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Title 3—The President

PROCLAMATION 4080

Drug Abuse Prevention Week, 1971

By the President of the United States of America

A Proclamation

"What shall it profit a man," the Bible asks, "if he shall gain the whole world, and lose his own soul?" It is a question which the menace of drug abuse poses anew to all of us.

What can a nation profit from its abundant good life, if the same technology and material wealth which have yielded that abundance permits millions of its people, particularly its youth, to drift into the chemical modification of mind and mood at grave risk to their health—to their very lives? What can a nation profit from its unparalleled individual freedom, if that liberty becomes license and that license leads to drug dependence which controls the bodies and warps the minds of men, women, children, and even the unborn?

Not so long ago it was easy enough to regard the tragedy of drug abuse as "someone else's problem." But recent years have brought that tragedy home—often very literally—to all Americans. We have learned that "drug abuse" refers not only to the crime-prone heroin addict—though that is the disease at its deadliest, with over 1,000 heroin fatalities annually in New York City. The term also refers to the suburban housewife dependent on tranquilizers or diet pills; to the truck driver overreliant on pep pills; to the student leaning on amphetamines to help him cram for exams; even to pre-teens sniffing glue.

It has become a problem that touches each of us. Its manifestations are many and varied, but all grow from a common root—psychological and physical needs unmet through legitimate social channels—and all feed on a common ignorance—ignorance of the profound harm the abuser does to himself and society. Drug abuse is nothing less than a life and death matter for countless Americans, and for the moral fiber of

this Nation. The drive to meet this threat must command from us our very best—our attention, our energies, our resources and our prayers.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning October 3, 1971, as the second annual Drug Abuse Prevention Week.

I call upon officials of the Federal Government under the leadership of the new Special Action Office for Drug Abuse Prevention, particularly those officials in the Departments of Health, Education and Welfare, Justice, and Defense, to join with educators and the medical profession in intensifying programs to prevent and reduce drug abuse among the young and among all Americans. I urge State and local governments, as well as business and civic groups, to cooperate in such programs and to seek out new methods by which the risks and dangers of drug experimentation can be communicated to the entire Nation. The communications media can render invaluable assistance in this endeavor, and I urge them to do so.

I also encourage the clergy, and all of our moral and spiritual leaders, to make a special effort during this week to take up the problem of drug abuse and to offer those answers of the spirit which alone can fill the void where drug abuse begins.

And I appeal, above all, to those who bear the special trusts of parenthood—that all of us may rededicate ourselves to the well-being of America's youth; and that we may so teach them, so guide them, so reach out to them in understanding and compassion, as to help them avoid the problems that arise from abuse of drugs and to attain the full promise of their maturity.

IN WITNESS THEREOF, I have hereunto set my hand this seventeenth day of September, in the year of our Lord nineteen hundred seventy-one and of the Independence of the United States of America the one hundred ninety-sixth.

Richard Nixon

[FR Doc.71-14016 Filed 9-10-71;12:35 pm]

Rules and Regulations

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

Section 213.3102 is amended to show that positions in research and development facilities are excepted under Schedule A when filled before October 1, 1972, for not to exceed 1 year by scientists and engineers appointed under a program of Presidential internships.

Effective on publication in the FEDERAL REGISTER (9-21-71), paragraph (dd) is added to § 213.3102 as set out below.

§ 213.3102 Entire executive civil service.

* * * * *

(dd) Positions in research and development facilities when filled for not to exceed 1 year by scientists and engineers appointed under a program of Presidential internships. No new appointments may be made under authority after September 30, 1972.

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

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

[FR Doc.71-13846 Filed 9-20-71;8:47 am.]

PART 213—EXCEPTED SERVICE

Department of Transportation

Section 213.3394 is amended to show that one position of Confidential Secretary to the Director, Office of Congressional Relations, is excepted under Schedule C.

Effective on publication in the FEDERAL REGISTER (9-21-71), subparagraph (28) is added to paragraph (a) of § 213.3394 as set out below.

§ 213.3394 Department of Transportation.

(a) *Office of the Secretary.* * * *

(28) One Confidential Secretary to the Director, Office of Congressional Relations.

* * * * *

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

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

[FR Doc.71-13847 Filed 9-20-71;8:47 am]

Title 7—AGRICULTURE

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

[Lemon Reg. 497, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

(a) *Findings.* (1) Pursuant to the marketing agreement as amended, and Order No. 910, as amended (7 CFR Part 910; 36 F.R. 9061), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

(b) *Order, as amended.* The provision in paragraph (b)(1) of § 910.797 (Lemon Reg. 497, 36 F.R. 18299) during the period September 12, 1971, through September 18, 1971, is hereby amended to read as follows:

§ 910.797 Lemon Regulation 497.

* * * * *

(b) *Order.* (1) * * * 225,000 cartons.

* * * * *

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

Dated: September 16, 1971.

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

[FR Doc.71-13870 Filed 9-20-71;8:49 am]

Chapter XIV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[1971-Crop Distress Grain Loan Program Regs.]

PART 1473—DISTRESS LOANS

Subpart—1971-Crop Distress Grain Loan Program

This subpart issued by the Commodity Credit Corporation contains the terms and conditions under which recourse, distress loans will be made available on 1971-crop barley, grain sorghum, oats, rye, and wheat stored on the ground.

The Commodity Credit Corporation has issued regulations making its regular price support loan and purchase program available for the 1971 crops of barley, grain sorghum, oats, rye, and wheat. The distress loan program set forth in this subpart is an adjunct to the regular price support loan and purchase program. The distress loan program, which will be put into effect in areas where storage is temporarily unavailable, is designed to assist producers in holding their grain until they can market it in usual channels or qualify for nonrecourse loans under the regular CCC price support loan and purchase program.

Since this is a temporary emergency program which must be made effective immediately, it is hereby found and determined that compliance with the notice of proposed rule making procedure is unnecessary, impracticable, and contrary to the public interest. Therefore, this subpart is being issued without following such proposed rule making procedure and shall be effective upon filing with the Office of the Federal Register.

Subpart—1971-Crop Distress Grain Loan Program

Sec.

AUTHORITY: The provisions of this subpart issued under secs. 4 and 5, 62 Stat. 1070, as amended; 15 U.S.C. 714b and c.

§ 1473.1 Administration.

(a) *General statement.* This subpart contains the terms and conditions under which the Commodity Credit Corporation will make recourse distress loans (hereinafter called loans) on 1971-crop barley, grain sorghum, oats, rye, and wheat piled on the ground or stored in temporary facilities. As used in this subpart, "CCC" means the Commodity Credit Corporation, and "ASCS" means the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

(b) *Responsibility.* The Commodity Loan and Service Division, ASCS, will administer the regulations in this subpart under the general supervision and direction of the Deputy Administrator, State and County Operations, ASCS, in accordance with program provisions and policy determined by the Board of Directors and the Executive Vice President, CCC. In the field, the regulations in this subpart will be administered by the State and county Agricultural Stabilization committees (hereinafter called State and county committees), ASCS Commodity Offices and the ASCS Data Processing Center.

(c) *Documents.* Any member of the county committee, the county executive director, or other employee of the county ASCS office (hereinafter called county office) designated in writing by the county executive director to act in his behalf (such delegation to be filed in the county office) is authorized to approve documents under this program except where otherwise specified in the regulations in this subpart. He may also execute releases or otherwise obtain the release of record of chattel mortgages and security agreements made to CCC to secure loans upon payment in full of the loan involved. He may execute indemnity agreements on behalf of CCC where any county recording officer deems such indemnity agreement necessary to releasing a mortgage or security agreement of record.

(d) *Limitation of authority.* County executive directors, State and county committees, ASCS commodity offices, the ASCS Data Processing Center, and employees thereof, do not have authority to modify or waive any of the provisions of the regulations in this subpart.

(e) *State committee.* The State committee may take any action authorized or required by the regulations in this subpart to be taken by the county committee which has not been taken by such committee. The State committee may also (1) correct or require a county committee to correct any action taken by such county committee which is not in accordance with the regulations in this subpart, or (2) require a county committee to withhold taking any action which is not in accordance with the applicable regulations in this subpart.

(f) *Executive Vice President, CCC.* No delegation herein to a State or county committee, an ASCS commodity office, or the ASCS Data Processing Center shall preclude the Executive Vice President, CCC, or his designee, from determining any question arising under the regulations in this subpart or from reversing or modifying any determination made by a State or county committee, an ASCS commodity office, or the ASCS Data Processing Center.

§ 1473.2 Availability of loans.

(a) *Areas.* In areas designated by the State committee, loans to eligible producers shall be available on 1971 crop barley, grain sorghum, oats, rye, and wheat (hereinafter jointly called "grain") stored on or off the farm either (1) on the ground, or (2) in temporary facilities, except that, in areas where the State committee determines it is not feasible safely to store grain on the ground, it may authorize loans only on grain stored in temporary facilities. Producers may obtain at the county office information as to areas where loans are available.

(b) *Requesting loans.* Producers should make requests for loans at the county office which keeps the farm program records for the farm.

(c) *Period of availability.* Loans will be available in any area designated by the State committee beginning with the date the program for the area is announced by the State committee. The final date of availability of loans in any such area shall be 30 calendar days after the program is announced for the area, or 30 calendar days after the producer completes harvest of the grain tendered for loan, whichever is later. Whenever the final date of availability or the maturity date of the loan falls on a nonworkday for the county office, the applicable final date shall be extended to include the next workday.

(d) *Completion of applicable loan documents.* To obtain a loan, the producer must sign and deliver to the county office, not later than the final date of availability for loans, a Form CCC-677, "Farm Storage Note, Chattel Mortgage, and Security Agreement" and a "Supplemental Terms and Conditions to Farm Storage Note, Chattel Mortgage, and Security Agreement".

§ 1473.3 Disbursement of loans.

Disbursement of loans will be made to producers by county offices by drafts drawn on CCC or by credit to the producer's account. The producer shall not present the loan documents for disbursement unless the grain covered by the mortgage is in existence and in good condition. If the grain was not in existence and in good condition at the time of disbursement, the total amount disbursed under the loan shall be refunded promptly by the producer.

§ 1473.4 Eligible producer.

(a) *Producer.* An eligible producer shall be an individual, partnership, association, corporation, estate, trust, State, or political subdivision or agency thereof, or other legal entity (1) which produced the grain tendered for loan as landowner, landlord, tenant, or sharecropper, and (2) which meets the other requirements for eligibility for loans contained in this subpart.

(b) *Producers of grain sorghum and wheat.* To be eligible for a loan on grain sorghum or wheat, producers must meet the compliance requirements set forth in the CCC 1971 crop grain sorghum and wheat loan and purchase program supplements, respectively, 36 F.R. 13263, 11714.

(c) *Estates and trusts.* A receiver or trustee of an insolvent or bankrupt debtor's estate, an executor or an administrator of a deceased person's estate, a guardian of an estate of a ward or an incompetent person, and trustees of a trust estate shall be considered to represent the insolvent or bankrupt debtor, the deceased person, the ward or incompetent, and the beneficiaries of a trust, respectively, and the production of the receiver, executor, administrator, guardian, or trustee shall be considered to be the production of the person or estate he represents. Loan documents executed by any such person will be accepted by CCC only if they are legally valid and such person has the authority to sign the applicable documents.

(d) *Eligibility of minors.* A minor who is otherwise an eligible producer shall be eligible for a loan only if he meets one of the following requirements: (1) The right of majority has been conferred on him by court proceedings or by statute; (2) a guardian has been appointed to manage his property and the applicable loan documents are signed by the guardian; (3) any note signed by the minor is cosigned by a financially responsible person; or (4) a bond is furnished under which a surety guarantees to protect CCC from any loss incurred for which the minor would be liable had he been an adult.

(e) *Beneficial interest.* To be eligible for a loan, the beneficial interest in the grain must be in the producer tendering the grain as security for a loan and must always have been in him or in him and a former producer whom he succeeded before it was harvested, except that heirs who (1) succeed to the beneficial interest of a deceased producer, and (2) assume the decedent's obligation under a loan if a loan has already been obtained shall be eligible for loans as producers whether such succession occurs before or after harvest of the grain. A producer shall not be considered to have divested himself of the beneficial interest in the grain if he enters into a contract to sell, or gives an option to buy his grain if, under the contract or option, he retains control and risk of loss and title to the grain subject to such agreements, and retains control of its production.

(f) *Succession of interest.* To meet the requirements of succession to the beneficial interest of a former or deceased producer under paragraph (e) of this section, the rights, responsibilities and interests of the former producer with respect to the farming unit on which the grain was produced shall have been substantially assumed by the person claiming succession. Mere purchase or inheritance of a crop prior to harvest without acquisition of any additional interest in the farming unit on which the crop is

produced does not constitute succession to such beneficial interest.

(g) *Joint loans.* Two or more eligible producers who have an interest in eligible grain which is the production from a farm and is stored in accordance with § 1473.5 may obtain a joint loan on such grain. Each producer who is a party to the joint loan will be jointly and severally responsible for the obligations set forth in the loan documents and the regulations in this subpart.

§ 1473.5 Eligible grain.

(a) *General.* To be eligible for a loan, the grain tendered shall be stored identity preserved (stored separate and apart from grain tendered for another loan or any other grain) in storage meeting the requirements of § 1473.6 and shall meet the eligibility requirements for the applicable commodity appearing in the following sections of Part 1421 of this chapter: Barley—§ 1421.51(a); grain sorghum—§ 1421.211(a); oats—§ 1421.247 (a); rye—§ 1421.337(a); wheat—§ 1421.461(a).

§ 1473.6 Storage.

(a) *Temporary storage.* Temporary storage facilities shall be facilities which the county office determines to be suitable for the temporary storage of grain.

(b) *Ground storage.* Grain piled on the ground shall be protected from animals and shall be located on ground which will afford maximum protection from water drainage.

§ 1473.7 Determination of quantity.

The quantity of grain tendered for loan shall be estimated by the county office. Measurements, threshing records, and other guides shall be used in making the estimate to the extent that they are practicable or available. Loans shall be made on the quantity of grain so determined. The quantity of grain delivered to CCC shall be determined by weight.

§ 1473.8 Liens.

If there are any liens or encumbrances on the grain, waivers that will fully protect the interest of CCC must be obtained even though the liens or encumbrances are satisfied from the loan proceeds. Notwithstanding the foregoing provisions, in lieu of waiving his prior lien on grain tendered as security for a loan, a lienholder may execute a Lienholder's Subordination Agreement (Form CCC–864) with CCC in which he subordinates his security interest to the rights of CCC in the grain subject to the loan or such other quantity of the grain as is delivered in satisfaction of a loan. No additional liens or encumbrances shall be placed on the grain after the loan is approved.

§ 1473.9 Fees and charges.

(a) *Loan service fee.* A producer shall pay a loan service fee of $8 for each loan disbursed. The loan service fee is not refundable.

(b) *Delivery charge.* A delivery charge, in addition to the loan service fee, shall be paid by producers on the quantity of grain delivered to CCC. The rate is one-half cent per bushel for barley, oats, rye, and wheat and 1 cent per hundredweight for grain sorghum. The delivery charge shall be paid at time of settlement.

§ 1473.10 Setoffs.

The proceeds of the loan shall be applied against any indebtedness of the producer to CCC or any other agency of the United States in accordance with the provisions of § 1421.15 of this chapter.

§ 1473.11 Interest rate.

Loans shall bear interest at the same rates as those announced for regular nonrecourse loans in a separate notice published in the FEDERAL REGISTER, 35 F.R. 3827.

§ 1473.12 Release of grain under loan.

(a) *Obtaining release.* A producer shall not remove any collateral covered by a chattel mortgage until he has received prior written approval for such removal from the county committee on a form prescribed by CCC. A producer may at any time obtain release of all or part of the grain remaining under loan by paying to CCC the amount of the loan made with respect to the quantity of the grain released plus interest. When the proceeds of the sale of the grain are needed to repay a loan, the producer must request and obtain prior written approval of the county office on a form prescribed by CCC to remove a specified quantity of the grain from storage. Any such approval shall be subject to the terms and conditions set out in the applicable form, copies of which may be obtained by producers at the county office. Any such approval shall not constitute a release of CCC's security interest in the grain or release the producer from liability for any amounts due on his loan indebtedness if full payment of such amounts is not received by the county office.

(b) *Release of chattel mortgage.* The chattel mortgage shall not be released until the loan has been satisfied in full. After satisfaction of a loan, the county executive director shall release the chattel mortgage.

§ 1473.13 Insurance.

CCC does not require the producer to insure the grain placed under a loan; however, if the producer insures such grain and an indemity is paid thereon, such indemnity shall inure to the benefit of CCC to the extent of its interest after first satisfying the producer's equity in the grain involved in the loss.

§ 1473.14 Losses in quantity or quality.

CCC will not assume losses in quantity or quality of the grain under loan resulting from any cause.

§ 1473.15 Personal liability of the producer.

The personal liability of the producer to CCC for fraud or other reasons stated in § 1421.17 of this chapter in connection with a loan shall be the same as the personal liability of the producer in connection with a farm-storage loan as prescribed in paragraphs (a), (c), (d), (e), and (f) of such § 1421.17 of this chapter, except that the loan settlement value referred to in such section shall be the settlement value as determined under § 1473.18.

§ 1473.16 Loan rates.

Loans will be made under this program at 80 percent of the basic county loan rate for the applicable commodity established for the county in which the grain is stored under the regular 1971 crop price support loan and purchase programs, Part 1421 of this chapter. Such rates appear in the following sections of Part 1421 of this chapter: Barley—§ 1421.75 (36 F.R. 8997); grain sorghum—§ 1421.239 (36 F.R. 13263); oats—§ 1421.274 (36 F.R. 9236); rye—§ 1421.237 (36 F.R. 9634); and wheat—§ 1421.489 (36 F.R. 11714).

§ 1473.17 Maturity of loans.

Loans mature on demand, but not later than 90 days from the date the loan is disbursed.

§ 1473.18 Settlement.

Loans are recourse loans and the principal of a loan plus interest must be paid on or before maturity. Loans shall be satisfied in accordance with the provisions contained in this section.

(a) *Producer obtains nonrecourse loan.* A producer, on or before maturity of the loan, may, with approval of the county committee, place his commodity in eligible farm or warehouse storage and, if he and the commodity are eligible therefor, obtain a regular nonrecourse price support loan from CCC under the applicable loan and purchase regulations, Part 1421 of this chapter. When the nonrecourse loan is made, the principal on the loan made under this subpart plus accrued interest shall be paid in full either in cash or out of the proceeds of the nonrecourse loan.

(b) *Producer delivers commodity to CCC.* If the producer desires to deliver the grain under loan to CCC, he shall, prior to maturity, give the county office notice in writing of his intention to do so. Delivery of the grain to CCC shall be made in accordance with instructions issued by the county office. When the grain is delivered to CCC, credit shall be given to the producer for the quantity and quality of the grain actually delivered, at the market price at the time and place of delivery, as determined by CCC: *Provided, however,* That if such grain is sold by CCC in order to determine the market price, the settlement value shall not be less than such sales price. If the amount of such credit exceeds the amount due on the principal of the loan plus interest, the amount of the excess shall be paid to the producer by the county office. If the amount of such credit is less than the amount due on the principal of the loan plus accrued interest, the amount of the deficiency shall be paid by the producer to CCC. Any payment which would be due to the producer under any agricultural program administered by the Secretary of Agriculture, or any other payments which are due or may become due the produced from CCC or any other agency of the United States, may be set off against such deficiency.

(c) *Producer repays distress loan.* If the producer does not obtain a nonrecourse loan or deliver the grain to CCC, he must repay in cash the principal due on the loan plus accrued interest.

(d) *Handling payments and collections not exceeding $3.* In order to avoid administrative costs of making small payments and handling small accounts, amounts of $3 or less which are due the producer will be paid only upon his request. Deficiencies of $3 or less, including interest, may be disregarded unless demand for payment is made by CCC.

§ 1473.19 Foreclosure.

If the distress loan is not satisfied upon maturity, the regulations in § 1421.-24 of this chapter with respect to foreclosure shall apply.

Effective date. Upon filing with the Office of the Federal Register.

Signed at Washington, D.C., on September 15, 1971.

KENNETH E. FRICK,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.71-13873 Filed 9-20-71;8:49 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Administrative Instructions Prescribing Commuted Travel Time Allowances

Pursuant to the authority conferred upon the Director of the Animal Health Division by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1971 ed.), as amended January 22, 1971 (36 F.R. 1038), April 3, 1971 (36 F.R. 6413), and May 14, 1971 (36 F.R. 8861), prescribing the commuted travel time that shall be included in each period of overtime or holiday duty, are hereby amended by adding to or deleting from the respective "lists" therein as follows:

OUTSIDE METROPOLITAN AREA

TWO HOURS

Add: Port of Cleveland, Ohio (when served from Cleveland, Ohio)
Delete: Port of Cleveland, Ohio (when served from Columbus, Ohio)

THREE HOURS

Add: Port of Portland, Maine (when served from Augusta, Maine)
Add: Port of Ashtabula, Ohio (when served from Cleveland, Ohio)
Delete: Port of Ashtabula, Ohio (when served from Columbus, Ohio)

FOUR HOURS

Add: Port of Portland, Maine (when served from Concord, New Hampshire)

SIX HOURS

Add: Port of Portland, Maine (when served from Bangor, Maine)

(64 Stat. 561; 7 U.S.C. 2260)

These commuted travel time periods have been established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal Health Division.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date. The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER (9-21-71).

Done at Hyattsville, Md., this 16th day of September 1971.

R. E. OMOHUNDRO,
Acting Director, Animal Health Division, Agricultural Research Service.

[FR Doc.71-13872 Filed 9-20-71;8:49 am]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Implementation of National Environmental Policy Act of 1969

Correction

In F.R. Doc. 71-13214 appearing at page 18071 in the issue of Thursday, September 9, 1971, in Appendix D, paragraph 3 of the third column on page 18075, the reference to "§ 50.57(a)" in the eleventh line should read "§ 50.57(c)".

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 10915; Amdt. Nos. 25-29; 29-8; 37-31; 91-95; 121-79; and 135-29]

EMERGENCY LOCATOR TRANSMITTERS

These amendments to Parts 25, 29, 37, 91, 121, and 135 of the Federal Aviation Regulations implement section 31 of Public Law 91-596, achieve uniformity in the terminology used therein, and update requirements and standards for the manufacture, installation, airworthiness, and operation of emergency locator transmitters required on airplanes operated in air commerce. In addition, the current requirements of Part 121 (also applicable to air travel club operations conducted under Part 123) concerning emergency signaling devices required for extended over-water operations and operations over uninhabited terrain, are updated. Finally, a requirement for an emergency locator transmitter for extended over-water operations has been added to Part 135.

These amendments are based on a notice of proposed rule making, Notice 71-7, published in the FEDERAL REGISTER on March 13, 1971 (36 F.R. 4878). Nearly 200 commentators responded to the notice, and based on the views they expressed and further examination by the FAA, several changes have been made to the notice. The analysis of the comments has been broken down into three broad categories: Those comments which are general in nature or which speak to the general objective of the notice; those comments submitted in direct response to the FAA request for comments addressed to the 75 milliwatt power standard; and those comments making specific recommendations or stating specific objections. The changes made by the FAA independent of any public comment will be discussed within this framework.

