" phase of the cold start test assume $V_o = 0.29344$ cu. ft. per revolution; N = 10,485; R = 48 percent; H = 62 grains per pound of dry air; $P_p = 692$ mm. Hg; $T_p = 570°R$; $HC_e = 105.8$ p.p.m. carbon equivalent; $NO_{x_e} = 11.2$ p.p.m.; $CO_{e_m} = 306.6$ p.p.m.; $CO_{2_e} = 1.43$ percent; $HC_d = 12.1$ p.p.m.; $NO_{x_d} = 0.8$ p.p.m.; $CO_{d_m} = 15.3$ p.p.m.

Then:

$V_{mix} = (0.29344)\ (10{,}485)\ (692/760)\ (528/570) = 2595.0$ cu. ft. per test phase.

$$K_H = \frac{1}{1 - 0.0047\ (62 - 75)} = 0.9424$$

$CO_e = (1 - 0.01925(1.43) - 0.000323(48))\ 306.6 = 293.4$ p.p.m.

$CO_d = (1 - 0.000323(48))\ 15.3 = 15.1$ p.p.m.

$$DF = \frac{13.4}{1.43 + (105.8 + 293.4) \times 10^{-4}} = 9.116$$

$HC_{conc} = 105.8 - 12.1\ (1 - 1/9.116) = 95.03$

$HC_{mass} = (2595)\ (16.33)\ (95.03/1{,}000{,}000) = 4.027$ grams per test phase.

$NO_{x_{conc}} = 11.2 - 0.8\ (1 - 1/9.116) = 10.49$

$NO_{x_{mass}} = (2595)\ (54.16)\ (10.49/1{,}000{,}000)\ (0.9424) = 1.389$ grams per test phase.

$CO_{conc} = 293.4 - 15.3\ (1 - 1/9.116) = 279.8$

$CO_{mass} = (2595)\ (32.97)\ (279.8/1{,}000{,}000) = 23.94$ grams per test phase.

(2) For the "stabilized" portion of the cold start test assume that similar calculations resulted in $HC_{mass} = 0.62$ grams per test phase; $NO_{x_{mass}} = 1.27$ grams per test phase; and $CO_{mass} = 5.98$ grams per test phase.

(3) For the "transient" portion of the hot start test assume that similar calculations resulted in $HC_{mass} = 0.51$ grams per test phase; $NO_{x_{mass}} = 1.38$ grams per test phase; and $CO_{mass} = 5.01$ grams per test phase.

(4) For a 1975 light duty vehicle:

$HC_{wm} = ((0.43)\ (4.027) + (0.57)\ (0.51) + 0.62)/7.5 = 0.352$ gram per vehicle mile.

$NO_{x_{wm}} = ((0.43)\ (1.389) + (0.57)\ (1.38) + 1.27)/7.5 = 0.354$ gram per vehicle mile.

$CO_{wm} = ((0.43)\ (23.94) + (0.57)\ (5.01) + 5.98)/7.5 = 2.55$ grams per vehicle mile.

[FR Doc.71-9308 Filed 7-1-71;8:45 am]

Proposed Rule Making

ENVIRONMENTAL PROTECTION AGENCY

[45 CFR Part 1201]

CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES

Proposed Standards and Test Procedures Applicable to 1973 and 1974 Light-Duty Vehicles

In conjunction with a review of comments on the proposed 1975 light-duty vehicle emission standards and test procedures (36 F.R. 3528 and 36 F.R. 9469), a study was made of air quality data to determine the proper hot-start-to-cold-start weighing for the test procedures.

It was determined that a weighing different from that reflected in the proposal would better represent emissions that should be measured to meet air quality requirements. Accordingly, the test procedures applicable to 1975 and subsequent model year vehicles, published in this issue of the FEDERAL REGISTER, are modified in this regard.

It appears desirable to make the revised 1975 test procedures applicable to earlier model years. However, because there may be objections regarding the leadtime involved in applying the revised procedures to the 1973 and 1974 model years, it would be inappropriate to make this change without providing an opportunity for comment. Therefore, the test procedures proposed for applicability to the 1973 and 1974 model years (36 F.R. 3825) are being adopted in this issue of the FEDERAL REGISTER without a change in hot-start-to-cold-start weighting.

Notice is hereby given that the Administrator is considering making the Federal test procedures promulgated for applicability to 1975 and later model years applicable to the 1973 and 1974 model years as well. The standards for those years would be adjusted as follows to reflect the same degree of stringency as the standards which have today been adopted for those years:

1. Hydrocarbons—3.0 grams per vehicle mile.

2. Carbon monoxide—28.0 grams per vehicle mile.

3. Oxides of Nitrogen—3.1 grams per vehicle mile.

Interested persons may submit written data, views, or arguments (in quadruplicate) in regard to the proposed regulations to the Administrator, Environmental Protection Agency, Attention: Office of Air Programs, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20852. All relevant material received not later than 60 days after the publication of this notice will be considered. This notice of proposed rule making is issued under the authority of section 202, Public Law 91-604 (sec. 6, 84 Stat. 1690).

Dated: June 23, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.71-9309 Filed 7-1-71;8:45 am]

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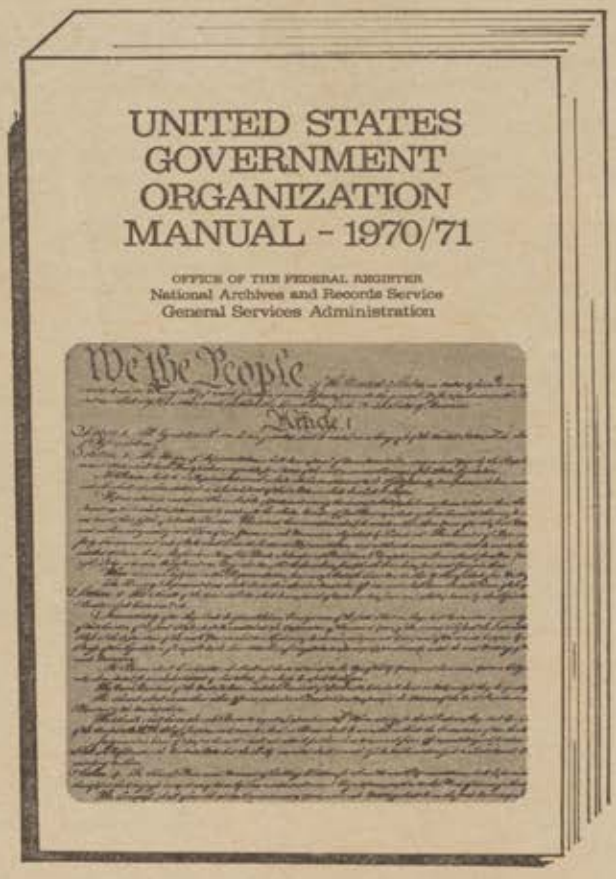

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