General comments. Approximately 50 commentators objected to any requirement for emergency locator transmitters for the following reasons: Past experience with such locator devices indicates that they seldom prove helpful in locating a lost airplane and thus their benefit does not justify their cost and weight; installation and use of an emergency locator transmitter should be optional with the operator—those who are willing to take the risk of operating without a transmitter should be allowed to do so; required use of the transmitter would generate a tremendous search and rescue workload, which combined with false alarms, would cause air rescue personnel to lose their effectiveness and enthusiasm; emergency locator transmitters are not reliable; and finally, there is no need for an emergency locator transmitter if the pilot files a flight plan and follows it, because when an emergency occurs, he has ample time to notify the nearest FAA facility and report his position.

As pointed out in the notice, this regulatory action has been taken in response to a mandate from Congress (Public Law 91-596, amending section 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1301 et seq.)), and as such, the FAA has no authority to grant exemptions from that section. With regard to the matter of reliability, the FAA has no reason to believe that emergency locator transmitters designed to meet the standards adopted herein would not be adequately reliable. With regard to flight plans, the FAA believes that rather than being a substitute for an emergency locator transmitter, the flight plan can be an effective adjunct to such equipment. To this end the

agency is considering rule making action to require the use of flight plans for all operations with large U.S. registered civil airplanes and all turbine powered multi-engine U.S. registered civil airplanes when operated in the United States, and which are not subject to Part 121, 135, or 137.

Numerous comments were received recommending that the FAA exempt certain classes of airplanes, which were not exempted by Public Law 91-596 nor the proposals in Notice 71-7, from the emergency locator transmitter requirements. Specifically, it was recommended that the following be exempted: private airplanes; air taxi airplanes; amateur-built airplanes; antique airplanes; turboprop and multi-reciprocating-engine airplanes operated by a two-man crew; airplanes undergoing "export ferry"; airplanes that carry ATC transponders; and airplanes that do not operate over mountainous areas, sparsely populated areas, nor wide expanses of water.

As previously mentioned, the FAA does not have the power to expand the class of airplanes exempted by Public Law 91-596 from compliance with the emergency locator requirements of that law. This also applies to the comment of the ATA which contends that it was the intent of the statute to exempt all operations conducted by air carriers, not just operations conducted under Part 121, and thus recommends that charter operations, training flights, and ferry flights, when those operations are conducted in propeller-type airplanes, be exempt as well.

Several comments were received recommending that the FAA adopt a rule requiring that flight crewmembers of air carrier and military aircraft monitor the emergency frequencies during flight time, and that each emergency signal received be reported to the nearest FAA facility. Without such a requirement, these commentators contend, a requirement for an emergency locator transmitter is unjustified.

Although the air carriers have indicated a willingness to monitor emergency frequencies, and most military aircraft are equipped for this purpose, the FAA does not believe that requirements in this regard are necessary. Aircraft routinely used for search and rescue are equipped for homing in on emergency locator transmitter signals. In addition, emergency frequencies will be monitored in all FAA flight inspection aircraft and appropriate monitoring capability is planned for future installation in certain strategic Forest Service watchtowers. The FAA considers this monitoring capability to be adequate for the present. Additional rule making may be undertaken, however, if experience in service indicates the need for supplementary monitoring.

The proposal to bring the emergency locator transmitter under the Technical Standard Order (TSO) procedures of Part 37 was objected to by several commentators. These commentators recommended that emergency locator transmitters should be tested by independent test laboratories, the National Bureau of Standards, or the FAA, rather than permit the manufacturer to, in effect, certify his own product. It was contended that under the TSO system, manufacturers will use incorrect measuring techniques and tamper with test results.

The FAA does not agree with this comment. The TSO system has been applied successfully in the past to hundreds of manufacturers of such airborne electronic equipment as radio navigation equipment, ATC transponders, radar altimeters, and various flight instruments. There is no reason to believe that it cannot be applied equally as well in this case. Although the FAA, under the TSO system, does not require testing by an independent laboratory, it does review the technical data submitted by the applicant (manufacturer), and also monitors quality control to ensure compliance with the standard.

Two commentators requested that the proposed emergency locator standards be revised, or replaced, in order to accommodate their own emergency signaling concepts. On the basis of the information submitted by these commentators, the FAA does not believe that there is sufficient justification to change the standards applicable to emergency locator transmitters, which were developed after exhaustive discussions among industry and government organizations.

Several commenators pointed out that FCC rules require that each airplane fitted with an emergency locator transmitter must also be equipped with a radio transmitter and receiver that operate on at least one other frequency. In addition, the airplane must have an FCC Station license and the operator must have an FCC operator's license. Consequently, these commentators contend, they will have to install, in addition to the emergency locator transmitter, expensive radio equipment that FAA does not require and that they do not need. Further, they would have to acquire both a station and an operator's license and pay the associated fees.

The FAA has been informed by the FCC that it plans to issue and amendment to its regulations, before the earliest effective date of Public Law 91-596 (December 30, 1971), that would permit the installation of an emergency locator transmitter in an airplane, without requiring the operator to obtain an FCC Station license or to acquire additional radio equipment, if the transmitter does not have voice transmission capability. This FCC rule making should solve most of the problems posed by these commentators. An operator's license would still be required, however.

Several commentators pointed out that the notice made no mention of a voice communication capability in the emergency locator transmitter, and contended that such capability should be made mandatory, or at least permitted. These commentators believe that this is a vital consideration, for it would enable a downed pilot to direct search and rescue aircraft to the scene and communicate his needs to them. The FAA does not agree that a voice communication capability is an essential feature which warrants rule making action. However, the FAA has no objection to an optional feature such as the voice capability, provided all required standards adopted herein are met. Prospective users of emergency locator transmitters having this capability should consult FCC regulations concerning voice-modulated transmitters.

Several commentators expressed concern that emergency locator transmitters might be activated inadvertently and suggested various ways of preventing such inadvertent activation, or of detecting it quickly after it occurs. The FAA is reviewing these suggestions to determine whether further rule making should be undertaken.

There were numerous other comments of a general nature received which were outside the scope of the notice and thus are not discussed herein. However, it should be pointed out that as the state of the art develops with regard to emergency locator transmitters, the FAA will undertake additional rule making actions to implement necessary changes in technology and practice.

The 75 milliwatt power standard. Notice 71-7 requested comments addressed specifically to the 75 milliwatt peak effective radiated power standard developed by the Radio Technical Commission for Aeronautics (RTCA) for emergency locator transmitters. As stated in the notice, the 75 milliwatt standard was proposed because it would provide a transmission range of 50 nautical miles even where conditions at the site were unfavorable. Twenty comments were received in response to this point, and 14 recommended adoption of the standard, two recommended an increase in power, and four recommended a decrease. These comments are discussed below.

Those commentators recommending an increase in power contended that lost airplanes are often far off course thus necessitating a signal strong enough to be received by ground stations (to this point, one commentator recommended a power standard of 300 milliwatts, the other a power standard of 500 milliwatts). It was stated that an increase to 500 milliwatts, combined with a 1:3 on-off duty ratio for the transmitter would provide maximum range per unit battery weight.

Those commentators recommending a decrease in power contended, generally speaking, that a lower value for peak effective radiated power would reduce the cost and size of the transmitter. Thus, one commentator stated that reduction in power to 7.5 milliwatts would result in a 10-fold increase in transmission duration for a given battery weight or, alternatively, in a 10-fold reduction in battery weight for a given duration of transmission. Such a transmitter would provide a 16-mile transmission range which would be adequate for the purpose. For similar reasons, other commentators recommended a reduction to 25 milliwatts, or adoption of the lower radiated power level currently specified by Canadian regulations.

The FAA has carefully reviewed all comments submitted in regard to this matter, as well as FAA findings, and has concluded that the 75 milliwatt power standard represents a reasonable compromise and is realistic with regard to effectiveness, cost, and weight.

Comments of specific recommendation. Numerous specific recommendations and objections were made in response to Notice 71-7, and those within the scope of the notice are discussed below in the order the proposals on which they are based appeared in the notice, and, where possible, in connection with specific section numbers.

Sections 25.1415(d) and *29.1415(d)*. Three commentators recommended that more than one survival type emergency locator transmitter be required on aircraft certificated for ditching. One recommended that two transmitters be carried since ICAO Annex 6 requires two. Another recommended that there be one for each life raft because seldom are all life rafts deployed after a ditching. Based on the service record to date, the FAA does not believe that it is necessary to require that more than one lift raft be equipped with a survival type emergency locator transmitter.

Section 37.200(b)(1). Several commentators noted that the proposed standard for personnel type emergency locator transmitters (DO-145) permits the use of self-contained antennas that must be manually deployed. The point was made that should the occupants be incapacitated, or merely forget to deploy the antenna, a sharp reduction in the strength of the signal would result. Moreover, this kind of personnel emergency locator transmitter, in its normal stowed position, is screened by the aircraft's skin such that its signal strength is further reduced, and the antenna radiation pattern is distorted. To remedy these situations, it was recommended that these transmitters meet the radiated power output, and omnidirectional radiation pattern requirements of DO-145, as mounted in the airplane. Another recommendation suggested the FAA prohibit the use of antennas that must be deployed.

Self-contained antennas that must be manually deployed have been an accepted feature of hand-held communication receivers and transmitters for many years. The FAA believes that only a small percentage of pilots would be unable, or forget, to deploy the antenna after a crash landing. However, even in that case, tests have indicated that emergency locator transmitters located inside the airplane, with antennas either not deployed or only partially deployed, are still capable of a measure of useful performance. Furthermore, portable emergency locator transmitters with protruding fixed antennas may be a hazard to persons in the crash situation.

Section 37.200—Paragraph 2.2.1 of DO-145, 146, and 147. It was recommended that the frequency requirements be revised to permit operation on either 121.5 or 243.0 MHz, because many emergency locator transmitters currently in service operate on only one of these frequencies, and this is sufficient. The FAA believes that transmission on both frequencies is essential to successful operation of the emergency locator system, which is dependent upon full utilization of available civil and military monitoring capability.

Section 37.200—Paragraph 2.2.2 of DO-145, 146, and 147. With regard to the type of signal modulation required, it was recommended that an upward sweep be permitted as well as the proposed downward sweep because the latter is more costly and because both are readily identifiable and in fact, sound alike.

The proposal for a downward sweep tone was based upon an FAA determination that such a tone would provide a unique, recognizable, attention-getting signal that could be distinguished from background noise. We believe that to permit an upward sweep as well would only serve to lessen these advantages. The FAA is not persuaded that an upward sweep would cost less, nor that it sounds the same as a downward sweep.

Section 37.200—Paragraph 2.2.3 of DO-145, 146, and 147. It was recommended that the minimum modulation duty cycle be reduced from 33 percent to 10 percent the commentator contending that the higher standard serves no useful purpose, but merely increases cost; whereas the lower standard would not adversely affect the performance of the transmitter. Another commentator suggested that an average modulation duty cycle be prescribed with a standard between 25 percent and 75 percent without specifying an instantaneous modulation duty cycle; or, alternatively, an average modulation duty cycle between 33 percent and 67 percent with an instantaneous modulation duty cycle between 10 percent and 90 percent. It was contended that such standards would result in an increase in power of weak signals, and an increase in the effectiveness of search operations because it would be apparent when the signal strength is increased or decreased.

The proposed modulation duty cycle was developed by the RTCA and the FAA as a practical compromise among several possibilities, such as those mentioned by the commentators. From the information submitted by these commentators, the FAA is not persuaded that any of the standards suggested by them would provide any significant improvement.

Section 37.200—Paragraph 2.2.4 of DO-145, 146, and 147. Several commentators contended that cost could be reduced and battery life increased if the transmitter duty cycle requirement were revised to permit interruption of the carrier. One commentator suggested a transmitter duty cycle of between 100 percent and 33 percent, with an "off" period not to exceed 0.75 seconds. Another suggested that the "on" period be not less than two complete audio sweeps, and that the "off" period not exceed 2 seconds, or two times the "on" period, whichever is less. This commentator contended that this type of interrupted transmission has been proven to be more effective than the conventional swept-tone signal and that the FAA has recognized this in TSO-C61a.

This standard was selected from several alternatives by the RTCA, with FAA participation. It was found that these "interrupted-carrier" transmissions lower the reliability of the emergency locator transmitter and complicate the task of the search receiver, thereby reducing the effectiveness of the transmitter. On the basis of the information submitted, the FAA is not persuaded that other transmitter duty cycles would improve transmitter performance.

Section 37.200—Paragraph 3.1 of DO-145. One commentator recommended that the low operating temperature be reduced from 0° C. to −20° C. since personnel type emergency locator transmitters are to be attached to the airplane (proposed § 91.52(b)(2)) as is the case with automatic-type transmitters which are required to meet the −20° C. standard.

The FAA agrees that personnel type emergency locator transmitters may be required to operate at temperatures below that prescribed in DO-145. Accident records indicate that a significant number of accidents have occurred in ambient temperatures between 0° C. and −20° C. To assure effective performance in forseeable conditions, the "Low Operating Temperature" requirement has been changed to −20° C., and a concomitant change to the low temperature required for the temperature variation test, as prescribed in DO-145, from −20° C. to −40° C. has beed made.

Section 37.200—Paragraph 3.1 of DO-145, 146, and 147. Another recommendation concerning temperature standards suggested that the maximum high operating temperature specified in this paragraph be increased from +55° C. to +71° C., because, it was contended, solar heating can raise the temperature 35° C. above the ambient. The FAA considers the +55° C. figure to be realistic and reasonable based on the probability of exposure to high temperature in service.

Section 37.200—Paragraph 3.4(a) of DO-145, 146, and 147. One commentator recommended that the FAA replace the proposed maximum g. level with the military standard, Curve IIIA of Mil-E-5400, Fig. 2, because the proposed maximum g. level was unnecessarily high, and because the military standard is adequate in military airplanes, which have vibration stresses significantly higher than civil airplanes.

The proposed maximum g. values were developed to insure reliable operation after prolonged exposure to severe vibration and shock environments. The FAA has no reason to believe that the vibration environment in civil aircraft is necessarily less severe than that in military aircraft, thereby justifying a lesser standard. The FAA's views in this regard apply to other comments discussing the g. standard for other types of transmitters.

Section 37.200—Paragraph 1.9(a) of DO-147. It was recommended that the

prohibition against sharp edges or projections on automatic-fixed type emergency locator transmitters be deleted because such transmitters must be installed in the tail section of the airplane where it is not accessible to the cockpit. Regardless of the location where the emergency locator transmitter is attached, the FAA believes that a prohibition against sharp edges and projections is necessary for all transmitters. Although fixed and deployable automatic type transmitters must be attached as far aft as practicable, there is no assurance that they would not be located where they could injure occupants or damage inflatable survival equipment.

Section 37.200—Paragraph 3.5 of DO–147. One commentator recommended that the temperature range specified in this paragraph be changed from a range of −40° C. to +55° C. to a range of −20° C. to +55° C. to make it consistent with paragraph 3.1 which prescribes this latter range as the operating temperature range for the subject transmitters. The FAA does not agree with this comment, because the test requirements of paragraph 3.1 are different than those of paragraph 3.5 with a corresponding difference in temperature requirements.

Section 37.200—Appendix A, Part II, Section T–2, Step 5a of DO–145, 146, and 147. A commentator recommended that the transmitter peak effective radiated power test prescribed in this step be revised to permit the use of a quarter-wave-length element surrounded by three quarter-wave-length radials spaced 120° around its base. It was contended that this arrangement would match the 50-ohm output impedance of most signal generators, whereas the arrangement prescribed in Step 5a would have a mismatching impedance of 25–30 ohms.

The FAA sees no compelling reason to adjust its test procedure to facilitate an impedance match with signal generators. Any mismatch that exists must be accounted for under referenced provision in DO–145, 146, and 147.

Section 37.200(c)(1). Several commentators recommended that the additional performance standards for automatic activation prescribed in this proposal be deleted entirely. A discussion of the various reasons for this position, and the corresponding FAA response follows. Those comments already discussed which are applicable to this proposal are not dealt with further.

It was contended that the automatic activation feature on most existing emergency locator transmitters is either too "tender" or too "stiff". In the case of the former, false alarms result; in the case of the latter, the transmitter may not be activated in a crash. In addition, experience in Alaska, it is argued, has shown that g.-switches are activated by moderately hard landings, with the resulting operation of the transmitter going unnoticed by the pilot, thus running down the battery and rendering the transmitter useless.

The proposed automatic activation standard was developed after a thorough examination of past service experience with devices of this kind. The FAA believes that emergency locator transmitters designed to that standard will not be activated during a hard landing, nor will they fail to activate during a crash landing. However, to help prevent inadvertent or accidental activation, a requirement for a switch guard has been added in new paragraphs (c) (4) and (5). The guard is required for all personnel, automatic portable and survival type emergency locator transmitters, which use a manual activation switch. In addition, the guard is required for all automatic deployable type emergency locator transmitters using a remote activation switch.

Canadian aviation authorities have recommended that the emergency locator transmitter not be turned on for 24 hours after a crash because it would take that long before it could be determined that an airplane was lost or where it might be. The FAA does not agree. In many areas, the emergency signal could be detected by aircraft flying normal routes and a search could be initiated. A 24-hour delay in some cases could prove fatal.

Some commentators contended that an automatic portable emergency locator transmitter, as described in DO–147, could adequately perform the functions of an automatically activated personnel type emergency locator transmitter, and thus there is no need for the latter. In this regard, it should be noted that the standards, as proposed in Notice 71–7, for automatic portable type emergency locator transmitters are, in several respects, more severe than those proposed for the personnel type. The FAA sees no justification for applying these higher standards to all users, as suggested.

In addition to those comments which recommended that the standards of § 37.200(c)(1) be deleted entirely, several comments on specified proposals in § 37.200(c)(1) were received. A discussion of them follows.

Several commentators pointed out the typographical error in paragraph (c)(1)(i) prescribing a force of 5.0±2.0 g. The correct force standard should read 5.0^{+2}_{-0} g., and this is adopted herein. The FAA has found, after considerable experience with crash-activated devices, that an inertia limit below 5 g. leads to "nuisance tripping" during hard landings or when the taxiway is rough.

Two commentators recommended that the time duration standard of 11 milliseconds prescribed in paragraph (c)(1)(i) be changed to 11^{+5}_{-0} milliseconds to provide a practical manufacturing tolerance. The FAA agrees with this comment, and accordingly paragraphs (c)(1)(i) and (iii) have been changed to prescribe an 11^{+5}_{-0} millisecond standard. In addition, it has been necessary to make a similar change, by way of exception in § 37.200(b)(2)–(4), to the standard as prescribed in DO–145, 146, and 147.

Several commentators recommended that a "g.-versus-time" curve, with a defined minimum g. value be established in place of the limits proposed in § 37.200(c)(1)(i), contending that impact switch characteristics necessitate a greater number of force/time points for design. It was argued that this type of standard would define the desired severity of crash irrespective of airplane structure, location of the emergency locator transmitter, or kind or crash.

The "g.-versus-time" alternative was considered by the FAA, but we concluded it would be too restrictive and unnecessary to provide a minimum level of safety. The g. value proposed by these commentators could lead to "nuisance tripping."

Another commentator recommended that § 37.200(c)(1) be revised to permit use of "deformation sensors", installed in the nose, wing, or other vulnerable part of the airplane. Such sensors, it was contended, have been used successfully in many military applications. The FAA agrees with this comment, pointing out that the note following paragraph 2.3.1 of DO–147 permits this alternative means of activation. Accordingly, the substance of that note has been added to § 37.200(c)(1).

Another alternative for activation, based on the combined use of a ram-air switch and an impact switch, was recommended. Under this arrangement, the emergency locator transmitter would transmit only when the impact switch is activated following flight of the aircraft, thus reducing, the commentator contended, the possibility of inadvertent activation. The FAA considers this approach unnecessarily complex. Moreover, it appears that it could prevent needed activation of the transmitter in some circumstances.

Section 37.200(c)(2). Numerous comments were addressed to the proposal requiring a manually activated test circuit, and the majority of them recommended deletion of this requirement. The points raised in these comments and the information submitted with them indicate that due to unnecessarily complex design and functional problems, and questionable benefits to the user, this requirement is not practical at this time. Accordingly, proposed § 37.200(c)(2) has been deleted.

Section 37.200(c)(3). Several commentators, largely manufacturers of emergency locator transmitters, responded to the marking proposals of this subparagraph, and the majority of them recommended they be deleted. Generally speaking, the bases for this position were the problems involved with obtaining battery manufacturer cooperation, and the fact that the required dates may mislead the user because they may not be a true indicator of available battery power. Upon examination of the points raised by these commentators, the FAA agrees that a requirement for the marking of date of manufacture is of questionable value, and believes further, that the marking requirements of § 37.200(f)(1) (battery replacement

date) and § 91.52(d) are adequate to insure operable power sources. Accordingly, the first sentence of § 37.200(c)(3), as proposed, has been deleted.

Several commentators addressed recommendations to the proposed requirements of § 37.200(c)(3) regarding battery electrical connections, contending that there is no reason why spring contacts (prohibited in the notice), if properly designed for this application, could not be used. Furthermore, it was stated that special connection requirements serve only to increase battery cost and thereby make it more difficult to keep spares available.

The FAA is persuaded that battery connections which rely on spring force alone are not necessarily subject to failure. Accordingly, the last sentence of § 37.200(c)(3), as proposed, has been deleted.

Section 37.200(d). One commentator recommended that this paragraph recognize other environmental testing techniques which meet or exceed the standards prescribed in DO–147 and referenced in this section. In this regard, it should be noted that § 37.9 permits a manufacturer to deviate, upon application and approval, from any performance standard prescribed by a TSO. Therefore, it is unnecessary to incorporate this commentator's recommendation in paragraph (d).

Section 37.200(f)(1). Several commentators recommended that the marking requirements proposed in this subparagraph be deleted, and the operator of the airplane merely be required to post battery replacement schedules in the airplane logbook. It was contended that some emergency locator transmitters are externally mounted thus resulting in exposure to the elements causing markings to fade. In addition, these commentators stated that because many transmitters are mounted internally in inaccessible places, checking would be difficult, and the tendency of many operators would be to neglect the battery replacement requirement.

The FAA anticipates no difficulty with this requirement. Most emergency locator transmitters will be internally mounted and visible. In the case of externally mounted transmitters, markings can be designed to remain legible even when exposed to the weather. Those transmitters that are not visible will be examined during normal airplane maintenance.

Two commentators recommended that nickel-cadmium rechargeable batteries and water-activated batteries be expected from the requirements of paragraph (f)(1) because, with regard to the former, they have an indefinite shelf life, and with regard to the latter, their condition is not time-related.

The FAA agrees that water-activated batteries have, for all practical purposes, an unlimited shelf life. Furthermore, it appears that this requirement should be qualified to take into account rechargeable batteries. Accordingly, § 37.200(f)(1) has been revised to except emergency locator transmitters with water-activated batteries from the battery-replacement-date marking requirement. In addition, § 37.200(f)(1) now permits those emergency locator transmitters using rechargeable batteries to be marked with a "recharging" date rather than a "replacement" date. This revision has necessitated a change in proposed § 37.200(g)(2), which will be discussed in connection with that section.

Section 37.200(f)(2). One commentator recommended that this subparagraph be revised to indicate that it does not apply to components that are mechanically connected to the main emergency locator transmitter unit, because, the commentator contended, there is no reason to identify such components. The FAA does not agree. The language used in this subparagraph regarding the marking of separate components has been used in several TSO standards without difficulty, and the agency considers it adequate for the purpose of requiring manufacturers to permanently set forth certain basic information.

Section 37.200(g)(2). With regard to the battery useful life requirement of this subparagraph, one commentator recommended that the useful life be established by the battery manufacturer rather than the transmitter manufacturer, for the reason that the former is best qualified to provide data on the useful life of his product.

Section 37.200 is addressed to emergency locator transmitter manufacturers, and not to battery manufacturers and the FAA does not consider it practicable to divide TSO authorization between the two. Finally, the transmitter manufacturer can be expected to be adequately familiar with the useful life of the battery he is using.

As mentioned previously, it has been necessary to make certain minor revisions to accommodate rechargeable batteries. Accordingly, this proposed subparagraph has been revised to recognize rechargeable batteries by basing their useful life on the life of the charge.

Section 37.200(g)(5). One commentator contended that the language of this requirement concerning data relating to actual equipment performance could be interpreted to require testing to destruction, particularly with respect to shock, vibration, and high temperature. The FAA agrees that testing to destruction should not be required solely to obtain data for the equipment data sheet. Accordingly, proposed § 37.200(g)(5) has been revised to require data sheets specifying the equipment's typical actual performance. The intent of this provision, as well as § 37.200(h) which refers to it, is to require that the equipment data sheet contain actual performance data for equipment of that type, not for each individual unit. As such, the manufacturer is permitted to determine what the performance characteristics are for his particular type of equipment, without being required to test each unit, or to test them to destruction.

Section 37.200 (h). One commentator recommended that the provision requiring the transmitter manufacturer to furnish a copy of the installation instructions, and of the data sheet, with each unit revised to accept transmitters furnished in bulk to aircraft manufacturers or aircraft fleet operators. It was argued that this requirement is appropriate only for transmitters that are sold individually.

The FAA disagrees. If bulk transmitter deliveries were excepted from this requirement there would be no assurance that the ultimate user would get a copy of the data sheet required in § 37.200(g)(5). The bulk purchaser could resell the transmitter in small lots or individually.

Section 91.52(a). One commentator recommended that the requirement for an emergency locator transmitter be extended to the more than 4,000 rotorcraft now in service. This comment is beyond the scope of Notice 71–7; however, it should be noted that the FAA is currently examining this area to determine if further rule making is warranted.

With regard to the compliance date requirements of paragraph (a)(2), two commentators stated that the 3-year timetable prescribed in Public Law 91-596 should be applied to operations conducted under Part 135, rather than the 1 year proposed in the notice. It was contended that this time was necessary in order to adequately provide for the design of transmitter installations, particularly the antenna installation.

The FAA agrees that the effective date should be the same for all operations covered by § 91.51(a)(2), and that provision has been revised accordingly.

Section 91.52(b). Several commentators recommended that the words "a personnel type or" be deleted from paragraph (b)(4) because such transmitters, it was contended, do not meet the intent of Public Law 91–596 since they require manual erection of the antenna and may fail to operate below 0° C. Furthermore, it was argued that in order to insure that transmissions are omnidirectional with maximum signal strength, the antenna must be in place and operable in the event of a crash.

The FAA does not agree that use of the personnel type emergency locator transmitter should be prohibited for operations other than those conducted under Parts 121, 123, or 135. Standards for many classes of general aviation equipment, although providing an adequate level of safety, are generally less stringent than those applicable to equipment required for air carriers and commercial operators.

One commentator recommended that only nonautomatic personnel type emergency locator transmitters be required, arguing that if the airplane were totally destroyed the transmitted would be also. The commentator described several crash configurations and stated that in those situations where the airplane was not destroyed, the normal airplane communication system or the nonautomatic personnel type transmitter would prove to be the most effective emergency devices. It was the feeling of this commentator

that the personnel type is more adaptable to more given situations.

The FAA does not agree that the personnel type emergency locator transmitter, whether automatic or nonautomatic, should be specified for all operations. If the airplane suffers even minor damage, the electrical system of the airplane might be rendered inoperative, and thus normal communications equipment would be of no value. Even if left intact, use of the electrical system could be dangerous due to the possibility of a fuel leak. In addition, many airplanes are not even equipped with normal communications equipment.

The FAA is aware that externally mounted transmitter antennas may be damaged in some crash situations, as pointed out by this commentator; however, the probability that they will remain intact, or at least functional, is good.

Another commentator recommended that the requirement that the transmitter be attached to the airplane, appearing in paragraphs (b) (1)–(4), be deleted. It was argued that in the case of fleet operators who operate only a fraction of their fleet at any given time, this requirement would be unnecessary and burdensome.

In this regard, it should be noted that § 91.52 prohibits the operation of airplanes without an emergency locator transmitter attached. Consequently, the transmitter is not required to be attached when the airplane is in the hangar or parked on the ramp. Therefore, the operator need not attach the transmitter to the airplane until it begins its taxi run preparatory to flight. This will permit the operator to use several transmitters for his entire fleet.

Finally, one commentator recommended use of the word "installed" rather than "attached" because that was the word used in Public Law 91–596 and because it is more definitive. The FAA selected the term "attached to" rather than "installed on" to insure that the emergency locator transmitter is subjected to crash-inertia forces and is thereby automatically activated. The term "installed on" could be erroneously interpreted to permit the operator to carry the transmitter on his person, or on the seat next to him, where it might not be subjected to the full inertia force in a crash.

Section 91.52(c). Three commentators recommended revision of this proposal to require that personnel type and automatic portable type emergency locator transmitters, also be mounted as far aft as practicable because reliability would be comprised if installed in a nonaft location. Furthermore, it was contended that aft mounting is required by the statute, and no justification exists for excepting any type of transmitter from the requirement.

The FAA considers ready accessibility to be an important safety consideration with regard to personnel type and automatic portable type emergency locator transmitters, and thus, a forward location is permitted for them.

One commentator recommended that the FAA require emergency locator transmitters to be installed "in a manner that complies with the applicable shock requirements of § 37.200(b)." The commentator contended that the proposed language "minimize the probability of damage" was vague, whereas the various RTCA documents referenced in § 37.200 (b) specify a suitable criterion for shock resistance.

This requirement is objective, covering many different kinds of attachment methods in various airplanes. On the other hand, § 37.200(b) applies only to the emergency locator transmitter itself and is not related to methods of attachment. This type of requirement is useful in this situation because it permits the exercise of engineering judgment in the field. The proposed language appears elsewhere in the Federal Aviation Regulations and has caused no problems in the past, nor do we anticipate any now.

Section 91.52(d) Several commentators recommended that the "50 percent of useful life" battery replacement criterion be deleted in favor of a requirement that the battery be replaced "at least during each annual inspection." Another commentator suggested that the battery be replaced "every year or at such shorter intervals as is determined by the battery manufacturer's guaranteed useful life." These commentators contended that exposure to prolonged high temperature (as when the airplane is parked in the sun) causes rapid deterioration of the battery, which may render the emergency locator transmitter inoperative before the 50-percent shelf life date is reached.

The FHA does not agree that the alternatives suggested would serve the purpose more effectively than the agency's "half-life" proposal which takes into account probable exposure to temperature extremes and typical decrease in battery capacity when the transmitter is not in use. However, it has been necessary to make a minor revision to conform with previously discussed changes to § 37.200(f)(2) and (g)(2) with regard to rechargeable batteries.

Section 91.52(e). One commentator recommended that the proposals in this paragraph to permit the ferrying of airplanes for the purpose of installing or repairing a transmitter, be deleted and replaced with a 30-day grace period. It was argued that under the proposal, operators in remote areas would have to ground their airplanes for long periods while awaiting repair of the emergency locator transmitter.

The FAA does not agree that the suggested 30-day grace period is necessary. As is the case with other required equipment, ferry privileges are available for those operators affected by these requirements. In addition, it is expected that relatively few aircraft will be affected by the December 30, 1971, compliance date, and for those that must be equipped by the December 30, 1973, compliance date, we expect service facilities for emergency locator transmitters to be widely available by that time.

Section 91.52(f). Several commentators recommended that proposed paragraph (f) of § 91.52 excepting training flights conducted within a 20-mile radius of base be deleted, stating that once airborne an airplane not equipped with a transmitter, pursuant to this exception, could go beyond the 20-mile limit. Furthermore, it was contended that often the area within such a radius could be such that location of a downed aircraft would be difficult without the emergency locator transmitter. Finally, these commentators expressed concern that the exception could be used as a loophole by those who wish to operate without the transmitter.

The FAA recognizes that this exception (which is expressly prescribed in new section 601(d)(2) of the Federal Aviation Act of 1958) may present some administrative difficulty, but will defer regulatory action thereon until service experience indicates what, if any, problems may arise.

One commentator recommended that all air carrier aircraft be required to carry an emergency locator transmitter, contending that despite radar surveillance, a number of downed air carrier aircraft were not quickly located.

Except in the case of air taxi and charter airplanes, the FAA does not believe that an emergency locator transmitter requirement can be justified at this time for all airplanes used in air transportation. These airplanes, operated under Part 121, are routinely flown under the operational control of the air carrier by means of flight following procedures, and the large majority of these flights are conducted in accordance with flight plans, along established routes, and into airports that are near high density population areas. In addition, most of these airplanes are equipped with ATC transponders which can be used to signal in an emergency.

Section 91.52(g). The proposals in this paragraph received numerous comments which, generally speaking, recommended that the FAA allow the continued use of emergency locator transmitters approved under existing TSO–C61a. The following "grandfather clause" recommendations were made: Permit the use of transmitters approved under TSO–C61a before the effective date of this amendment; permit the use of those so approved and purchased before the effective date of this amendment; and permit the use of transmitters approved by the State of California. In addition, one commentator suggested a cutoff date for the sale of transmitters that do not meet the proposed standards. In support of these recommendations, the commentators made the following arguments: Several thousand general aviation aircraft are currently equipped with transmitters approved under TSO–C61a, and the operators of these aircraft relied on the assumption that they were in compliance with an acceptable FAA standard. As such, these persons are entitled to a reasonable transition period in which to comply with the new standards. Furthermore, there is no basis for wholesale condemnation of currently used emergency

locator transmitters, even where they are deficient in some respects. In fact, some exceed the requirements in TSO–C61a and approach the proposed standards in all essential respects.

The FAA recognizes the need for an adequate transition period and agrees that appropriate relief is warranted. Accordingly, proposed § 91.52(g) has been revised to permit, until December 30, 1975, the use of an emergency locator transmitter that does not meet the requirements of § 91.52, provided that the transmitter: Has been installed and approved before the effective date of this amendment; has been manufactured under a TSO Authorization issued against TSO–C61a; transmits simultaneously on 121.5 and 243.0 MHZ; and after the applicable effective date, prescribed in § 91.52(a), is attached to the airplane.

Sections 121.339(a)(4) and 121.353(b). Comments similar to those dealt with in the preceding discussion were received with regard to the proposed requirements of Part 121 concerning survival type emergency locator transmitters. These comments pointed out that U.S. air carriers have just recently completed installation of survival type emergency locator transmitters to meet ICAO standards, and thus have entire fleets with new equipment which complies with TSO–C61a, and to require them to now switch over to the new equipment would be unreasonably burdensome. Furthermore, it was contended that in many cases, currently installed equipment meets, for the most part, the proposed standards of Notice 71–7.

Again, the FAA agrees that relief is justified in this situation and safety will not be adversely affected by permitting certain "grandfather" rights. Accordingly, proposed §§ 121.339(a)(4) and 121.353(b) have been revised to permit, until December 30, 1975, the use of a survival type emergency locator transmitter that does not meet the applicable requirements of § 37.200, provided that transmitter: has been installed and approved before the effective date of this amendment; has been manufactured under a TSO Authorization issued against TSO–C61a; and transmits simultaneously on 121.5 and 243.0 MHZ.

In addition, several commentators made suggestions similar to those discussed previously concerning battery replacement criteria. Accordingly, appropriate changes have been made to these requirements to accommodate rechargeable abtteries.

Finally, comments discussing the number of survival type emergency locator transmitters required have been dealt with previously in the discussion of §§ 25.1415 and 29. 1415. No further mention is necessary here.

Section 135.163. Again, several commnets were addressed to the number of survival type emergency locator transmitters that should be required on an airplane. The disclussion of these comments in connection with §§ 25.1415 and 29.1415 is sufficient for the purposes of this section as well.

With regard to battery replacement criteria, the necessary change to accommodate rechargeable batteries has been made in this section.

Finally, the "grandfather rights" discussed previously had been adopted for this section as well.

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

In consideration of the foregoing, Parts 25, 29, 37, 91, 121, and 135 of the Federal Aviation Regulations are amended, effective October 21, 1971, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. By amending § 25.1415(d) to read as follows:

§ 25.1415 Ditching equipment.

* * * * *

(d) There must be a survival type emergency locator transmitter that meets the applicable requirements of § 37.200 of this chapter for use in one life raft.

* * * * *

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

2. By amending § 29.1415(d) to read as follows:

§ 29.1415 Ditching equipment.

* * * * *

(d) There must be a survival type emergency locator transmitter that meets the applicable requirements of § 37.200 of this chapter for use in one life raft.

PART 37—TECHNICAL STANDARD ORDER AUTHORIZATIONS

3. By adding a new section to Part 37 to read as follows:

§ 37.200 Emergency locator transmitters—TSO–C91.

(a) *Applicability.* This technical standard order prescribes the minimum performance standards that airborne emergency locator transmitters must meet in order to be identified with the applicable TSO marking. Emergency locator transmitters which are to be so identified must meet the requirements prescribed in paragraphs (b) and (c) of this section.

(b) *Basic performance standards.* Basic performance standards are hereby established for the following types of emergency locator transmitters:

(1) *Type ELT(P) (personnel type).* Personnel type emergency locator transmitters must meet the standards prescribed in Radio Technical Commission for Aeronautics Document No. DO–145 titled "Minimum Performance Standards—Personnel Type Emergency Locator Transmitters, ELT(P), Operating on 121.5 and 243.0 Megahertz," dated November 5, 1970.

(2) *Type ELT(AF) (automatic fixed type).* Automatic fixed type emergency locator transmitters must meet the standards for Automatic Fixed (AF) Type equipment set forth in Radio Technical Commission for Aeronautics Document No. DO–147 titled "Minimum Performance Standards—Automatic Fixed, Automatic Portable, and Automatic Deployable Type Emergency Locator Transmitters ELT(AF)(AP)(AD), Operating on 121.5 and 243.0 Megahertz," dated November 5, 1970. Notwithstanding the requirements of paragraphs 2.3.1(a)(1) and 2.3.1(c) of DO–147, a tolerance of $^{+5}_{-0}$ milliseconds may be applied to the value "11 milliseconds" prescribed therein.

(3) *Type ELT(AP) (automatic portable type).* Automatic portable type emergency locator transmitters must meet the standards for Automatic Portable (AP) Type equipment prescribed in Radio Technical Commission for Aeronautics Document No. DO–147 titled "Minimum Performance Standards — Automatic Fixed, Automatic Portable, and Automatic Deployable Type Emergency Locator Transmitters, ELT(AF)(AP)(AD), Operating on 121.5 and 243.0 Megahertz," dated November 5, 1970. Notwithstanding the requirements of paragraphs 2.3.1(a)(1) and 2.3.1(c) of DO–147, a tolerance of $^{+5}_{-0}$ milliseconds may be applied to the value "11 milliseconds" prescribed therein.

(4) *Type ELT(AD) Automatic deployable type).* Automatic deployable type emergency locator transmitters must meet the standards for Automatic Deployable (AD) Type equipment prescribed in Radio Technical Commission for Aeronautics Document No. DO–147 titled "Minimum Performance Standards—Automatic Fixed, Automatic Portable and Automatic Deployable Type Emergency Locator Transmitters, ELT(AF)(AP)(AD), Operating on 121.5 and 243.0 Megahertz," dated November 5, 1970. Notwithstanding the requirements of paragraphs 2.3.1(a)(1) and 2.3.1(c) of DO–147, a tolerance of $^{+5}_{-0}$ milliseconds may be applied to the value "11 milliseconds" prescribed therein.

(5) *Type ELT(S) (survival type).* Survival type emergency locator transmitters must meet the standards prescribed in Radio Technical Commission for Aeronautics Document No. DO–146 titled "Minimum Performance Standards—Survival Type Emergency Locator Transmitters, ELT(S), Operating on 121.5 and 243.0 Megahertz," dated November 5, 1970.

(c) *Additional performance standards.* In addition to meeting the basic performance standards (as applicable) prescribed in paragraph (b) of this section—

(1) Each personnel-type emergency locator transmitter must, when installed in accordance with the manufacturer's instructions—

(i) Be automatically activated when subject to a force of 5.0^{+2}_{-0} g. and greater for a duration of 11 $^{+5}_{-0}$ milliseconds and greater in the direction of the longitudinal axis of the aircraft;

(ii) Not be activated under conditions less severe than those prescribed in subdivision (i) of this subparagraph; and

(iii) After activation, remain activated when subsequently subjected to shock forces in any direction of up to 50 g. and having durations up to 11 $^{+5}_{-0}$ milliseconds.

Alternate means of transmitter activation may be used, including, but not limited to, skin deformation sensors, provided that such alternate means are shown to be substantially equivalent to sensors responsive to the crash forces otherwise prescribed in the subparagraph.

(2) Not withstanding the requirements of paragraph 3.1 of DO–145, the "low operating temperature" for each personnel type emergency locator transmitter shall be −20° C. In addition, not withstanding the requirements of paragraph 3.5 of DO–145, the maximum low temperature for the temperature variation test shall be −40° C.

(3) The electrical connections to the battery, in each personnel, automatic, and survival type emergency locator transmitter must be corrosion resistant and positive in action.

(4) Each personnel, automatic portable, and survival type emergency locator transmitter must be equipped with a guard for the manual activiation switch.

(5) Each automatic fixed, automatic portable, and automatic deployable type emergency locator transmitter that is installed with a remote switch for activation, must be equipped with a guard for the remote switch. In addition, the placard required in paragraph (f)(1)(iii) of this section must be installed adjacent to the remote switch, as well as on the transmitter.

(d) *Environmental standards.* Unless otherwise stated in RTCA documents referenced in paragraphs (b) and (c) of this section, environmental testing must be done in accordance with RTCA Document No. DO–138 titled "Environmental Conditions and Test Procedures for Airborne Electronic/Electrical Equipment and Instruments," dated June 27, 1968.

(e) *Availability of documents.* RTCA Documents Nos. DO–138, DO–145, DO–146, and DO–147 are incorporated herein in accordance with 5 U.S.C. 552(a)(1) and § 37.23 and are available as indicated in § 37.23. Additionally, these RTCA documents may be examined at any FAA Regional Office of the Chief, Engineering and Manufacturing Branch (or, in the case of the Western Region, the Chief, Aircraft Engineering Division). The above documents may be obtained from the RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, DC 20006.

(f) *Marking.* (1) In addition to the markings prescribed in § 37.7(d), the equipment must be permanently and legibly marked with—

(i) Its type designation as prescribed in paragraph (b) of this section;

(ii) The date on, or before, which the battery must be replaced or recharged, as applicable, to comply with the useful life limitation prescribed in paragraph (g)(2) of this section; and

(iii) The following placard: "For aviation emergency use only. Unlicensed operation unlawful. Operation in violation of FCC rules subject to fine or license revocation."

(2) In addition to the markings prescribed in § 37.7(d) and subparagraph (1) of this paragraph, each personnel type emergency locator transmitter, and each automatic portable type emergency locator transmitter must be permanently and legibly marked with the following placard: "When using in temperatures below freezing, keep transmitter inside your jacket with antenna outside for longest operating life."

(3) Each separate component of the equipment (antenna, transmitter, or other) must be permanently and legibly marked with at least the manufacturer's name and the TSO number.

(g) *Data requirements.* In accordance with § 37.5, the manufacturer must furnish to the Chief, Engineering and Manufacturing Branch, Flight Standards Division (or, in the case of the Western Region, to the Chief, Aircraft Engineering Division), Federal Aviation Administration in the region in which the manufacturer is located, one copy of the following technical data, except that additional copies must be furnished upon request by the FAA:

(1) Manufacturer's operating instructions and equipment limitations, containing a statement identifying the type designation of the equipment as prescribed in paragraph (b) of this section.

(2) Installation instructions, including applicable schematic diagrams, wiring diagrams, procedures, and specifications. The specifications must set forth all limitations, restrictions, or other conditions, pertinent to the installation. The limitations must include, for batteries other than those that are essentially unaffected during probable storage intervals, a limitation on the use of the battery beyond 50 percent of its useful life (or in the case of a rechargeable battery, beyond 50 percent of its useful life of charge) as established by the transmitter manufacturer. For the purpose of this subparagraph, the useful life of the battery (established by the transmitter manufacturer) is the length of time, after its date of manufacture, that the battery may be stored on the shelf under normal environmental conditions without losing its ability to meet the power supply requirements prescribed in the applicable performance standards of paragraph (b) of this section.

(3) List of components (by part number) that make up the equipment system complying with the applicable standards prescribed in this section.

(4) Manufacturer's test report.

(5) Equipment data sheets specifying, within the prescribed range of environmental conditions, the actual performance of equipment of that type with respect to each performance factor prescribed in the applicable standard.

(h) *Data furnished with each manufactured unit.* A copy of the operating instructions and equipment limitations prescribed in paragraph (g)(1) of this section, the installation instructions prescribed in paragraph (g)(2) of this section, and the equipment data sheets prescribed in paragraph (g)(5) of this section, must be furnished with each emergency locator transmitter manufactured under this TSO.

PART 91—GENERAL OPERATING AND FLIGHT RULES

4. By adding a new section to Part 91 to read as follows:

§ 91.52 Emergency locator transmitters.

(a) Except as provided in paragraphs (e), (f), and (g) of this section:

(1) After December 30, 1971, no person may operate a U.S. registered civil airplane manufactured or imported after that date unless it meets the applicable requirements of paragraphs (b), (c), and (d) of this section.

(2) After December 30, 1973, no person may operate a U.S. registered civil airplane unless it meets the applicable requirements of paragraphs (b), (c), and (d) of this section.

(b) To comply with paragraph (a) of this section, each U.S. registered civil airplane must be equipped as follows:

(1) For operations governed by the supplemental air carrier and commercial operator rules of Part 121 of this chapter, or the air travel club rules of Part 123 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of § 37.200 of this chapter;

(2) For charter flights governed by the domestic and flag air carrier rules of Part 121 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of § 37.200 of this chapter;

(3) For operations governed by Part 135 of this chapter, there must be attached to the airplane an automatic type emergency locator transmitter that is in operable condition and meets the applicable requirements of § 37.200 of this chapter; and

(4) For operations other than those specified in subparagraphs (1), (2), and (3) of this paragraph, there must be attached to the airplane a personal type or an automatic type emergency locator transmitter that is in operable condition

and meets the applicable requirements of § 37.200 of this chapter.

(c) Each emergency locator transmitter required by paragraphs (a) and (b) of this section must be attached to the airplane in such a manner that the probability of damage to the transmitter, in the event of crash impact, is minimized. Fixed and deployable automatic type transmitters must be attached to the airplane as far aft as practicable.

(d) Batteries used in the emergency locator transmitters required by paragraphs (a) and (b) of this section must be replaced (or recharged, if the battery is rechargeable)—

(1) When the transmitter has been in use for more than one cumulative hour; or

(2) When 50 percent of their useful life (or, for rechargeable batteries, 50 percent of their useful life of charge), as established by the transmitter manufacturer under § 37.200(g)(2) of this chapter, has expired.

The new expiration date for the replacement (or recharged) battery must be legibly marked on the outside of the transmitter. Subparagraph (2) of this paragraph does not apply to batteries (such as water-activated batteries) that are essentially unaffected during probable storage intervals.

(e) Notwithstanding paragraphs (a) and (b) of this section, a person may—

(1) Ferry a newly acquired airplane from the place where possession of it was taken to a place where the emergency locator transmitter is to be installed; and

(2) Ferry an airplane with an inoperative emergency locator transmitter from a place where repairs or replacement cannot be made to a place where they can be made.

No persons other than required crewmembers may be carried aboard an airplane being ferried pursuant to this paragraph (e).

(f) Paragraphs (a) and (b) of this section do not apply to—

(1) Turbojet engine powered airplanes;

(2) Scheduled operations (other than charter flights) conducted by a domestic or flag air carrier certificated under Part 121 of this chapter;

(3) Training flights conducted within a 20-mile radius of the airport from which the flight began; or

(4) Agricultural aircraft operations conducted under Part 137 of this chapter.

(g) Until December 30, 1975, a U.S. registered civil airplane may be operated with an emergency locator transmitter that does not meet the requirements of paragraphs (b), (c), and (d) of this section, if—

(1) Its installation was approved before October 21, 1971;

(2) It was manufactured under a TSO Authorization issued against TSO-C61a of Part 37 of this chapter;

(3) It transmits simultaneously on 121.5 and 243.0 MHz; and

(4) After the effective dates prescribed in paragraph (a) of this section, as applicable, it is attached to the airplane and is in operable condition.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

5. By amending § 121.339(a)(4) and (b) to read as follows:

§ 121.339 Equipment for extended over-water operations.

(a) * * *

(4) A survival type emergency locator transmitter that after October 21, 1972, meets the applicable requirements of § 37.200 of this chapter, except that, until December 30, 1975, the transmitter is not required to meet those requirements if its installation was approved before October 21, 1971, it was manufactured under a TSO Authorization issued against TSO-C61a of Part 37 of this chapter, and it transmits simultaneously on 121.5 and 243.0 MHz. The transmitter must be attached to one of the required life rafts. Batteries used in this transmitter must be replaced (or recharged, if the battery is rechargeable) when the transmitter has been in use for more than 1 cumulative hour, and also when 50 percent of their useful life (or for rechargeable batteries, 50 percent of their useful life of charge), as established by the transmitter manufacturer under § 37.200(g)(2) of this chapter, has expired. The new expiration date for the replacement (or recharged) battery must be legibly marked on the outside of the transmitter. The battery useful life (or useful life of charge) requirements of this subparagraph do not apply to batteries (such as water-activated batteries) that are essentially unaffected during probable storage intervals.

(b) The required life rafts, life preservers, and survival type emergency locator transmitter must be easily accessible in the event of a ditching without appreciable time for preparatory procedures. This equipment must be installed in conspicuously marked, approved locations.

6. By amending § 121.353(b) to read as follows:

§ 121.353 Equipment for operations over uninhabited terrain areas: flag and supplemental air carriers and commercial operators.

* * * * *

(b) A survival type emergency locator transmitter that after October 21, 1972, meets the applicable requirements of § 37.200 of this chapter, except that, until December 30, 1975, the transmitter is not required to meet those requirements if its installation was approved before October 21, 1971, it was manufactured under a TSO Authorization issued against TSO-C61a of Part 37 of this chapter and it transmits simultaneously on 121.5 and 243.0 MHz. Batteries used in this transmitter must be replaced (or recharged, if the battery is rechargeable) when the transmitter has been in use for more than 1 cumulative hour, and also when 50 percent of their useful life (or for rechargeable batteries, 50 percent of their useful life of charge), as established by the transmitter manufacturer under § 37.200(g)(2) of this chapter, has expired. The new expiration date for the replacement (or recharged) battery must be legibly marked on the outside of the transmitter. The battery useful life (or useful life of charge) requirements of this paragraph do not apply to batteries (such as water-activated batteries) that are essentially unaffected during probable storage intervals.

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

7. By amending § 135.163 to read as follows:

§ 135.163 Emergency equipment: extended over-water operations.

(a) No person may operate an aircraft in extended over-water operations unless it carries enough life rafts (with proper buoyancy) to carry all occupants of the aircraft, and unless there is attached to each lift raft, and clearly marked for identification, at least—

(1) One canopy (for sail, sunshade, or for rain catcher);

(2) One radar reflector (or similar device);

(3) One life raft repair kit;

(4) One bailing bucket;

(5) One signaling mirror;

(6) One police whistle;

(7) One raft knife;

(8) One CO_2 bottle for emergency inflation;

(9) One inflation pump;

(10) Two oars;

(11) One 75-foot retaining line;

(12) One magnetic compass;

(13) One dye marker;

(14) One flashlight;

(15) At least one pyrotechnic signaling device;

(16) A 2-day supply of emergency food rations supplying at least 1,000 calories a day for each person;

(17) One sea water desalting kit for each two persons the raft is rated to carry or 2 pints of water for each person;

(18) One fishing kit; and

(19) One book on survival appropriate for the area in which the aircraft is operated.

(b) After October 21, 1972, no person may operate an aircraft in extended over-water operations unless there is attached to one of the liferafts required by paragraph (a) of this section, a survival type emergency locator transmitter that meets the applicable requirements of § 37.200 of this chapter, except that, until December 30, 1975, the transmitter is not required to meet those requirements if its installation was approved before October 21, 1971, it was manufactured under a TSO Authorization issued against TSO-C61a of Part 37 of

this chapter, and it transmits simultaneously on 121.5 and 243.0 MHz. Batteries used in this transmitter must be replaced (or recharged, if the battery is rechargeable) when the transmitter has been in use for more than 1 cumulative hour, and also when 50 percent of their useful life (or for rechargeable batteries, 50 percent of their useful life of charge), as established by the transmitter manufacturer under § 37.200(g)(2) of this chapter, has expired. The new expiration date for the replacement (or recharged) battery must be legibly marked on the outside of the transmitter. The battery useful life (or useful life of charge) requirements of this paragraph do not apply to batteries (such as water-activated batteries) that are essentially unaffected during probable storage intervals.

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

Issued in Washington, D.C., on September 14, 1971.

J. H. SHAFFER,
Administrator.

[FR Doc.71-13841 Filed 9-20-71;8:46 am]

[Airspace Docket No. 71-SO-121]

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

Designation of Federal Airway

On August 14, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 15454) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate VOR Federal airway No. 281 from Albany, Ga., to the Hampton, Ga., intersection.

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

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 11, 1971, as hereinafter set forth.

Section 71.123 (36 F.R. 2010) is amended by adding the following:

V-281 From Albany, Ga., via INT Albany 009° and Norcross, Ga., 176° radials; to INT Norcross 176° and Atlanta, Ga., 117° radials.

(Sec. 370(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on September 14, 1971.

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

[FR Doc.71-13837 Filed 9-20-71;8:46 am]

[Airspace Docket No. 70-SO-77]

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

Designation, Alteration, and/or Revocation of Federal Airway Segment, and Reporting Points

On September 9, 1971, F.R. Doc. 71-13206 was published in the FEDERAL REGISTER (36 F.R. 18076) effective November 11, 1971.

This document amended Part 71 of the Federal Aviation Regulations in part by altering, designating and revoking segments of VOR Federal airways within the greater Atlanta, Ga., terminal area.

Subsequent to the publication of these amendments, it has been determined through flight inspection conducted by the Federal Aviation Administration (FAA) that an excessive high minimum en route altitude of approximately 15,000 feet MSL would exist on segments of V-18 north alternate and V-20 north alternate through utilization of the Birmingham, Ala., 067° T (064° M) radial.

To provide for the proper alignment of these affected segments with a low minimum en route altitude, action is being taken herein to align the airway segments via the Rome, Ga., VOR as follows:

1. Realign V-18 north segment from Birmingham via Rome, Ga.; intersection of Rome 060° T (059° M) and Anderson, S.C., 274° T (274° M) radials, intersection of Anderson 274° T (274° M) and Athens, Ga., 339° T (339° M) radials; Athens; intersection of Athens 109° T (109° M) and Augusta, Ga., 294° T (295° M) radials; to Augusta.

2. Realign V-20 north segment from Montgomery, Ala., via intersection of Montgomery 028° T (025° M) and Talladega, Ala., 083° T (081° M) radials; intersection of Chattanooga, Tenn., 190° T (189° M) and Rome 252° T (251° M) radials; Rome; intersection of Rome 060° T (059° M) and Toccoa, Ga., 258° T (258° M) radials; Toccoa; to Spartanburg, S.C.

In addition, the amendment to V-243 contained in Item 1.p inadvertently omitted the east alternate segment currently designated between Waycross, Ga., and Vienna, Ga. Accordingly, action is taken herein to reinsert this east alternate segment in the description of V-243.

Since these amendments are minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER (9-21-71), F.R. Doc. 71-13206 (36 F.R. 18076) is amended as hereinafter set forth.

1. Item 1.b (§ 71.123) is amended to read:

In V-18 all between "Birmingham, Ala.;" and "INT Augusta 103°" is deleted and "Talladega, Ala.; INT Talladega 083° and La Grange, Ga., 342° radials. From INT Rex, Ga., 090° and Athens, Ga., 192° radials; INT Rex 090° and Augusta, Ga., 278° radials; Augusta, including a north alternate from Birmingham to Augusta via Rome, Ga., INT Rome 060° and Anderson, S.C., 274° radials, INT Anderson 274° and Athens 339° radials, Athens, and INT Athens 109° and Augusta 294° radials;" is substituted therefor.

2. Item 1.c (§ 71.123) is amended to read:

In V-20 all between "Montgomery, Ala.;" and "Greensboro, N.C.;" is deleted and "Tuskegee, Ala.; Columbus, Ga.; INT Columbus 068° and Athens, Ga., 192° radials; Athens; Anderson, S.C.; Spartanburg, S.C., including a north alternate from Montgomery to Spartanburg via INT Montgomery 028° and Talladega, Ala., 083° radials, INT Chattanooga, Tenn., 190° and Rome, Ga., 252° radials, Rome, INT Rome 060° and Toccoa, Ga., 258° radials, and Toccoa;" is substituted therefor.

3. Item 1.p (§ 71.123) is amended to read:

In V-243 all between "Vienna, Ga.," and "Chattanooga;" is deleted and "including an east alternate via Alma, Ga., and INT Alma 320° and Vienna 104° radials; INT Vienna 305° and La Grange, Ga., 112° radials; La Grange; INT La Grange 342° and Chattanooga, Tenn., 190° radials;" is substituted therefor.

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

Issued in Washington, D.C., on September 14, 1971.

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

[FR Doc.71-13835 Filed 9-20-71;8:46 am]

[Airspace Docket No. 71-SO-144]

PART 73—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to reduce the size of the Savannah River Plant, S.C., Restricted Area R-6004.

The U.S. Atomic Energy Commission has concurred in the modification of the boundaries of R-6004 to facilitate the flow of air traffic into and out of Bush Field Airport by providing additional airspace east and southeast of the airport.

Since this amendment will restore airspace to public use and relieves a restriction, notice and public procedure thereon are unnecessary and good cause exists for making this amendment effective on less than 30-days notice.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective upon publication in the FEDERAL REGISTER (9-21-71), as hereinafter set forth.

In § 73.60 (36 F.R. 2358) R-6004 Savannah River Plant, is amended by deleting: "to latitude 33°16'25" N., longitude 81°50'55" W.; and "to latitude 33°11'11" N., longitude 81°46'28" W.; to latitude 33°20'25" N., longitude 81°45'29" W.;" is substituted therefor.

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

Issued in Washington, D.C., on September 14, 1971.

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

[FR Doc.71-13838 Filed 9-20-71;8:46 am]

[Airspace Docket No. 71-WA-3]

PART 75—ESTABLISHMENT OF JET ROUTES, AND AREA HIGH ROUTES

Designation of Area High Routes

On August 21, 1971, F.R. Doc. 71-12234 was published in the FEDERAL REGISTER (36 F.R. 16506) effective October 14, 1971.

This document amended Part 75 of the Federal Aviation Regulations, in part, by adding area high routes J901R and J903R. The first waypoint name in J901R was incorrectly listed as Cedar Grove, Wash., rather than Seattle, Wash. Also, the last waypoint name in J903R was incorrectly listed as Allied, Ariz., rather than Tucson, Ariz. Therefore, action is taken herein to correct these waypoint names.

Since this amendment is editorial in nature and no substantive change in the regulation is affected, notice and public procedure thereon are unnecessary, and good cause exists for making this amendment effective on less than 30-days notice.

In consideration of the foregoing, effective upon publication in the FEDERAL REGISTER, (9-21-71), F.R. Doc. 71-12234 (36 F.R. 16506) is amended as hereinafter set forth.

a. In J901R Seattle, Wash. to Spokane, Wash., the first waypoint name "Cedar Grove, Wash." is deleted and "Seattle, Wash." is substituted therefor.

b. In J903R Los Angeles, Calif. to Tucson, Ariz., the last waypoint name "Allied, Ariz.", is deleted and "Tucson, Ariz." is substituted therefor.

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

Issued in Washington, D.C., on September 14, 1971.

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

[FR Doc.71-13836 Filed 9-20-71;8:46 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER C—DRUGS

PART 135—NEW ANIMAL DRUGS

Subpart C—Sponsors of Approved Applications

PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

Sodium Thiamylal

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (39-483V) filed by Philips Roxane, Inc., proposing the safe and effective use of sodium thiamylal as an anesthetic in dogs. The supplemental application is approved.

To facilitate referencing, Philips Roxane, Inc., is being assigned a code number and placed in the list of firms in § 135.501 (21 CFR 135.501).

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), Parts 135 and 135b are amended as follows:

1. Section 135.501 is amended in paragraph (c) by adding a new code number 059, as follows:

§ 135.501 Names, addresses, and code numbers of sponsors of approved applications.

* * * * *

(c) * * *

Code No.	*Firm name and address*
* * *	* * *
059 ------	Philips Roxane, Inc., 2621 North Belt Highway, St. Joseph, Mo. 64502.

2. Part 135b is amended by adding the following new section:

§ 135b.39 Sodium thiamylal injection.

(a) *Specifications.* Sodium thiamylal for injection is a sterile dry powder containing a mixture of sodium thiamylal and anhydrous sodium carbonate. It is contained in vacuum-packed vials with directions for adding the necessary amount of water for injection or of sodium chloride for injection in order to produce a 0.5 to 4.0 percent solution of sodium thiamylal.

(b) *Sponsor.* See code No. 059 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) It is used in dogs:

(i) To induce anethesia,

(ii) For short periods of anesthesia (10 to 15 minutes), and

(iii) As an additional dosage of anesthetic when needed in major surgery.

(2) An initial dosage of approximately 8 milligrams per pound of body weight is administered. Additional dosages are given at approximately one-fourth of the initial dose.

(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 (9-21-71).

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

Dated: September 14, 1971.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.71-13850 Filed 9-20-71;8:47 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Sulfamethoxypyridazine, Acetyl Sulfamethoxypyridazine

The Commissioner of Food and Drugs has evaluated supplemental new animal drug applications filed by Parke, Davis & Co., Joseph Campau Avenue at the River, Detroit, Mich. 48232, proposing the safe and effective use of sulfamethoxypyridazine tablets (NADA No. 12-821V) and acetyl sulfamethoxypyridazine suspension (NADA No. 12-824V) for the treatment of dogs and cats. The supplemental applications are 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 two new sections as follows:

§ 135c.41 Sulfamethoxypridazine tablets.

(a) *Chemical name.* N^1-(6-methoxy-3-pyridazinyl) sulfanilamide.

(b) *Specifications.* Each tablet contains 250 or 500 milligrams of the drug.

(c) *Sponsor.* See code No. 049 in § 135.501(c) of this chapter.

(d) *Conditions of use.* (1) It is intended for use in dogs and cats for sulfa-susceptible gram-positive and gram-negative bacterial infections.

(2) It is administered orally at the rate of 20 to 30 milligrams per pound of body weight daily. Doses exceeding these amounts are not recommended. Length of treatment will depend upon clinical response. Continue treatment until patient is asymptomatic for 48 hours. Maintain adequate water intake during prolonged administration. Discontinue drug if toxic reactions occur. Not for use in animals which are raised for food production.

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

§ 135c.42 Acetyl sulfamethoxypyridazine oral suspension.

(a) *Chemical name.* N^1-acetyl-N^1-(6-methoxy-3-pyridazinyl) sulfanilamide.

(b) *Specifications.* Each 5 milliliters of suspension contains 250 milligrams of sulfamethoxypyridazine.

(c) *Sponsor.* See code No. 049 in § 135.501(c) of this chapter.

(d) *Conditions of use.* (1) It is intended for use in dogs and cats for sulfa-susceptible gram-positive and gram-negative bacterial infections.

(2) It is administered orally at the rate of 20 to 30 milligrams per pound of body weight daily. Doses exceeding these amounts are not recommended. Length of treatment will depend upon clinical response. Continue treatment until patient is asymptomatic for 48 hours. Maintain adequate water intake during prolonged administration. Discontinue drug if toxic reactions occur. Not for use in animals which are raised for food production.

(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 (9-21-71).

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

Dated: September 9, 1971.

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

[FR Doc.71-13851 Filed 9-20-71;8:47 am]

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

IMPLEMENTATION OF COMPREHENSIVE DRUG ABUSE PREVENTION AND CONTROL ACT OF 1970

A notice was published in the FEDERAL REGISTER of July 21, 1971 (36 F.R. 13390) proposing 64 amendments to the regulations implementing the Comprehensive Drug Abuse Prevention and Control Act of 1970.

In response, a substantial number of comments were received from members of the drug industry through the Pharmaceutical Manufacturers Association, the National Association of Pharmaceutical Manufacturers, the National Association of Boards of Pharmacy, the American Society of Hospital Pharmacists, the American Hospital Association, the National Association of Retail Druggists, the American Pharmaceutical Association, the National Association of Chain Drug Stores, the National Wholesale Druggists' Association, and from various individuals, corporations, and institutions.

The comments and objections centered on five areas of the proposals: (1) Changes in registration requirements for interns, residents, and foreign-trained physicians; (2) security requirements; (3) refilling prescriptions for schedule III and IV substances; (4) distributions by pharmacies to practitioners; and (5) modification and termination of registrations.

1. *Changes in registration requirements for interns, residents and foreign physicians* (§ 301.24(c)). Numerous comments and objections were received from affected hospitals, physicians, and national professional organizations. The American Medical Association, the American Society of Hospital Pharmacists, and the American Hospital Association recommended adoption of these regulations. The majority of the comments received were valid and modifications were subsequently incorporated into the regulations. Other comments resulted from misinterpretation of the proposed regulations. One major point of misinterpretation which the Director wishes to clarify is that § 301.24(c) is an optional section. Hospitals may either adopt this system or require staff interns, residents, and foreign-trained physicians to register with the Bureau of Narcotics and Dangerous Drugs in their own names. Individual practitioners who have their own BNDD registration numbers may not avail themselves of this alternative method for prescribing controlled substances, but must use their own BNDD registration numbers.

The Director suggests that State hospital and medical associations contact the appropriate officials in their respective States to seek legal rulings on the authority of interns, residents, or foreign-trained physicians to prescribe, dispense and administer controlled drugs within the State. Such rulings will generally satisfy the requirement that the hospital or other institution have verified the authority of the intern, resident, or foreign-trained physician to so prescribe, dispense, and administer.

2. *Security requirements* (§§ 301.71–301.74). Comments were received from numerous sources, and several meetings were held with representatives of the Pharmaceutical Manufacturers Association, the National Wholesale Druggists Association, and the National Association of Chain Drug Stores. The comments reflected apparent confusion over the Bureau's intent in promulgating security regulations. Sections 301.72 and 301.73 prescribe minimum standards which must be satisfied by every registrant (other than practitioners), unless the Bureau finds in an individual situation that, because of special factors outlined in § 301.71(b), deviation from the standards can be permitted. All registrants should understand that deviations are within the discretion of the Bureau and will be made on a case-by-case basis; an exception made for one registrant may not be permitted for another unless conditions are identical. In order to reduce the confusion, §§ 301.71, 301.72, 301.73, and 301.74 have been substantially restructured. In addition, many specific comments have been incorporated in the final order.

The Director wishes to point out that detailed guidelines will be prepared to implement these regulations and will cover many specific security questions raised during the discussions. The Bureau is favorably disposed toward two types of security controls not expressly provided for in the regulations: Automatic storage and retrieval systems and special pharmaceutical storage areas in drug warehouses. The Bureau will accept requests that such controls be evaluated in individual cases to determine whether they substantially comply with the regulations.

Although not part of the proposed order, security regulations for the practitioner have drawn many comments recently because of the transfer of amphetamine and methamphetamine products to schedule II. Many individuals and associations have objected to the requirement that these products be stored in a "substantially constructed, securely locked cabinet" as provided in § 301.75 (a). The Director has considered these comments and determined that the existing regulations should not be changed. There are three basic forms of theft in pharmacies or physicians' offices: Robberies, night burglaries, and pilferage. The first can only be impeded through a safe and alarm system, as was first proposed in March 1971 by the Bureau; such a system would also effectively prevent burglaries and pilferage from open stock by employees, salesmen, patients, and other persons having access to the general storage area. The representatives of the practitioners strenuously objected to the proposal of a safe and alarm system and the proposal was dropped with the understanding that the locked cabinet provided a sufficient barrier to theft, the cost of which was more proportional to its benefits. It should be remembered that every bottle containing a schedule II drug will bear a label with a II at least twice as large as any other print on the label. (See § 302.04 of the regulations.) This labeling size is smaller than print size requested by some pharmacy associations. Dispersal of bottles with these labels will not provide any better protection from burglary or pilferage than placing them in a locked cabinet. For these reasons, the Director has concluded that, subject to the effective dates set forth at the end of this order, all controlled substances listed in schedule II must be stored in a substantially constructed, securely locked cabinet.

3. *Refilling schedules III and IV prescriptions* (§ 306.22). It was proposed that the words "unless renewed by the prescribing individual practitioner" be added at the end of the first sentence of § 306.22. The American Pharmaceutical Association correctly pointed out the confusion this created in light of the final sentence of the section, which details the manner in which a prescription must be renewed. Therefore, this proposal will not be made final. In addition, the requirements for medication records were not fully described in the proposed order and have now been completely set forth. The Director wishes to emphasize that medication records are acceptable only if they are in fact "readily retrievable"; a prescription log will not be satisfactory, but a record showing the patient's name, each prescription number, and the information required for each refill of the prescriptions will generally be satisfactory.

4. *Distributions by pharmacies to practitioners.* This proposal generated signficant discussion particularly from the National Association of Retail Druggists and the American Pharmaceutical Association. Serious questions were raised concerning the practicality of the proposed "5 percent" test to determine when registration as a distributor is required. The Director recognizes that pharmacies and other dispensers perform a vital and necessary service function of providing limited supplies of drugs, including controlled substances, to other practitioners. Section 307.11 was originally issued to legalize this practice in emergency situations. Section 307.12 was proposed to expand the special authorization to non-emergency situations.

Section 302(d) of the Controlled Substances Act authorized the Bureau to waive registrant requirements for certain distributors where consistent with public health and safety. The Director finds that at this time the limited, irregular distribution of controlled substances by

a practitioner for the purpose of accomodating and servicing another practitioner, without the supplying practitioner's being registered as a distributor, is consistent with public health and safety. Sections 307.11 and 307.12 (as proposed) have been merged to permit these distributions.

The Director believes that any practitioner who is genuinely engaged in distributing to other practitioners solely for the purpose of servicing them will not distribute even as much as 5 percent of his total volume of controlled substances. Stated differently, when a practitioner distributes over 5 percent of his controlled substances, he is probably engaged in a significant wholesaling business and should register as a distributor. By permitting a practitioner to distribute up to 5 percent of his controlled drugs without registering as a distributor, the Bureau is not encouraging pharmacies and other practitioners to expand their distribution activities. The focus of the Bureau remains fixed on the nature of the transaction, e.g., providing a service to the other practitioners, rather than engaging in a commercial activity. If the distribution privileges granted by the new § 307.11 are abused, the Director will reconsider his finding regarding the public health and safety and may remove distributing privileges.

In regard to records of distributions to be kept by practitioners, the Bureau will accept either of two systems: Invoices, order forms, and other documents showing distributions by a person may be stamped and filed in the same manner as prescriptions (although the records must clearly show that this was a distribution, not a dispensing or prescription) or the documents may be filed separately from the prescription or other dispensing records.

5. *Modification and termination of registrations* (§§ 301.61–62; §§ 311.61–62). The Pharmaceutical Manufacturers Association requested a special provision be made to prevent automatic termination of a registration when there is a change in address but no change in location. The Director concurs in the need for such a provision and the Bureau will propose a change to accomplish it in the near future.

Some other objections and comments were received, the majority of which were valid and incorporated into the amendments. Others resulted from a misinterpretation of the language of the proposed regulations, and frequently the language was revised to clarify the intent of the Bureau. In a few cases, not discussed here the Director did not accept the position of the party.

The Director has instructed the Office of Chief Counsel of the Bureau to reply to each person who filed comments and respond fully to his comments.

Therefore, under the authority vested in the Attorney General by sections 201(a), 201(g), 202(d), 301, 302(f), 304, 305, 306(f), 307, 308, 501(b), 505, 511, 513, 704(c), 705, 1002, 1003, 1004, 1006, 1007(b), 1008(d), 1008(e), and 1015 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs, by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby orders that Parts 301, 302, 303, 304, 305, 306, 307, 308, and 311 of Title 21 of the Code of Federal Regulations be amended as follows:

PART 301—REGISTRATION OF MANUFACTURERS, DISTRIBUTORS, AND DISPENSERS OF CONTROLLED SUBSTANCES

1. By amending § 301.13 by adding the words "or which" immediately after the word "who" in paragraphs (a) (1) and (2), by adding the words "or its" immediately after the word "his" in paragraph (a)(2), and by adding the words "(if an individual) or officer (if an agency)" immediately after the word "superior" in paragraph (b).

2. By amending § 301.22 as follows:

a. By deleting the word "eight" from paragraph (a);

b. By deleting paragraph (a)(3) and (4), replacing these subparagraphs with the following, and redesignating paragraph (a)(5), (6), (7), and (8) as (a)(7), (8), (9), and (10):

(3) Dispensing controlled substances listed in schedules II through V;

(4) Conducting research (other than research described in subparagraph (6) of this paragraph) with controlled substances listed in schedules II through V;

(5) Conducting instructional activities with controlled substances listed in schedules II through V;

(6) Conducting research with narcotic drugs listed in schedules II through V for the purpose of continuing the dependence on such drugs of a narcotic drug dependent person in the course of conducting an authorized clinical investigation in the development of a narcotic addict rehabilitation program pursuant to a Notice of Claimed Investigational Exemption for a New Drug approved by the Food and Drug Administration;

c. By adding the words "preclinical research (including quality)" immediately after the words "chemical analysis and" in paragraph (b)(2);

d. By adding the words "and to distribute such class to other persons registered or authorized to conduct research with such class or registered or authorized to conduct chemical analysis with controlled substances" at the end of paragraph (b)(3);

e. By adding the words "or authorized" immediately after the words "A person registered", by adding the words "or authorized" immediately after the words "other persons registered", and by adding the words "or research with such substances," after the words "instructional activities" in paragraph (b)(4);

f. By deleting paragraph (b)(5) and replacing it with the following:

(5) A person registered or authorized to conduct research (other than research described in paragraph (a)(6) of this section) with controlled substances listed in schedules II through V shall be authorized to conduct chemical analysis with controlled substances listed in those schedules in which he is authorized to conduct research to manufacture such substances if and to the extent that such manufacture is set forth in a statement filed with the application for registration, and to distribute such substances to other persons registered or authorized to conduct chemical analysis, instructional activities, or research with, such substances and to persons exempted from registration pursuant to § 301.26, and to conduct instructional activities with controlled substances;

g. By adding a new paragraph (b)(6) to read as follows:

(6) A person registered to dispense controlled substances listed in schedules II through V shall be authorized to conduct research (other than research described in paragraph (a)(6) of this section) and to conduct instructional activities with those substances.

h. By deleting paragraph (c) and replacing it with the following:

(c) A single registration to engage in any group of independent activities may include one or more controlled substances listed in the schedules authorized in that group of independent activities. A person registered to conduct research with controlled substances listed in schedule I may conduct research with any substance listed in schedule I for which he has filed and had approved a research protocol.

3. By amending § 301.23 by substituting the words "registered locations other than the registered location from which the substances were delivered" for the words "registrants other than the registered person" in paragraph (b)(1).

4. By deleting § 301.24 and replacing it with the following:

§ 301.24 Exemption of agents and employees; affiliated practitioners.

(a) The requirement of registration is waived for any agent or employee of a person who is registered to engage in any group of independent activities, if such agent or employee is acting in the usual course of his business or employment.

(b) An individual practitioner, as defined in § 304.02 of this chapter (other than an intern, resident, foreign-trained physician, or physician on the staff of a Veterans Administration facility), who is an agent or employee of another practitioner registered to dispense controlled substances may, when acting in the usual course of his employment, administer and dispense (other than by issuance of prescription) controlled substances if and to the extent that such individual practitioner is authorized or permitted to do so by the jurisdiction in which he practices, under the registration of the employer or principal practitioner in lieu of being registered himself. (For example, a pharmacist employed by a pharmacy need not be registered individually to fill a prescription for controlled substances if a pharmacy is so registered.)

(c) An individual practitioner, as defined in § 304.02 of this chapter, who is an intern, resident, or foreign-trained physician or physician on the staff of a Veterans Administration facility, may dispense and prescribe controlled substances under the registration of the hospital or other institution which is registered and by whom he is employed in lieu of being registered himself, provided that:

(1) Such dispensing or prescribing is done in the usual course of his professional practice;

(2) Such individual practitioner is authorized or permitted to do so by the jurisdiction in which he is practicing;

(3) The hospital or other institution by whom he is employed has verified that the individual practitioner is so permitted to dispense, administer, or prescribe drugs within the jurisdiction;

(4) Such individual practitioner is acting only within the scope of his employment in the hospital or institution;

(5) The hospital or other institution authorizes the intern, resident, or foreign physician to dispense or prescribe under the hospital registration and designates a specific internal code number for each intern, resident, or foreign physician so authorized. The code number shall consist of numbers, letters, or a combination thereof and shall be a suffix to the institution's BNDD registration number, preceded by a hyphen (e.g., APO123456-10 or APO123456-A12); and

(6) A current list of internal codes and the corresponding individual practitioner is kept by the hospital or other institution and is made available at all times to other registrants and law enforcement agencies upon request for the purpose of verifying the authority of the prescribing individual practitioner.

5. By amending § 301.25 by substituting "but shall state the branch of service or agency (e.g., "U.S. Army" or "Public Health Service") and" for "but shall use" in paragraph (a), and by adding the following sentence at the end of paragraph (a): "The service identification number for a Public Health Service employee is his Social Security identification number."

6. By amending § 301.28 by adding the words "Marine Corps" after the word "Navy" in paragraph (a)(1).

7. By amending § 301.32 as follows:

a. By deleting paragraphs (a) (2), (3), (4), and (5) and replacing these subparagraphs with the following, and redesignating paragraph (a)(6) as (a)(8):

(2) To dispense controlled substances listed in schedules II through V, he shall apply on BND Form 224;

(3) To conduct instructional activities with controlled substances listed in schedules II through V, he shall apply on BND Form 224;

(4) To conduct research with controlled substances listed in schedules II through V (other than research described in § 301.22(a)(6)), he shall apply on BND Form 225;

(5) To conduct research with narcotic drugs listed in schedules II through V, as described in § 301.22(a)(6), he shall apply on BND Form 225;

(6) To conduct research with controlled substances listed in schedule I, he shall apply on BND Form 225, with three copies of a research protocol describing each research project involving substances listed in schedule I attached to the form;

(7) To conduct instructional activities with controlled substances listed in schedule I, he shall apply as a researcher on BND Form 225 with two copies of a statement describing the nature, extent, and duration of such instructional activities attached to the form; and

b. By deleting paragraphs (b) (2), (3), (4), and (5) replacing these subparagraphs with the following, and redesignating paragraph (b)(6) as (b)(8):

(2) To dispense controlled substances listed in schedules II through V, he shall apply on BND Form 226;

(3) To conduct instructional activities with controlled substances listed in schedules II through V, he shall apply on BND Form 226;

(4) To conduct research with controlled substances listed in schedules II through V (other than research described in § 301.22(a)(6), he shall apply on BND Form 227;

(5) To conduct research with narcotic drugs listed in schedules II through V, as described in § 301.22(a)(4), he shall apply on BND Form 227;

(6) To continue to conduct research with controlled substances listed in schedule I under one or more approved research protocols, he shall apply on BND Form 227;

(7) To continue to conduct instructional activities with controlled substances listed in schedule I under one or more approved instructional statements, he shall apply as a researcher on BND Form 227; and

c. By deleting the final sentence of paragraph (f) and replacing it with the following:

An applicant may authorize one or more individuals, who would not otherwise be authorized to do so, to sign applications for the applicant by filing with the Registration Branch of the Bureau a power of attorney on BND Form 231a for each such individual. The power of attorney shall be signed by a person who is authorized to sign applications under this paragraph and shall contain the signature of the individual being authorized to sign applications. The power of attorney shall be valid until revoked by the applicant.

8. By amending § 301.43 as follows:

a. By adding immediately after the words "on the application" at the end of the third sentence of paragraph (a) the words "in accordance with § 301.54."

b. By adding between the fourth and fifth sentences of paragraph (a) the following sentence: "Any such person may participate in the hearing by filing a notice of apearance in acordance with § 301.54."

c. By deleting paragraph (c) and replacing it with the following:

(c) This section shall not apply to the manufacture of basic classes of controlled substances listed in schedules I or II as an incident to research or chemical analysis as authorized in § 301.22(b).

9. By deleting § 301.61 and replacing it with the following:

§ 301.61 Modification in registration.

Any registrant may apply to modify his registration to authorize the handling of additional controlled substances by submitting a letter of request to the Registration Branch, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Post Office Box 28083, Central Station, Washington, D.C. 20005. The letter shall contain the registrant's name, address, registration number, and the substances and/or schedules to be added to his registration, and shall be signed in accordance with § 301.22(f). If the registrant is seeking to handle additional controlled substances listed in schedule I for the purpose of research or instructional activities, he shall attach three copies of a research protocol describing each research project involving the additional substances, or two copies of a statement describing the nature, extent, and duration of such instructional activities, as appropriate. No fee shall be required to be paid for the modification. The request for modification shall be handled in the same manner as an application for registration.

10. By adding a new section as follows:

§ 301.64 Termination of provisional registration.

The registration of any person who is provisionally registered under section 702(a) of the Act (21 U.S.C. 822 note) and who have not been assigned a date for registration by August 31, 1971, shall terminate on October 1, 1971.

11. By deleting § 301.71 and replacing it with the following:

§ 301.71 Security requirements generally.

(a) All applicants and registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances. In order to determine whether a registrant has provided effective controls against diversion, the Director shall use the security requirements set forth in §§ 301.72–301.76 as standards for the physical security controls and operating procedures necessary to prevent diversion. Materials and construction which will provide a structural equivalent to the physical security controls set forth in §§ 301.72, 301.73 and 301.75 may be used in lieu of the materials and construction described in those sections.

(b) Substantial compliance with the standards set forth in §§ 301.72–301.76 may be deemed sufficient by the Director after evaluation of the overall security system and needs of the applicant or registrant. In evaluating the overall security system of a registrant or applicant, the Director may consider any of the following factors as he may deem relevant to the need for strict compliance with security requirements:

(1) The type of activity conducted (e.g., processing of bulk chemicals, preparing dosage forms, packaging, labeling, cooperative buying, etc.);

(2) The type and form of controlled substances handled (e.g., bulk liquids or dosage units, usable powders or nonusuable powders);

(3) The quantity of controlled substances handled;

(4) The location of the premises and the relationship such location bears on security needs;

(5) The type of building construction comprising the facility and the general characteristics of the building or buildings;

(6) The type of vault, safe, and secure enclosures or other storage system (e.g., automatic storage and retrieval system) used;

(7) The type of closures on vaults, safes, and secure enclosures;

(8) The adequacy of key control systems and/or combination lock control systems;

(9) The adequacy of electric detection and alarm systems, if any including use of supervised transmittal lines and standby power sources;

(10) The extent of unsupervised public access to the facility, including the presence and characteristics of perimeter fencing, if any;

(11) The adequacy of supervision over employees having access to manufacturing and storage areas;

(12) The procedures for handling business guests, visitors, maintenance personnel, and nonemployee service personnel;

(13) The availability of local police protection or of the registrant's or applicant's security personnel, and;

(14) The adequacy of the registrant's or applicant's system for monitoring the receipt, manufacture, distribution, and disposition of controlled substances in its operations.

(c) When physical security controls become inadequate as a result of a controlled substance being transferred to a different schedule, or as a result of a noncontrolled substance being listed on any schedule, or as a result of a significant increase in the quantity of controlled substances in the possession of the registrant during normal business operations, the physical security controls shall be expanded and extended accordingly. A registrant may adjust physical security controls within the requirements set forth in §§ 301.72–301.76 when the need for such controls decreases as a result of a controlled substance being transferred to a different schedule, or a result of a controlled substance being removed from control, or as a result of a significant decrease in the quantity of controlled substances in the possession of the registrant during normal business operations.

(d) Any registrant or applicant desiring to determine whether a proposed security system susbtantially complies with, or is the structural equivalent of, the requirements set forth in §§ 301.72–301.76 may submit any plans, blueprints, sketches or other materials regarding the proposed security system either to the Regional Director in the region in which the system will be used, or to the Compliance Investigations Division, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Washington, D.C. 20537.

(e) Physical security controls of locations registered under the Harrison Narcotic Act or the Narcotics Manufacturing Act of 1960 on April 30, 1971, shall be deemed to comply substantially with the standards set forth in §§ 301.72, 301.73 and 301.75. Any new facilities or work or storage areas constructed or utilized for controlled substances, which facilities or work or storage areas have not been previously approved by the Bureau, shall not necessarily be deemed to comply substantially with the standards set forth in §§ 301.72, 301.73 and 301.75, notwithstanding that such facilities or work or storage areas have physical security controls similar to those previously approved by the Bureau.

12. By adding two new sections as follows:

§ 301.72 Physical security controls for nonpractitioners: storage areas.

(a) *Schedules I and II.* Raw materials, bulk materials awaiting further processing, and finished products which are controlled substances listed in schedule I or II shall be stored in one of the following secure storage areas:

(1) Where small quantities permit, a safe:

(i) Which safe has an Underwriters' Laboratories Burglary Rating of T–20, E or better, or the equivalent of such a safe;

(ii) Which safe, if it weighs less than 750 pounds, is bolted or cemented to the floor or wall in such a way that it cannot be readily removed; and

(iii) Which safe, if necessary, depending upon the quantities and type of controlled substances stored, is equipped with an alarm system which, upon unauthorized entry, shall transmit a signal directly to a central protection company or a local or State police agency which has a legal duty to respond, or a 24-hour control station operated by the registrant, or such other protection as the Director may approve.

(2) A vault constructed before, or under construction on, September 1, 1971, which is of substantial construction with a steel door, combination or key lock, and an alarm system; or

(3) A vault constructed after September 1, 1971:

(i) The walls, floors, and ceilings of which vault are constructed of at least 8 inches of reinforced concrete or other substantial masonry, reinforced vertically and horizontally with ½-inch steel rods tied 6 inches on center, or the structural equivalent to such reinforced walls, floors, and ceilings;

(ii) The door of which vault contains a multiple-position combination lock or the equivalent, a relocking device or the equivalent, and steel plate with a thickness of at least ½ inch or with a 2-hour fire rating or the equivalent;

(iii) Which vault, if operations require it to remain open for frequent access, is equipped with a "day-gate" which is self-closing and self-locking, or the equivalent, for use during the hours of operation in which the vault door is open;

(iv) The walls or perimeter of which vault are equipped with an alarm, which upon unauthorized entry shall transmit a signal directly to a central station protection company, or a local or State police agency which has a legal duty to respond, or a 24-hour control station operated by the registrant, or such other protection as the Bureau may approve, and, if necessary, holdup buttons at strategic points of entry to the perimeter area of the vault;

(v) The door of which vault is equipped with contact switches; and

(vi) Which vault has one of the following: complete electrical lacing of the walls, floor and ceilings; sensitive ultrasonic equipment within the vault; a sensitive sound accumulator system; or such other device designed to detect illegal entry as may be approved by the Bureau.

(b) *Schedules III, IV, and V.* Raw materials, bulk materials awaiting further processing, and finished products which are controlled substances listed in schedules III, IV, and V shall be stored in one of the following secure storage areas:

(1) Where small quantities permit, a safe which complies with the requirements set forth in paragraph (a)(1) of this section;

(2) A vault which complies with the requirements set forth in either paragraph (a) (2) or (3) of this section; or

(3) A building or area located within a building, which building or area:

(i) Has walls or perimeter fences of sufficient height and construction to provide security from burglary;

(ii) Has substantial doors which may be securely locked during nonworking hours by a multiple-position combination or key lock;

(iii) Is equipped with an alarm which, upon unauthorized entry, shall transmit a signal directly to a central station protection company, or local or State police agency which has a legal duty to respond, or a 24-hour control station operated by the registrant, or such other protection as the Bureau may approve; and

(iv) In which all controlled substances are segregated from all other merchandise and kept under constant surveillance during normal business hours.

(c) *Multiple storage areas.* Where several types or classes of controlled substances are handled separately by the registrant or applicant for different purposes (e.g., returned goods, or goods in process), the controlled substances may be stored separately, provided that each storage area complies with the requirements set forth in this section.

(d) *Accessibility to storage areas.* The controlled substances storage areas shall be accessible only to an absolute minimum number of specifically authorized

employees. When it is necessary for employee maintenance personnel, nonemployee maintenance personnel, business guests, or visitors to be present in or pass through controlled substances storage areas, the registrant shall provide for adequate observation of the area by an employee specifically authorized in writing.

§ 301.73 **Physical security controls for nonpractitioners: Manufacturing areas.**

All manufacturing activities (including processing, packaging, and labeling) involving controlled substances listed in any schedule shall be conducted in accordance with the following:

(a) All in-process substances shall be returned to the controlled substances storage area at the termination of the process. If the process is not terminated at the end of a workday (except where a continuous process or other normal manufacturing operation should not be interrupted), the processing area or tanks, vessels, bins or bulk containers containing such substances shall be securely locked, with adequate security for the area or building. If such security requires an alarm, such alarm, upon unauthorized entry, shall transmit a signal directly to a central station protection company, or local or state police agency which has a legal duty to respond, or a 24-hour control station operated by the registrant.

(b) Manufacturing activities with controlled substances shall be conducted in an area or areas of clearly defined limited access which is under surveillance by an employee or employees designated in writing as responsible for the area. "Limited access" may be provided, in the absence of physical dividers such as walls or partitions, by traffic control lines or restricted space designation. The employee designated as responsible for the area may be engaged in the particular manufacturing operation being conducted: *Provided*, That he is able to provide continuous surveillance of the area in order that unauthorized persons may not enter or leave the area without his knowledge.

(c) During the production of controlled substances, the manufacturing areas shall be accessible to only those employees required for efficient operation. When it is necessary for employee maintenance personnel, nonemployee maintenance personnel, business guests, or visitors to be present in or pass through manufacturing areas during production of controlled substances, the registrant shall provide for adequate observation of the area by an employee specifically authorized in writing.

13. By amending § 301.74 as follows:

a. By adding a new sentence at the end of paragraph (c) to read as follows: "Thefts must be reported whether or not the controlled substances are subsequently recovered and/or the responsible parties are identified and action taken against them."

b. By adding the words "listed in schedules II through V" immediately after the words "controlled substance" in the first sentence of paragraph (d), by adding the words "and quantity" immediately after the words "and the name" in the second sentence of paragraph (d), by deleting the words "Schedules I or II" in the fourth sentence of paragraph (d) and replacing these words with "schedule II," and by adding a new sentence at the end of paragraph (d) to read as follows: "For purposes of this paragraph, the term 'customer' includes a person to whom a complimentary sample of a substance is given in order to encourage the prescribing or recommending of the substance by the person."

c. By adding a new paragraph (e) to read as follows:

(e) When shipping controlled substances, a registrant is responsible for selecting common or contract carriers which provide adequate security to guard against in-transit losses. When storing controlled substances in a public warehouse, a registrant is responsible for selecting a warehouseman which will provide adequate security to guard against storage losses; wherever possible, the registrant shall store controlled substances in a public warehouse which complies with the requirements set forth in § 301.72. In addition, the registrant shall employ precautions (e.g., assuring that shipping containers do not indicate that contents are controlled substances) to guard against storage or in-transit losses.

d. By adding a new paragraph (f) to read as follows:

(f) When distributing controlled substances through agents (e.g., detailmen), a registrant is responsible for providing and requiring adequate security to guard against theft and diversion while the substances are being stored or handled by the agent or agents.

14. By amending § 301.76 by deleting the words "loss or theft" and replacing these words with the words "theft or significant loss" in paragraph (b).

PART 302—LABELING AND PACKAGING REQUIREMENTS FOR CONTROLLED SUBSTANCES

15. By amending § 302.03 by deleting paragraph (g) of that section.

16. By adding a new section as follows:

§ 302.08 **Labeling and packaging requirements for imported and exported substances.**

(a) The symbol requirements of §§ 302.03–302.06 apply to every commercial container containing, and to all labeling of, controlled substances imported into the jurisdiction of and/or the customs territory of the United States, as defined in § 311.02 of this chapter.

(b) The symbol requirements of §§ 302.03–302.06 do not apply to any commercial containers containing, or any labeling of, a controlled substance intended for export from the jurisdiction of the United States, as defined in § 311.02 of this chapter.

(c) The sealing requirements of § 302.07 apply to every bottle, multiple dose vial, or other commercial container of any controlled substance listed in schedule I or II, or of any narcotic controlled substance listed in schedule III or IV, imported into, exported from, or intended for export from, the jurisdiction of and/or the customs territory of the United States, as defined in § 311.02 of this chapter.

PART 303—QUOTAS

17. By amending § 303.11 by deleting the words "in the form prescribed in part 316 of this chapter" and replacing these words with the words "in accordance with § 303.34" at the end of the third sentence of paragraph (c), and by adding a new sentence at the end of paragraph (c) to read as follows: "Any interested person may participate in the hearing by filing a notice of appearance in accordance with § 303.34."

18. By amending § 303.12 as follows:

(a) By adding a new sentence between the first and second sentences of paragraph (d) to read as follows: "Such application shall be filed with the Distribution Audit Branch, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Washington, D.C. 20537."

(b) By substituting the word "if" for the word "as" in the third sentence of paragraph (d).

(c) By revising paragraph (e)(2) to read as follows:

(2) Any person who is registered or authorized to conduct chemical analysis with controlled substances (for controlled substances to be used in such analysis only); and

(d) By adding the words "or II" immediately after the words "schedule I"; and by deleting the number "(3)" immediately after the number "301.22(b)," in paragraph (e)(3).

19. By amending § 303.34 by adding at the end of paragraph (a) the following sentence: "Any interested person who desires a hearing on the determination of an aggregate production quota shall, within the time prescribed in § 303.11(c), file with the Director a written request for a hearing in the form prescribed in § 316.47 of this chapter, including in the request a statement of the grounds for a hearing."

PART 304—RECORDS AND REPORTS OF REGISTRANTS

20. By amending § 304.03 by adding at the end of paragraph (a) the following: "Any registrant who is authorized to conduct other activities without being registered to conduct those activities, either pursuant to § 301.22(b) of this chapter or pursuant to §§ 307.11–307.15 of this chapter, shall maintain the records and inventories and shall file the reports required by this part for persons registered to conduct such activities (e.g., when a registered manufacturer conducts chemical analysis, he shall maintain the records and inventories required of chemical analysis)."

21. By amending § 304.14 by deleting the words "is manufacturing, distributing, or dispensing" and substituting the word "possesses."

22. By amending § 304.15 by deleting the words "Each registered manufacturer" at the beginning of the section and substituting the words "Each person registered or authorized (by § 301.22(b), § 307.12, or § 307.15 of this chapter) to manufacture controlled substances."

23. By amending § 304.16 by deleting the words "Each registered distributor" and substituting the words "Each person registered or authorized (by §§ 301.22(b) or 307.11–307.14 of this chapter) to distribute controlled substances."

24. By amending § 304.17 by adding the words "or authorized (by § 301.22(b) of this chapter)" immediately after the words "Each person registered" at the beginning of the section.

25. By amending § 304.17 by deleting the words "Each registered importer or exporter" in the first sentence of the section and substituting the words "Each person registered or authorized (by § 301.22(b) of this chapter) to import or export controlled substances," and by deleting the words "Each registered importer and exporter" in the second sentence of the section and substituting the words "Each such person."

26. By amending § 304.19 as follows:

a. By deleting the words "Each analytical laboratory registered" at the beginning of the section and substituting the words "Each person registered or authorized (by § 301.22(b) of this chapter)".

b. By deleting the word "its" in the first sentence of the section and substituting the word "his".

c. By deleting the words "the laboratory conducting the inventory" at the end of the first sentence of the section and substituting the words "such person."

d. By adding at the end of the section the following sentence: "No inventory is required of known or suspected controlled substances received as evidentiary materials for analysis."

27. By amending § 304.22 as follows:

a. By deleting the words "Each registered manufacturer" at the beginning of the section and substituting the words "Each person registered or authorized (by § 301.22(b) or § 307.15 of this chapter) to manufacture controlled substances."

b. By revising paragraph (b)(5) to read as follows: "The number of units of finished forms and/or commercial containers imported directly by the person (under a registration or authorization to import), including the date of, the number of units and/or commercial containers in, and the import permit or declaration number for, each importation."

28. By amending § 304.23 as follows:

a. By deleting the words "Each registered distributor" and substituting the words "Each person registered or authorized (by § 301.22(b) or §§ 307.11–307.14 of this chapter) to distribute controlled substances."

b. By revising paragraph (d) to read as follows:

(d) The number of commercial containers or each such finished form imported directly by the person (under a registration or authorization to import), including the date of, the number of commercial containers in, and the import permit or declaration number for, each importation;

c. By revising paragraph (f) to read as follows:

(f) The number of commercial containers of each such finished form exported directly by the person (under a registration or authorization to export), including the date of, the number of commercial containers in, and the export permit or declaration number for, each exportation; and

d. By deleting the word "registrant" in paragraph (g) and substituting the word "person", and by adding the words "or by destruction" immediately after the word "samples" within the parentheses in paragraph (g).

29. By amending § 304.24 by adding the words "or authorized (by § 301.22(b) of this chapter)" immediately after the words "Each person registered" at the beginning of the section.

30. By amending § 304.25 by deleting the words "Each registered importer" and substituting the words "Each person registered or authorized (by § 301.22 (b) of this chapter) to import controlled substances."

31. By amending § 304.26 by deleting the words "Each registered exporter" and substituting the words "Each person registered or authorized (by § 301.22(b) of this chapter) to export controlled substances."

32. By amending § 304.27 as follows:

a. By adding the words "or authorized (by § 301.22(b) of this chapter)" immediately after the words "Each person registered."

b. By deleting paragraph (b) and redesignating paragraphs (c) and (d) to be (b) and (c) respectively.

c. By deleting the word "samples" in paragraph (d) and substituting the words "evidentiary material."

33. By amending § 304.31 as follows:

a. By adding the words "listed in schedules I, II, and III" immediately after the words "narcotic controlled substances" in the following places:

(1) The first sentence of paragraph (a);

(2) The first sentence of paragraph (b);

(3) The first sentence of paragraph (c);

(4) The first sentence of paragraph (d);

(5) The second sentence of paragraph (d);

(6) The sixth sentence of paragraph (d);

(7) The eighth sentence of paragraph (d);

(8) The first sentence of paragraph (e); and

(9) The first sentence of paragraph (f).

b. By deleting the words "listed in schedules III, IV, and V sold to practitioners" in the fifth sentence of paragraph (c) and substituting the words "listed in schedule III sold to dispensers."

34. By amending § 304.32 as follows:

a. By adding immediately after the words "registered distributor" the words "(except any officer or agency of the Veterans Administration or who or which is exempted from registration pursuant to § 301.25 of this chapter)."

b. By adding the words "listed in schedules I and II" immediately after the words "controlled substances", and by deleting the words "listed in schedules I and II" immediately after the word "exporter", in the first sentence of paragraph (b).

c. By deleting the words "fourth quarterly" and substituting the words "December 31 monthly" in the first sentence of paragraph (d).

d. By adding the words "and exporter" after the word "distributor" in paragraph (e).

PART 305—ORDER FORMS

35. By amending § 305.05 by deleting the following words from paragraph (d): "and the Bureau Controlled Substances Code Number (set forth in Part 308 of this chapter) of the basic class of controlled substance listed in schedule I which the registrant is authorized to handle, if any, printed thereon. In the case of order forms issued to a person registered to conduct chemical analysis with controlled substances listed in schedule I, the order forms shall not be confined to a single such substance and may be used to purchase any of such substances."

36. By amending § 305.06 by deleting the last sentence of paragraph (b).

37. By amending § 305.08 as follows:

a. By adding the words "in accordance with § 307.14 of this chapter" at the end of paragraph (a).

b. By adding the words "or the manufacturer of the substance," immediately before the words "pursuant to" in paragraph (b).

38. By amending § 305.09 by deleting the words "Armed Services Medical Procurement Agency" and substituting the words "Defense Personnel Support Center of the Defense Supply Agency" in paragraph (f).

39. By amending § 305.14 by deleting the words "any controlled substance listed in schedule I or II," and substituting the words "all controlled substances listed in schedules I and II for which he is registered,".

PART 306—PRESCRIPTIONS

40. By amending § 306.02 by revising the definition of register in paragraph (f) as follows:

(f) The terms "register" and "registered" refer to registration required and permitted by section 303 of the Act (21 U.S.C. 823).

41. By amending § 306.03 by deleting the number "§ 301.25" in paragraph

(a)(2) and substituting the numbers "§§ 301.24(c) and 301.25."

42. By amending § 306.05 by designating the existing paragraph as paragraph (a) and by adding two new paragraphs as follows:

(b) An intern, resident, or foreign-trained physician, or physician on the staff of a Veterans Administration facility, exempted from registration under § 301.24(c) shall include on all prescriptions issued by him the registration number of the hospital or other institution and the special internal code number assigned to him by the hospital or other institution as provided in § 301.24 (c), in lieu of the registration number of the practitioner required by this section. Each written prescription shall have the name of the physican stamped, typed, or handprinted on it, as well as the signature of the physician.

(c) An official exempted from registration under § 301.25 shall include on all prescriptions issued by him his branch of service or agency (e.g., "U.S. Army" or "Public Health Service") and his service identification number, in lieu of the registration number of the practitioner required by this section. The service identification number for a Public Health Service employee is his Social Security identification number. Each prescription shall have the name of the officer stamped, typed, or handprinted on it, as well as the signature of the officer.

43. By amending § 306.11 by adding the word "directly" immediately after the word "dispense" in both paragraph (a) and paragraph (b).

44. By amending § 306.21 by adding the word "directly" immediately after the word "dispense" in both paragraph (a) and paragraph (b).

45. By amending § 306.22 as follows:

By revising the parenthetical item in the second sentence to read as follows: "(or on another appropriate uniformly maintained, readily retrievable record, such as medication records, which indicates by the number of the prescription the following information: The name and dosage form of the controlled substance, the date of each refilling, the quantity dispensed, the identity or initials of the dispensing pharmacist in each refilling, and the total number of refills for that prescription)."

46. By renumbering § 306.23 to be § 306.24, renumbering § 306.24 to be § 306.25, and adding a new section to read as follows:

§ 306.23 Partial filling of prescriptions.

The partial filing of a prescription for a controlled substance listed in schedule III, IV, or V is permissible, provided that:

(a) Each partial filling is recorded in the same manner as a refilling,

(b) The total quantity dispensed in all partial fillings does not exceed the total quantity prescribed, and

(c) No dispensing occurs after 6 months after the date on which the prescription was issued.

47. By amending § 306.31 by adding the word "directly" immediately after the word "dispense" in the first sentence of paragraph (a) and in paragraph (b).

48. By amending § 306.32 as follows:

a. In paragraph (a) by deleting the word "distribution" and substituting the word "dispensing", by adding immediately after the word "pharmacist" where it first appears the words "(as defined in § 306.02(d))," and by deleting the word "direct."

b. In paragraph (b) by adding the word "controlled" between the words "such" and "substance", by adding the word "such" between the words "other" and "controlled", by deleting the words "listed in schedule V", by adding immediately after the words "other such controlled substance," the words "nor more than 48 dosage units of any such controlled substance containing opium, nor more than 24 dosage units of any other such controlled substance," and by deleting the word "distributed" and substituting the word "dispensed".

c. In paragraph (d) by deleting the words "listed in schedule V" and substituting the words "under this section".

d. In paragraph (e) by deleting the word "distributions" and substituting the word "dispensing", by deleting the words "listed in schedule V (other than by prescription)" and substituting the words "under this section", and by deleting the word "distributed" and substituting the word "dispensed".

PART 307—MISCELLANEOUS

49. By amending § 307.11 by deleting the title and entire section and substituting the following new section:

§ 307.11 Distribution by dispenser to another practitioner.

(a) A practitioner who is registered to dispense a controlled substance may distribute (without being registered to distribute) a quantity of such substance to another practitioner for the purpose of general dispensing by the practitioner to his or its patients: *Provided*, That:

(1) The practitioner to whom the controlled substance is to be distributed is registered under the Act to dispense that controlled substance;

(2) The distribution is recorded by the distributing practitioner in accordance with § 304.24(e) of this chapter and by the receiving practitioner in accordance with § 304.24(c) of this chapter;

(3) If the substance is listed in schedule I or II, an order form is used as required in Part 305 of this chapter;

(4) The total number of dosage units of all controlled substances distributed by the practitioner pursuant to this section during the 12-month period in which the practitioner is registered to dispense does not exceed 5 percent of the total number of dosage units of all controlled substances distributed and dispensed by the practitioner during the 12-month period.

(b) If, at any time during the 12-month period during which the practitioner is registered to dispense, the practitioner has reason to believe that the total number of dosage units of all controlled substances which will be distributed by him pursuant to this section will exceed 5 percent of the total number of dosage units of all controlled substances distributed and dispensed by him during the 12-month period, the practitioner shall obtain a registration to distribute controlled substances.

50. By amending § 307.12 to read as follows:

§ 307.12 Manufacture and distribution of narcotic solutions and compounds by a pharmacist.

As an incident to a distribution under § 307.11, a pharmacist may manufacture (without being registered to manufacture) an aqueous or oleaginous solution or solid dosage form containing a narcotic controlled substance in a proportion not exceeding 20 percent of the complete solution, compound, or mixture.

51. By amending § 307.13 by adding to the end of this section the following sentence: "Any person not required to register pursuant to sections 302(c) or 1007(b)(1) of the Act (21 U.S.C. 823(c) or 957(b)(1)) shall be exempt from maintaining the records required by this section."

PART 308—SCHEDULES OF CONTROLLED SUBSTANCES

52. By amending § 308.02 by deleting the word "issued" in paragraph (b) and substituting the word "issuable".

53. By amending § 308.21 as follows:

a. By deleting paragraph (b) and substituting the following new paragraph:

(b) An application for an exclusion under this section shall contain the following information:

(1) The name and address of the applicant;

(2) The name of the substance for which exclusion is sought; and

(3) The complete quantitative composition of the substance.

b. By adding a new paragraph (c) as follows:

(c) Within a reasonable period of time after the receipt of an application for an exclusion under this section, the Director shall notify the applicant of his acceptance or nonacceptance of the application, and if not accepted, the reason therefor. The Director need not accept an application for filing if any of the requirements prescribed in paragraph (b) of this section is lacking or is not set forth so as to be readily understood. If the applicant desires, he may amend the application to meet the requirements of paragraph (b) of this section. If accepted for filing, the Director shall publish in the FEDERAL REGISTER general notice of his proposed rule making in granting or denying the

application. Such notice shall include a reference to the legal authority under which the rule is proposed, a statement of the proposed rule granting or an exclusion, or denying an exclusion when he finds that the substance may not, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 821), lawfully be sold over-the-counter without a prescription, or that the substance is not nonnarcotic, and, in the discretion of the Director, a summary of the subjects and issues involved. The Director shall permit any interested person to file written comments on or objections to the proposal and shall designate in the notice of proposed rule making the time during which such filings may be made. After consideration of the application and any comments on or objections to his proposed rule making, the Director shall issue and publish in the FEDERAL REGISTER his final order on the application, which shall set forth the findings of fact and conclusions of law upon which the order is based. This order shall specify the date on which it shall take effect, which shall not be less than 30 days from the date of publication in the FEDERAL REGISTER unless the Director finds that conditions of public health or safety necessitate an earlier effective date, in which event the Director shall specify in the order his findings as to such conditions.

c. By adding a new paragraph (d) as follows:

(d) The Director may at any time revoke any exclusion granted pursuant to section 201(g) of the Act (21 U.S.C. 811 (g)) by following the procedures set forth in paragraph (c) of this section for handling an application for an exclusion which has been accepted for filing.

54. By amending § 308.31 as follows:

a. By deleting paragraph (c) and substituting the following new paragraph:

(c) Within a reasonable period of time after the receipt of an application for an exception under this section, the Director shall notify the applicant of his acceptance or nonacceptance of the application, and if not accepted, the reason therefor. The Director need not accept an application for filing if any of the requirements prescribed in paragraph (b) of this section is lacking or is not set forth so as to be readily understood. If the applicant desires, he may amend the application to meet the requirements of paragraph (b) of this section. If accepted for filing, the Director shall publish in the FEDERAL REGISTER general notice of his proposed rule making in granting or denying the application. Such notice shall include a reference to the legal authority under which the rule is proposed, a statement of the proposed rule granting or denying an exception, and, in the discretion of the Director, a summary of the subjects and issues involved. The Director shall permit any interested person to file written comments on or objections to the proposal and shall designate in the notice of proposed rule making the time during which such filings may be made. After consideration of the application and any comments on or objections to his proposed rule making, the Director shall issue and publish in the FEDERAL REGISTER his final order on the application, which shall set forth the findings of fact and conclusions of law upon which the order is based. This order shall specify the date on which it shall take effect, which shall not be less than 30 days from the date of publication in the FEDERAL REGISTER unless the Director finds that conditions of public health or safety necessitate an earlier effective date, in which event the Director shall specify in the order his findings as to such conditions.

b. By adding a new paragraph (d) as follows:

(d) The Director may at any time revoke any exception granted pursuant to section 202(d) of the Act (21 U.S.C. 812 (d)) by following the procedures set forth in paragraph (c) of this section for handling an application for an exception which has been accepted for filing.

55. By amending § 308.32 by adding the words "and of § 301.74(d) of this chapter" after the parenthetical unit "(21 U.S.C. 825, 827–9, 952–4)" in both paragraph (a) and paragraph (b).

56. By amending § 308.42 by deleting the first sentence and substituting the following: "If requested by any interested person after proceedings are initiated pursuant to § 308.44, the Director shall hold a hearing for the purpose of receiving factual evidence and expert opinion regarding the issues involved in the issuance, amendment or repeal of a rule issuable pursuant to section 201(a) of the Act (21 U.S.C. 811(a))."

57. By amending § 308.45 by redesignating paragraph (b) as paragraph "(c)", paragraph (c) as "(d)", paragraph (d) as "(e)", and adding a new paragraph (b) to read as follows:

(b) Any interested person desiring to participate in a hearing pursuant to § 308.41 shall, within 30 days after the date of publication of the notice of hearing in the FEDERAL REGISTER, file with the Director a written notice of his intention to participate in such hearing in the form prescribed in § 316.48 of this chapter. Any person filing a request for a hearing need not also file a notice of appearance; the request for a hearing shall be deemed to be a notice of appearance.

PART 311—REGISTRATION OF IMPORTERS AND EXPORTERS OF CONTROLLED SUBSTANCES

58. By amending § 311.22 by deleting paragraph (b) and replacing it with the following:

(b) A single registration to engage in any group of independent activities may include one or more controlled substances listed in the schedules authorized in that group of independent activities. A person registered to conduct research with controlled substances listed in schedule I may conduct research with any substance listed in schedule I for which he has filed and had approved a research protocol.

59. By amending § 311.24 by adding immediately after the word "official" the words "or agency", adding after the word "Navy" the words "Marine Corps", and by adding after the word "who" the words "or which".

60. By amending § 311.26 by adding after the words "that section" at the end of the section the words "or Article".

61. By amending § 311.27 by adding after the words "that section" at the end of the section the words "or Article".

62. By amending § 311.28 by deleting at the end of paragraph (a)(2)(ii) the words "the name, address, and prescription number of the pharmacy or practitioner who dispensed the substance" and substituting the words "the name and address of the pharmacy or practitioner who dispensed the substance and the prescription number, if any."

63. By amending § 311.31 by deleting from the end of paragraph (a) the words "a registration certificate is issued by the Director" and substituting the words "a Certificant of Registration is issued by the Director to such person".

64. By amending § 311.32 by adding at the end of paragraph (f) the following sentences: "An applicant may authorize one or more individuals, who would not otherwise be authorized to do so, to filing applications for the applicant by filing with the Registration Branch of the Bureau a power of attorney on BND Form 231a for each such individual. The power of attorney shall be signed by a person who is authorized to sign applications under this paragraph and shall contain the signature of the individual being authorized to sign applications. The power of attorney shall be valid until revoked by the applicant."

65. By amending § 311.42 as follows:

a. By adding immediately after the words "on the application" at the end of the third sentence of paragraph (a) the words "in accordance with § 301.54 of this chapter."

b. By adding between the fifth and sixth sentences of paragraph (a) the following sentence: "any such person may participate in the hearing by filing a notice of appearance in accordance with § 301.54 of this chapter."

66. By adding four new sections as follows:

MODIFICATION, TRANSFER, AND TERMINATION OF REGISTRATION

§ 311.61 Modification in registration.

Any registrant may apply to modify his registration to authorize the handling of additional controlled substances by submitting a letter of request to the Registration Branch, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Post Office Box 28083, Central Station, Washington, D.C. 20005. The letter shall contain the registrant's name, address, registration number, and the substances and/or schedules to be added to his registration, and shall be signed in accordance with § 311.32(f). No fee shall be required to be paid for the modification. The request for modification

shall be handled in the same manner as an application for registration.

§ 311.62 Termination of registration.

The registration of any person shall terminate if and when such person dies, ceases legal existence, discontinues business or professional practice, or changes his name or address as shown on the Certificate of Registration. Any registrant who ceases legal existence, discontinues business or professional practice, or changes his name or address as shown on the Certificate of Registration shall notify the Director promptly of such fact. In the event of a change in name or address, the person may apply for a new Certificate of Registration in advance of the effective date of such change by filing an application and paying the appropriate fee in the same manner as an application for new registration. The application shall be handled in the same manner as an application for registration.

§ 311.63 Transfer of registration.

No registration or any authority conferred thereby shall be assigned or otherwise transferred except upon such conditions as the Director may specifically designate and then only pursuant to his written consent.

§ 311.64 Termination of provisional registration.

The registration of any person who is provisionally registered under section 702(a) of the Act (21 U.S.C. 822 note) and who have not been assigned a date for registration by August 31, 1971, shall terminate on October 1, 1971.

Effective dates. This order is effective upon publication in the FEDERAL REGISTER (9-21-71), except that the security regulations for nonpractitioners set forth in §§ 301.72 and 301.73 shall not take effect until March 1, 1972. In addition, the Director hereby announces that amphetamine and methamphetamine products listed in schedule II on this date need not be stored by practitioners in the locked cabinet, as required in § 301.75(a), until January 1, 1972. The Director realizes that because of the transfer of amphetamine and methamphetamine substances to schedule II, and contemplated action by the Federal Food and Drug Administration, it is difficult to foresee future requirements for these substances. Consequently, it is difficult to predict the needed secure storage facilities for these substances. It is hoped that by January 1, 1972, the situation will be clarified sufficiently to implement security controls at the practitioner level, and to plan controls for the nonpractitioner levels. In the event that the situation remains unclear, the Director will receive suggestions for delay in implementing security controls.

The Director continues to invite comments on all of the rules and regulations promulgated under the Comprehensive Drug Abuse Prevention and Control Act of 1970 and will consider such comments for amendatory purposes.

Dated: September 13, 1971.

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

[FR Doc.71-13727 Filed 9-20-71;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A-2—PROCUREMENT BY FORMAL ADVERTISING

Notification of Unsuccessful Lower Bidders of Rejection of Their Bids

The table of contents for Part 5A-2 is amended to delete §§ 5A-2.408-1 and 5A-2.408-2, and to add the following entries:

Sec.
5A-2.408-70 Notification to particular unsuccessful bidders.
5A-2.408-71 Restriction on disclosure of inspection or test data.

Subpart 5A-2.4—Opening of Bids and Award of Contract

1. Section 5A-2.408-70 is added as follows:

§ 5A-2.408-70 Notification to particular unsuccessful bidders.

(a) In any case where award is not made to the apparent low bidder(s) as originally listed on the bid abstract, the bidder(s) shall be notified and given the reason why the bid was not accepted. This includes cases in which a late bid properly considered, or a bid which originally contained a mistake but was permitted to be corrected, displaces a bid which was low at time of public opening. In addition, notification shall be given to each unsuccessful bidder who, by reason of his position on the bid abstract and by actions on the part of the contracting office after bid opening, may have assumed, or been led to assume, that he would receive the award. Examples of such actions are:

(1) Request for extension of bid acceptance time;

(2) Request for verification or clarification of other aspects of bid;

(3) Plant facility inspections; and

(4) Financial responsibility determinations.

(b) Notification to unsuccessful lower bidders of the rejection of their bids shall be in writing and shall be prepared and submitted for signature and dispatch at the same time that the related awards are submitted for the contracting officer's signature and release.

2. Section 5A-2.408-71 is added as follows:

§ 5A-2.408-71 Restriction on disclosure of inspection or test data.

(a) No information regarding inspection or test data shall be disclosed to any person except as provided in this subsection. This includes information obtained from insepection or test reports whether prepared by Government inspection personnel or by an outside inspection or testing agency utilized by the the Government or furnished by a contractor under a Quality Assurance Agreement.

(b) Prior to award, no information regarding inspection or test data shall be disclosed to any bidder or individual except Government officials or employees required to have access to such information in connection with bid evaluation and determination of award.

(c) The contracting officer shall (1) upon request, or in the notification regarding rejection of a bid, inform a bidder concerning the results of tests on the products offered by the bidder and (2) furnish such information to other officials or employees of the Government who have need to know such information.

(d) If an unsuccessful bidder requests information regarding the merits or quality of a competitor's product and the competitor was the successful bidder, information shall be limited solely to the statement, if applicable, that adequate inspection or testing has shown that the successful bidder's product met the requirements of the invitation for bids. If the competitor was also unsuccessful, information shall be limited to a statement that the bid was not accepted; any indication as to the merits or quality of the competitor's product shall be avoided.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); 41 CFR 5-1.101(c))

Effective date. This regulation is effective on the date shown below.

Dated: September 7, 1971.

L. E. SPANGLER,
Acting Commissioner, Federal Supply Service.

[FR Doc.71-13849 Filed 9-20-71;8:47 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-30 (Sub-No. 1)]

PART 1048—COMMERCIAL ZONES

Cincinnati, Ohio, Commercial Zone

Order on further consideration. At a session of the Interstate Commerce Commission, Review Board No. 3, Members Bilodeau, Beddow, and Grossman, held at its office in Washington, D.C., on the 24th day of August 1971.

It appearing, that on May 20, 1971, the Commission, Review Board No. 3, made and filed its report and order on

petition in 113 M.C.C. 430, in this proceeding, modifying, in part, the Commission's prior order, modifying the limits of the zone adjacent to and commercially a part of Cincinnati, Ohio, contemplated by section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8));

It further appearing, that by petition filed May 13, 1971, Land Investment Corporation seeks modification of the limits of the Cincinnati, Ohio, commercial zone so as to include all of the area which is presently included within the zone and, in addition, that part of Boone County, Ky., beginning at the intersection of U.S. Highway 42 and Interstate Highway 75, just south of Florence, Ky., and continuing in a southwesterly direction along U.S. Highway 42 to its intersection with Gunpowder Road; thence along Gunpowder Road in a southeasterly direction to its intersection with Sunnybrook Road; thence in an easterly direction along Sunnybrook Road to its intersection with Interstate Highway 75; thence along Interstate Highway 75 in a northerly direction to the point of beginning;

It further appearing, that pursuant to section 553 of the Administrative Procedure Act, notice of the said petition was published in the FEDERAL REGISTER, which notice stated that no oral hearings were contemplated, that persons desiring to participate in the proceedings were invited to file representations supporting or opposing the proposal; and that no additional representations were filed either supporting or opposing the proposal;

It further appearing, that the above-described area which is proposed for inclusion within the Cincinnati, Ohio, commercial zone limits, and is, in fact, economically and commercially a part of Cincinnati, Ohio;

And it further appearing, that the portion of Florence, Ky., south of U.S. Highway 42 is economcally and commercially a part of Cincinnati, Ohio, and that it lies between the proposed area and the present commercial zone limits, and it too will be included in the Cincinnati, Ohio, commercial zone;

Wherefore, and good cause appearing therefor:

It is ordered, That the proceeding be, and it is hereby, reopened for reconsideration.

It is further ordered, That the report and order entered in Ex Parte No. MC-30 on May 20, 1971 (49 CFR 1048.7), be, and it is hereby, vacated and set aside and the following revision, subject to prior publication in the FEDERAL REGISTER (36 F.R. 11945), of a notice of the limits as defined below, is hereby substituted in lieu thereof:

§ 1048.7 Cincinnati, Ohio.

The zone adjacent to and commercially a part of Cincinnati, Ohio, within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuing carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 203(b)(8)), includes and is comprised of all points as follows:

Addyston, Ohio.	North Bend, Ohio.
Cheviot, Ohio.	Norwood, Ohio.
Cincinnati, Ohio.	St. Bernard, Ohio.
Cleves, Ohio.	Covington, Ky.
Elmwood Place, Ohio.	Newport, Ky.
Fairfax, Ohio.	Cold Spring, Ky.
Mariemont, Ohio.	

That part of Ohio bounded by a line commencing at the intersection of the Colerain-Springfield Township line and corporate limits of Cincinnati, Ohio, and extending along said township line in a northerly direction to its intersection with the Butler-Hamilton County line, thence in an easterly direction along said county line to its intersection with Ohio Highway 4, thence in a northerly direction along Ohio Highway 4 to its intersection with Seward Road, thence in a northerly direction along said road to its intersection with Port Union Road, thence east along Port Union Road to the Fairfield Township-Union Township line, thence northward along said township line to its intersection with the right-of-way of the Pennsylvania Railroad Co., thence southeasterly along the right-of-way of the Pennsylvania Railroad Co. to its intersection with Princeton-Glendale Road (Ohio Highway 747), thence southward along said road to its intersection with Mulhauser Road, thence in an easterly direction along said road to the terminus thereof west of the tracks of the Pennsylvania Railroad Co., thence continue in an easterly direction in a straight line to Allen Road, thence along the latter to the junction thereof with Cincinnati-Dayton Road, thence in a southerly direction along Cincinnati-Dayton Road, to the Butler, Hamilton County line, thence along said county line to the Warren-Hamilton County line in an easterly direction to the Symmes-Sycamore Township line, thence in a southerly direction along the Symmes-Sycamore Township line to its intersection with the Columbia Township line, thence in a westerly direction along Sycamore-Columbia Township line to Madeira Township, thence in a clockwise direction around the boundary of Madeira Township to the Sycamore-Columbia Township line, thence in a westerly direction along said township line to Silverton Township, thence in a southerly direction along said corporate limits to junction with Redbank Road, thence in a southerly direction over Redbank Road to the Cincinnati Corporate limits.

That part of Kenton County, Ky., lying on and north of a line commencing at the intersection of the Kenton-Boone County line and Dixie Highway (U.S. Highways 25 and 42), and extending over said highway to the corporate limits of Covington, Ky., including communities on the described line.

That part of Campbell County, Ky., lying on and north of a line commencing at the southern corporate limits of Newport, Ky., and extending along Licking Pike (Kentucky Highway 9) to junction with Johns Hill Road, thence along Johns Hill Road to junction with Alexandria Pike (U.S. Highway 27), thence northward along Alexandria Pike to junction with River Road (Kentucky Highway 445), thence over the latter to the Ohio River, including communities on the described line.

That part of Boone County, Ky., bounded by a line beginning at the Boone-Kenton County line west of Erlanger, Ky., and extending in a northwesterly direction along Donaldson Highway to its intersection with Zig-Zag Road, thence along Zig-Zag Road to its intersection with Kentucky Highway 237, thence along Kentucky Highway 237 to its intersection with Kentucky Highway 20, and thence easterly along Kentucky Highway 20 to the Boone-Kenton County line.

That part of Boone and Kenton Counties, Ky., bounded by a line commencing at the intersection of the Boone-Kenton County line and U.S. Highway 42, and extending in a southwesterly direction along U.S. Highway 42 to its junction with Gunpowder Road, thence southerly along Gunpowder Road to its junction with Sunnybrook Road, thence easterly along Sunnybrook Road to its junction with Interstate Highway 75, thence in a straight line in a northeasterly direction to Richardson Road, thence in an easterly direction over Richardson Road to its junction with Kentucky State Route 1303, thence in a northerly direction over Kentucky State Route 1303 to the southern boundary of Edgewood, Kenton County, Ky. (49 Stat. 543 as amended, 546 as amended, 49 U.S.C. 302, 303, and 304).

It is further ordered, That this order shall become effective on November 1, 1971, and shall continue in effect until further order of the Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Review Board No. 3.

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

[FR Doc.71-13867 Filed 9-20-71;8:49 am]

[Ex Parte No. MC-37 (Sub-No. 9C)]

PART 1048—COMMERCIAL ZONES

Commercial Zones and Terminal Areas, Baltimore, Md.

At a session of the Interstate Commerce Commission, Review Board No. 3, held at its office in Washington, D.C., on the 25th day of August 1971.

It appearing, that on March 3, 1970, the Commission, Review Board No. 2, made and entered its report, 111 M.C.C. 240, and order, in this proceeding specifically defining the zone adjacent to and commercially a part of Baltimore, Md.

It further appearing, that by petition filed on June 17, 1971, the Howard Research and Development Corp. seeks redefinition and extension in certain respects of the Baltimore, Md., commercial zone limits.

And it further appearing, that investigation of the matters and things involved in said petition having been made, and said board having made and filed a report herein containing its findings of fact and conclusions thereon, which report is hereby made a part hereof:

It is ordered, that § 1048.21 as prescribed in this proceeding on March 3, 1970, be, and it is hereby, vacated and set aside, and the following revision is hereby substituted in lieu thereof:

§ 1048.21 Baltimore, Md.

The zone adjacent to and commercially a part of Baltimore, Md., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management,

or arrangement for a continuous carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)) includes and it is comprised of all as follows:

(a) The municipality of Baltimore itself;

(b) All points within a line drawn 5 miles beyond the boundaries of Baltimore;

(c) All points in that area east of the line described in paragraph (b) of this section bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section crosses Dark Head Creek and extending in a southeasterly direction along the center of Dark Head Creek and beyond to a point off Wilson Point, thence in a northeasterly direction to and along the center of Frog Mortar Creek to Stevens Road, thence northerly along Stevens Road to Eastern Avenue, thence easterly along Eastern Avenue to Bengies Road, thence northwesterly along Bengies Road, to the right-of-way to the Penn Central Transportation Co., thence westerly along such right-of-way to the junction thereof with the line described in paragraph (b) of this section;

(d) All points in that area south of the line described in paragraph (b) of this section bounded on the west by the right-of-way of the line of the Penn Central Transportation Co. extending between Stony Run and Severn, Md., and on the south by that part of Maryland Highway 176, extending easterly from the said railroad to its junction with the line described in paragraph (b) of this section.

(e) All points in that area southwest of the line described in paragraph (b) of this section, bounded by a line as follows: Beginning at the point where the line described in paragraph (b) of this section crosses the Baltimore-Washington Expressway and extending in a southwesterly direction along the Baltimore-Washington Expressway to its intersection with Maryland Highway 176, thence westerly along Maryland Highway 176 to its intersection with the Howard-Anne Arundel County line, thence southwesterly along said county line to its intersection with Maryland Highway 32, thence northwesterly along Maryland Highway 32 to its intersection with the Little Patuxent River, thence northerly along the Little Patuxent River to the intersection of its north fork and its east fork located approximately 1 mile north of the intersection of Maryland Highway 32 and Berger Road, thence easterly along the east fork of the Little Patuxent River to its intersection with Broken Land Parkway, thence southerly along Broken Land Parkway to its intersection with Snowden River Parkway, thence easterly along Snowden River Parkway to its intersection with Relocated Maryland Highway 175, thence southeasterly along Relocated Maryland Highway 175 to its intersection with Lark Brown Road, thence northeasterly along Lark Brown Road to its intersection with Maryland Highway 175, thence southerly along Maryland Highway 175 to its intersection with Interstate Highway 95, thence northeasterly along Interstate Highway 95 to its intersection with the line described in paragraph (b) of this section.

(f) All points in that area north of the line described in paragraph (b) of this section bounded by a line as follows: Beginning at the junction of the line described in paragraph (b) of this section and the Baltimore-Harrisburg Expressway (Interstate Highway 83), thence northerly along Interstate Highway 83 to its junction with Shawan Road, thence easterly along Shawan Road to its junction with York Road (Maryland Highway 45) and continuing to a point 1,500 feet east of Maryland Highway 45, thence southerly along a line 1,500 feet east of the parallel to Maryland Highway 45 to its junction with the line described in paragraph (b) of this section.

(g) All of any municipality any part of which is within the limits of the combined areas defined in paragraphs (b), (c), (d), (e), and (f) of this section;

(h) All of any municipality wholly surrounded, or so surrounded except for a water boundary, by the city of Baltimore or by any municipality included under the terms of paragraph (g) of this section (49 Stat. 543, as amended, 544, as amended, 546, as amended; 49 U.S.C. 302, 303, 304.)

It is further ordered, That this order shall become effective on November 1, 1971, and shall continue in effect until further order of the Commission.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy thereof in the office of the secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Review Board Number 3.

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

[FR Doc.71-13868 Filed 9-20-71;8:49 am]

Title 50—WILDLIFE AND FISHERIES

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

PART 32—HUNTING

Certain National Wildlife Refuges in Florida, Georgia, and Mississippi

The following special regulations are issued and are effective on date of publication in the FEDERAL REGISTER (9-21-71).

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

FLORIDA

ST. MARKS NATIONAL WILDLIFE REFUGE

Public hunting of upland game on the St. Marks National Wildlife Refuge, Fla., is permitted only on the area designated by signs as open to hunting. This open area, comprising 1,200 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations governing the hunting of upland game.

GEORGIA

PIEDMONT NATIONAL WILDLIFE REFUGE

Public hunting of wild turkey on the Piedmont National Wildlife Refuge, Ga., is permitted only on the area designated by signs as open to hunting. (The Hitchiti Experimental Forest is closed to turkey hunting.) The open area, comprising approximately 32,000 acres or 95 percent of the total area of the refuge, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga., 30323. Hunting shall be in accordance with all applicable State regulations covering the hunting of wild turkey subject to the following special conditions:

(1) Species permitted to be taken: Turkey gobblers with visible beards.

(2) Open season: April 17-22, 1972. Persons are permitted in the areas open for turkey hunting and on refuge maintained roads only between the hours of 4 a.m. and 12 noon, e.s.t., on the above-cited hunting days.

(3) Bag limit: Only one turkey gobbler per hunter during the 6-day hunt.

(4) All turkeys killed must be checked in at refuge headquarters before leaving the area.

(5) Use of vehicles of all types are restricted to State and county roads.

(6) Camping and fires are restricted to the designated camping area in Compartment 10. The camping area will be open on April 16-23, 1972.

(7) Hunters not having reached their 18th birthday must be under the immediate supervision of an adult.

(8) Hunt permits are nontransferable.

(9) Apprehension of a permittee for any infraction of refuge regulations shall be cause for immediate revocation of his hunt permit by any officer authorized to enforce refuge regulations.

(10) It is unlawful to drive a nail, spike, or other metal object into any tree or to hunt from any tree in which a nail, spike, or other metal object has been driven.

(11) A refuge permit is required to enter the public hunting area. A maximum of 300 permits will be issued for the entire 6-day hunt. Hunters will be selected by an impartial public drawing from the applications received. Applications for this permit must be made on the form available from the Piedmont National Wildlife Refuge, Round Oak, Ga. 31080. Completed permit applications must be in the office of the Piedmont National Wildlife Refuge, Round Oak, Ga. 31080 by 4:30 p.m. on March 29,

1972. Submission of more than one application for each hunter shall be cause for rejection of all his applications and is a violation of hunt regulations.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Hunting shall be in accordance with applicable State regulations. Portions of the refuge which are open to hunting are designated by signs and delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Squirrels, rabbits, quail, turkey, raccoons, and opossum may be hunted in accordance with the following special conditions.

(1) Squirrels and rabbits may be hunted October 9–November 4 and December 2–19, 1971. Sundays excluded.

(2) Quail may be hunted January 10 through February 21, 1972.

(3) Turkeys (gobblers only) may be hunted March 25 through April 23, 1972.

(4) Raccoons and opossums may be hunted during the periods November 1–19, December 2–18, 1971, and January 10–February 15, 1972. Hunt hours are from sunset to sunrise only.

(5) Fires and cutting of trees are not permitted.

(6) Dogs are permitted during the quail, raccoon, and opossum hunts only.

(7) Turkeys killed must be reported to refuge headquarters.

(8) Raccoons and opossums may be hunted only with .22 caliber rifles or hand guns.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through April 23, 1972.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

FLORIDA

ST. MARKS NATIONAL WILDLIFE REFUGE

Public hunting of deer and wild hog on the St. Marks National Wildlife Refuge, Fla., is permitted only in the area designated by signs as open to hunting. This open area, comprising 1,200 acres is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. Hunting shall be in accordance with all applicable State regulations governing the hunting of deer and wild hogs.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Hunting shall be in accordance with applicable State regulations. Portions of the refuge which are open to hunting are designated by signs and delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Peachtree-Seventh Building, Atlanta, Ga. 30323. White-tailed deer may be hunted in accordance with the following special conditions.

(1) Hunting with guns is permitted November 20 through December 1, 1971, December 20–24, 1971, and from December 27, 1971–January 9, 1972, excluding Sundays.

(2) A kill quota of 800 deer is established, 400 of which may be antlerless. The hunt will be terminated if these quotas are reached prior to the above specified closing date.

(3) Shotguns smaller than 20 gauge and rifles .22 caliber and smaller are prohibited.

(4) Shotgun shells containing buckshot smaller than No. 1 are prohibited.

(5) The use of dogs is not permitted.

(6) Fires and cutting of trees is not permitted.

(7) Hunting of deer with long bows only is permitted from October 1 through November 3 and November 5–19, 1971, excluding Sundays. The use of long bows is also permitted during the periods when the refuge is open to hunting deer with guns.

(8) Firearms and crossbows are prohibited during the season established for archery hunting only.

(9) A primitive weapons hunt for deer with muzzle-loading rifles, single shot, .38 caliber or larger or longbows will be conducted during the periods November 13–19, and December 11–19, 1971, excluding Sundays.

(10) All deer killed must be checked out at one of the designated refuge checking stations.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations and are effective through April 30, 1972.

LESTER E. SCHERER,
Acting Regional Director, Bureau of Sport Fisheries and Wildlife.

SEPTEMBER 14, 1971.

[FR Doc.71-13853 Filed 9-20-71;8:47 am]

Chapter II—National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce

PART 260—INSPECTION AND CERTIFICATION

Miscellaneous Amendments

A partial revision of Part 260 of Title 50 CFR was published in the FEDERAL REGISTER of March 10, 1971, (36 F.R. 4609) and a proposed partial revision was published on May 11, 1971, (36 F.R. 8688). This is a further partial revision of Part 260 of Title 50 CFR.

This revision is necessary in order to reflect the transfer of fishery standards development and inspection functions, performed under the authority of Title II of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), from the Department of the Interior to the Department of Commerce. This transfer was effected by Reorganization Plan No. 4 of 1970 (84 Stat. 2090), which, among other things, abolished the Bureau of Commercial Fisheries in the Department of the Interior, and transferred its functions, including the fishery inspection function dealt with in these regulations, to the Department of Commerce.

The changes contained herein are editorial in nature, and conform the regulations to the changes effected by the two earlier partial revisions. For this reason, notice and public procedure thereon are deemed impracticable and unnecesssary.

The amendments are as follows:

1. Section 260.19 *When application may be withdrawn.* Is amended by deleting in line 6 "§ 260.76" and substituting "§ 260.70".

2. Section 260.38 *When an application for an appeal inspection may be withdrawn.* Is amended by deleting in line 6 "§ 260.76" and substituting "§ 26.70".

3. Paragraphs (a) (3) and (6) of § 260.93 *Debarment and suspension.* Are amended as follows:

(3) Using on a processed product any label which displays the words "Packed Under Federal Inspection, U.S. Department of Commerce", or which displays any official mark, official device, or official identification, or which displays a facsimile of the foregoing, when such product has not been inspected under the regulations of this subchapter.

* * * * *

(6) Using any of the terms "United States", "Officially graded", "Officially inspected", "Government inspected", "Federally inspected", "Officially sampled", or words of similar import or meanings, or using any official device, official identification, or official mark on the label, on the shipping container, or in the advertising of any processed product, when such product has not been inspected under the regulations of this subchapter.

4. Section 260.93(g), in line 3, delete "the Interior" and substitute "Commerce".

5. Section 260.93(k)(1), in line 12, delete "the Interior" and substitute "Commerce".

6. Section 260.93 (l)(1), in line 8, delete "the Interior" and substitute "Commerce".

These amendments shall become effective upon publication in the FEDERAL REGISTER (9–21–71).

PHILIP M. ROEDEL,
Director, National Marine Fisheries Service.

ROBERT M. WHITE,
Administrator.

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Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Emergency Preparedness

[OEP Economic Stabilization Reg. 1; Circular No. 101]

Economic Stabilization Circular No. 101

This circular is designed for general information only. The statements herein are intended solely as general guides compiled from OEP Economic Stabilization Circulars 1 through 10 and do not constitute legal rulings applicable to cases which do not conform to the situations clearly intended to be covered by such guides. OEP Economic Stabilization Circulars 1 through 10 are hereby superseded.

NOTE: Provisions of this and any subsequent compiled circulars are subject to clarification, revision or revocation.

This first compilation circular covers separate circulars issued from August 15 through September 7, 1971.

APPENDIX I

ECONOMIC STABILIZATION CIRCULAR NO. 101

100. *Purpose.* (1) On August 15, 1971, President Nixon issued Executive Order No. 11615 providing for stabilization of prices, rents, wages, and salaries and establishing the Cost of Living Council, a Federal agency. The Order delegated to the Council all of the powers conferred on the President by the Economic Stabilization Act of 1970, as amended. The effective date of the Order was 12:01 a.m., August 16, 1971.

(2) By its Order No. 1 the Council delegated to the Director of the Office of Emergency Preparedness authority to administer the program for the stabilization of prices, rents, wages, and salaries as directed by section 1 of Executive Order No. 11615.

(3) The purpose of this compilation, the first in a series proposed to be issued, is to consolidate in one document all of the determinations issued by the Cost of Living Council incorporated in Economic Stabilization Circulars previously published in the FEDERAL REGISTER through September 8, 1971. This document is, in effect, a summarization and reclassification of such determinations. The numbering system used in this circular is somewhat revised from that used in previous OEP circulars.

To the extent that any provision of this circular may be inconsistent with the provisions of OEP Economic Stabilization Circulars 11, 12, 13, or 14 or any OEP Economic Stabilization Circular issued on or after the date of this circular, the provisions of the most recently issued or published circular shall apply.

200. *Authority.* Relevant legal authority for the program includes the following.

The Constitution.

Economic Stabilization Act of 1970, P.L. 91-379, 84 Stat. 37.

Executive Order No. 11615, 36 F.R. 15127, August 17, 1971.

Cost of Living Council Order No. 1, 36 F.R. 16215, August 20, 1971.

OEP Economic Stabilization Regulation No. 1, as amended, 36 F.R. 16515, August 21, 1971.

300. *General guidelines.*

301. *Base period.* (1) As used in OEP Economic Stabilization Regulation No. 1, the term "base period" for any commodity, service, rent, salary, or wage includes the period from July 16, 1971, through August 14, 1971. In the event that no transaction occurred in that period, the nearest preceding 30-day period in which a transaction did occur is considered the base period. In addition, in the case of increases in posted and effective prices during the base period, the base period itself will be considered to have begun at the time of the increase in posted and effective prices.

(2) In accordance with section 202 of the Economic Stabilization Act of 1970, as amended, prices, rents, wages, or salaries need not be established at levels less than those prevailing on May 25, 1970.

302. *Transactions.* (1) When a seller received a large order during the base period for delivery during the freeze, this order cannot be included in the calculation of the price ceiling for this product.

A transaction takes places when the seller ships the product to the buyer, not when the order is received. In the case of a service, the transaction takes place when the service is performed. Each commodity or type of service is treated separately and, if shipments are made to different classes of purchasers under different terms, separate ceilings are calculated for each commodity for each class of purchaser. The ceiling price is based on the record of all the units of each commodity shipped to each class of purchaser during the base period, and is calculated as the highest price at or above which 10 percent of the units were shipped to a particular class of purchaser during the base period.

(2) If a product or service is delivered or furnished on August 14 at a new higher price, this does not set the price for the freeze period. The higher price is effective only for the 1 day of August 15. On August 16, the seller must return to the price in effect evidenced by a substantial number of transactions during the base period.

303. *Seasonal patterns.* (1) Prices, wages, and rents which normally fluctuate in distinct seasonal patterns may be adjusted during the wage-price-rent freeze subject to the following conditions:

(a) Prices and wages must show a large distinct fluctuation at a specific, identifiable point in time, which must be a documented and established practice that has taken place in each of the past 3 years. Examples are Puerto Rican hotel rates at the beginning and end of the fall/winter season, auto dealers' selling prices at new-model-introduction time, and wage rates for some seasonal agricultural workers. New establishments or activities may determine their qualification from that generally prevailing for similar establishments or activities in the immediate area.

(b) Each change must be tied to a specific date (e.g., the introduction of new car models, beginning of resort seasons, etc.). The price change may not take place earlier this year than in 1970 unless the date is tied to a specific event such as a previously planned introduction of new models.

(c) If the price or wage change qualifies as seasonal by the above criteria, the seller is permitted a choice of base periods to use in determining his ceiling price or wage for the period following the specific event. He may use the statutory base period (30 days ending August 14, or the most recent 30 days when sales were made), or he may use the seasonal period of 1970 (from the date of the specific event through November 13). His ceiling price is based, therefore, on the prices realized on a substantial number of transactions during whichever base period he chooses to use.

(d) The seller or employer must have adequate records available to demonstrate the existence of the traditional practices in the 3 preceding years and the basis for calculating his ceiling price from the 1970 period. The seasonality rule may not be applied to industries, products, or activities that have been in existence for less than 3 years.

(2) The clothing industry is subject to the freeze. It may have the options provided under the seasonality rule if it meets the following criteria:

(a) Prices must show a large and distinct fluctuation at a specific identified point of time which can be documented and shown to have been established practice for at least the last 3 years.

(b) Each change in price must be tied to the specific date, e.g., beginning of the resort season, introduction of new models or styles, etc.

If clothing firms meet the above two criteria there are three sets of base periods for establishing prices to use in the free period. They may use (1) the Executive order period (30 days ending August 14 or the most recent 30-day period if no sales were made in the last 30 days), or they may use (2) the seasonality period of 1970 (from the date of the specific event through November 13). This price change date may not take place earlier this year than in 1970, unless the date is tied to a specific date such as a previously planned introduction of new styles and models. In certain cases, the statutory date of May 25, 1970, may represent a higher ceiling than either of the above base period prices. (In these cases, they are free to adopt the May 25, 1970, prevailing prices.) The ceiling price so set would be based on the prices realized by a

substantial number of transactions during the selected base period by the seller. As previously provided, the ceiling price established in a base period is that price at or above which 10 percent of all base period transactions were made. (See section 6(a)(1) of OEP Economic Stabilization Regulation No. 1, as amended.) Finally, the seller must maintain adequate records and have them available to demonstrate the existence of a traditional seasonality practice over the previous 3 years, and the basis for selection of his selling price from the 1970 period.

(3) Attached hereto as Annex No. 1 is the text of remarks made by the Executive Director of the Cost of Living Council on the issue of "Seasonality" at a news conference on August 28, 1971.

400. *Price guidelines.*

401. *General.* Based on OEP Economic Stabilization Regulation No. 1 and determinations of the Cost of Living Council, the following guidance is provided:

(1) No person may charge, assess, or receive more for commodities and services than the ceiling prices of such commodities and services in effect during the base period. It is not unlawful to charge less than ceiling prices. In fact, such sales are encouraged.

(2) Price includes rentals, commissions, margins, rates, fees, charges, or other forms of prices paid or received for the sale or use of commodities or services or for the sale of real property. Both wholesale and retail prices are included in the freeze.

(3) Prices shall include customary price differentials, such as discounts, allowances, premiums, and extras, based upon differences in classes or location of puchasers, or in terms and conditions of sale or delivery.

(4) "Unit direct cost"—This term means labor and material costs which enter directly into the product. It does not include factory overhead, or indirect manufacturing expenses, administrative, general, or selling expenses.

(5) "Net invoice cost"—This term refers to a seller's invoice cost less any discount or allowance he took or could have taken. It does not include separately stated charges such as freight, taxes, etc.

402. *Price ceilings.* (1) The ceiling price for the sale of a commodity or service is the highest price at which a seller delivered or furnished during the base period such commodity or service to purchasers in a substantial number of transactions, i.e., 10 percent of his actual transactions. Thus, price increases announced prior to August 15 to take place during the period of the freeze are not permitted since no transactions had taken place upon which to base the price.

(2) In the event a commodity or service had both (a) a published price, and (b) a discounted price at which actual transactions were made during the base period, the effective price ceiling would be the highest price at or above which 10 percent of the actual transactions were made which may be a discounted price when less than 10 percent of such sales were made at posted prices without discounts.

(3) Price ceilings are to be set on the basis of the normal procedures used in establishing market prices. Market price ceilings are to be established for each of a firm's normal pricing areas at a level no greater than the highest price at or above which 10 percent of actual transactions were carried out during the base period in these pricing areas, regardless of whether such pricing areas are national, regional, or individual stores.

(4) If a seller delivers or offers a commodity or service which is new, i.e., which he did not previously deliver or offer, he can determine his ceiling price by (a) applying to his current unit direct cost or to his net invoice cost the percentage markup he is currently receiving on the most nearly similar commodity or service he sells, or, if (a) is not applicable, (b) using the ceiling price prevailing for comparable commodities and services in the same locality.

(5) If one company (1) purchases company (2) and the two companies had different prices for their products, the price ceilings in force at the time of the acquisition do not change after their consolidation. The ceilings that were applicable to the products of company (2) continue to apply to sales made from that part of the merged company.

(6) There are two different rules which are applied in establishing the ceiling price for a long-term purchase contract calling for delivery during the freeze period:

(a) If the item is a standardized item such as a commercial aircraft, the ceiling is calculated using the substantial volume of transactions rule based on prices which were realized on shipments during the base period.

(b) If the product is a unique product or service, such as a large building or very large scale generator, the contractor may use the ceiling price realized during the base period on comparable products or services in the same locality or if no such comparable product can be found the contractor may use the markup received during the base period on the most nearly similar product or service applied to the unit direct cost or net invoice cost.

(7) If a seller wishes to sell something but does not know its price during the base period, he should use the ceiling price prevailing for comparable items in his locality.

(8) The freeze on prices does not prevent the lowering of prices.

(9) Even though the price charged is no higher than the permitted ceiling, the transaction may be in violation if the commodity or service sold has been reduced in quality or is not otherwise comparable to the commodity or service sold in the base period. For example, a business cannot reduce services or the quality of a product and maintain the same price, as this would amount to an increase in price for the services or product.

(10) If quantity discounts are offered, customers who purchase large volumes eligible for the discount can be charged the applicable higher price if they reduce the amount of their purchases and thus fall into a lower quantity (higher price) bracket. During the 90-day freeze, customers may be charged in accordance with the freeze requirements in the base period prior to August 15, 1971. However, charges applicable to various categories of rates or prices set out in effective schedules may not be increased.

(11) Exceptions from price ceiling regulations will not be granted to companies which did not raise their prices prior to August 15, even though they began paying higher wages under new labor contracts before that date.

(12) If retailers bought merchandise for higher prices during the base period, but had not increased their own prices prior to the freeze, they cannot now do so.

403. *Specific guidelines.* (1) A supplier has long-term contracts with his customers. Before the freeze, he raised his price and charged the new price to customers who were renewing their contracts. If the supplier had substantial transactions on the same commodity or service to the same class of purchaser at the higher price during the base period, he may charge the higher price to customers who renew their contracts during the freeze or new customers of the same class.

(2) The freeze does not apply to long-term purchase contracts that call for delivery after the freeze.

(3) If the shipment price on a contract, made prior to the freeze calling for delivery during the freeze is above the ceiling price, the seller may not perform at a contract price above the ceiling price. He may decline to perform at all if he wishes, but may not force the buyer to accept shipment deferred to a date after the freeze. If the seller does make delivery, the buyer is obligated to pay no more than the ceiling price.

(4) On long-term purchase contracts where shipment will occur after the freeze, related sales and other commissions may be paid as usual during the freeze, subject to the ceilings determined from commissions paid during the base period.

(5) Dues are a fee for service, and as such are frozen under Executive Order No. 11615 and OEP Economic Stabilization Regulation No. 1, as amended. Examples are dues for membership in professional associations, trade associations, unions, and country clubs.

(6) Prices charged for advertising (publishing, television, and radio, etc.) and prices of newspapers, books, magazines, etc., are subject to the freeze.

(7) A wholesaler who gives advertising allowances in the form of percentage discounts on prices cannot cancel these allowances during the freeze. To do so would amount to a reduction in services without a corresponding reduction in price.

(8) Coal companies which had no transactions over the summer months cannot increase their price over last year's price to reflect an increase in freight costs. They are frozen to the price charged during the last period when

there were transactions or that of May 25, 1970.

(9) Increased school tuition rates for the 1971–72 school year and school and college room and board rates are not exempt from the freeze. However, if there were substantial transactions during the base period, confirmed by deposits, the increases may be charged. If this requirement of substantiality is not satisfied, the increases are not allowed.

(10) A utility company which produces electricity with imported fuel cannot pass on increases in the cost of the fuel. The production of electricity by fuel is a transformation of the foreign good from its original state, thus precluding passing on the increased cost due to changes in the world market price. (If, however, the increase in fuel costs was due solely to the 10 percent surtax on imports, the price of electricity could be increased on a cent-for-cent basis to reflect the increase resulting from the surcharge. These increases, of course, would be subject to review by Federal or State regulatory agencies.)

(11) Coal producers and utility companies had reached an impasse on the price of coal under an arbitration clause prior to August 15 and resorted to lawsuits to settle their difference. If the court decides, even though the decision was made after August 15, that higher prices should have been charged prior to August 15, the increases are permitted. On the other hand, if the court rules that prices may be raised after August 15, this price increase may not take effect during the freeze.

(12) A travel agent cannot raise prices on that part of a tour package relating to services in the United States nor can he raise his markup for overhead and profit above that prevailing during the base period.

Exemption. A travel agent can, however, raise prices on tours to the extent that the costs of foreign services offered in the tour package are increased, i.e., foreign hotel rates, restaurant meals, transportation costs, etc. His records must clearly establish that each increase meets this test, and if he cannot so demonstrate, this exemption will not apply to his increase.

(13) Commodity futures markets are covered by the freeze, except for raw agricultural products. The ceiling price for all commodity futures prices which mature during the period is based on "spot" prices during the 30-day period ending August 14. Where spot prices are not available, the ceiling would be the price at which a substantial volume of the most recent futures contract was traded during the base period.

NOTE: Section 202 of the Economic Stabilization Act of 1970 prohibits the establishment of any ceiling below the price prevailing on May 25, 1970.

(14) "Deposits" for rentals of property or articles cannot be raised during the freeze.

(15) Increases in prices charged by military commissary stores are not permitted during the freeze.

(16) A contractor (low bidder) has been advised by a school district that the rates for busing which it had agreed upon in a contract to be effective on September 1 may not go into effect because they are increased over last year's rates. The school district cannot go ahead with the rates in this year's contract since the contractor is frozen at last year's rate.

(17) A company required by antipollution laws to purchase more expensive fuel during the freeze than it purchased in the base period cannot adjust its prices to reflect the higher cost of fuel.

404. *Prices on Imports.* (1) Sales of commodities from other countries are subject to the freeze. Price ceilings at all levels, however, may be increased by an amount equivalent to increases in the landed cost of the commodity imported after August 15, 1971, due to changes in the U.S. customs duties and tariffs. These increased customs duties, penny for penny, may be passed on to the purchaser but shall not be considered in calculating markups for the transaction price of the import. Sellers must be prepared with records to show that such duties were so treated.

(2) An importer and each reseller may pass on a price increase for an imported product, but only as long as the product is not physically transformed by the seller or does not become a component of the goods being sold. When the imported product loses its identity or is incorporated into another goods, at that point, the price increase may no longer be passed on.

(3) The 10 percent import surcharge imposed as a part of the stabilization program is not applicable to goods in stock as of August 15.

(4) Many businesses have a serious inventory problem due to the import surcharge. Where possible, surcharge and nonsurcharge items should be stored separately. Where this cannot be done, the wholesaler may elect to charge the base period ceiling price for each item that was in effect prior to August 15, 1971, until a quantity has been sold for each item equal to the quantity on hand prior to the arrival of items with a surcharge added. He may then charge at the old rate plus the exact surcharge.

(5) The import surcharge should be shown in dollars and cents on the sales ticket or invoice when the charges are passed on to the consumer.

(6) A foreign manufacturer sells finished products, such as an automobile, in the United States through a wholly owned subsidiary. It then resells to distributors who in turn resell to dealers. The wholly owned subsidiary has customarily added a fixed percentage markup of the c.i.f. price of the vehicles. The distributors add their own percentage markups, which may vary. If the foreign price to the importer increases, neither the subsidiary of a foreign manufacture, the distributors, nor the dealers may increase their markups. They may only pass on the import price increase, cent for cent.

405. *Sale of real estate.* (1) The ceiling price on real estate shall be the sale price specified in a sales contract signed by both parties on or before August 15, 1971.

(2) Where there is no such sales contract, the price shall be the fair market value of the property during the base period based upon substantial numbers of sales of like or similar property.

(3) A land developer has 8,000 acres of land which, as needs develops, he markets, in 200-acre segments. In this situation, each tract of land is treated as unique for ceiling purposes. The test is the fair market price based on substantial numbers of sales of like or similar property during the base period.

406. *Government-regulated industries.* (1) Governmental agencies which regulate industries may permit price decreases and change other aspects of the industry, but no price increases are allowed.

(2) Postal rate increases are frozen.

(3) The operation of formulas for determining liquor prices established by a State, acting under the authority granted to it under the 21st amendment of the Constitution, is suspended by Executive Order No. 11615 where such formulas result in price increases.

(4) A railroad has had established rates for interstate movement of a commodity for several years. Since the freeze, the State Commerce Commission in two of the States served by the railroad has granted longstanding applications to increase intrastate rates to the same level as the interstate rate. Some other States have permitted the increases in intrastate rates before the freeze. Other States have not. The railroad cannot collect the higher intrastate rates in the two States which approved the rate increases after August 15. Under traditional statutory distinctions, intrastate rate structures are treated separate and apart from interstate rate structures.

(5) A municipality cannot increase a utility franchise fee as this is a charge for service and not a tax.

(6) A utility company cannot pass on to customers a franchise fee that has been recently increased. Its rates are frozen and increased costs cannot be passed on during the freeze.

(7) Even if a regulatory agency permits a utility company to adjust its rates upward when the cost of fuel increases, the utility company cannot raise its rates if fuel costs increase during the freeze.

(8) States may estimate the date at which old inventory will run out for purposes of establishing a uniform date for passing on an increase due to the supplemental tariff on imported alcoholic beverages. This is good faith compliance with issued policy on the inventory problem. However, the burden of proving the validity of the inventory estimate shall be upon the State.

(9) Although utilities are regulated on a cost of service basis, rates cannot be adjusted above the ceiling to reflect the actual cost of gas, oil, or coal which suppliers are permitted to charge them under the Executive order.

407. *Commodities and services.* (1) "Commodity" includes all commodities, articles, products, and materials, including those provided by public utilities services, such as electricity, gas, and water, as well as rates charged by common carriers. It also includes "used" commodities such as used cars and antiques.

(2) "Services" mean (a) all services rendered (other than as an employee) in connection with the processing, distribution, storage, installation, repair, or negotiation or purchases or sales of a commodity, (b) in connection with the operation of any service establishment for the servicing of a commodity, or (c) professional services.

(3) Fees, therefore, for professional services of doctors or lawyers are included in the freeze order.

(4) Motel and hotel rates are also included. (See section 303 Seasonal patterns.)

(5) Insurance and other similar fees and rates are included in the freeze.

(6) The rate of renewal of insurance policies may be increased if the rate was announced prior to August 15, 1971, and a substantial number of transactions occurred at the increased rate. No additional increases in rates are permitted during the freeze.

(7) Service charges and other fees charged by banks (for example, safe deposit boxes), are subject to the freeze.

(8) The fees or charges which a State or local government charges for water, gas, sewer, and similar services may not be increased during the freeze. However, fees for licenses or legal penalties, such as traffic tickets, may be increased.

(9) Utility rates and transportation fares are covered by the freeze.

(10) Prices to be charged for items such as secondhand furniture shall be determined on the basis of what comparable items were sold for during the base period (usually July 16 to August 14, inclusive). In such cases, the facts determining the price arrived at should be kept as a matter of record.

(11) Prices of school lunches which are supported by the Department of Agriculture are covered by the freeze.

(12) The food industry relies heavily on promotional discounts to encourage retailers to carry a particular item. When such discounts were offered in the month prior to August 15, must they be continued through the entire freeze period?

The answer depends on the price at which substantial transactions were made in the firm's normal marketing area during the base period. If an item was discounted to certain retailers within a marketing area who had not previously carried the item while substantial transactions were also being made to other retailers in the same marketing area at regular prices, the price can be increased to the nondiscounted rate. Otherwise, the discounts must be offered throughout the freeze.

(13) Rate increases on maritime freight which were filed before the freeze to take effect on September 1 and October 1, 1971, will not be allowed to take effect as scheduled.

(14) A broker, when he buys from many different mills at different prices and sells to several different customers, essentially provides a service since he legally never takes title to the product. Therefore, his fee for this service is frozen. If his fee is determined on the basis of a percentage of the value of the product, shipment, this percentage is frozen at the same level as during the month prior to August 15, 1971.

(15) A dealer buys the same goods from many different sellers and sells to many different buyers. In his transactions he takes title to the goods he purchases. His only compensation is the difference between his purchase and sales prices. The price freeze applies to the prices he charges since his price ceilings are determined like those of any other seller of such goods.

(16) A labor contract provides for increased payments after August 15, 1971, but this increase is prevented by the wage-price freeze. A company operating under this labor agreement has contracted to provide services after August 15, 1971, at a price that was based on the projected increase in wages. The company is not allowed to charge this price. The price is frozen at the price received for substantial transactions for the service during the base period.

408. *Sales by auctions.* (1) Sales by auction are governed by the same rules applicable to other sales transactions.

(2) On auction sales of ordinary commercial goods by a regular dealer at auction or otherwise, the ceiling is the highest price at which the owner delivered or furnished such commodities to purchasers in a substantial number of transactions during the base period.

(3) The ceiling price at auction sales of commodities for which no established market prices exist, and which are sold by or for the account of persons not ordinarily engaged in the business of selling such merchandise, is the highest price for comparable commodities in the base period.

(4) Auction sales under court order are governed by the above paragraph.

(5) Auctioneers' fees and commissions are frozen at base period levels.

409. *Exemptions.* (1) Several commodities and services have been specifically exempted from Executive Order No. 11615 and in OEP Economic Stabilization Regulation No. 1. These are (a) raw, unprocessed agricultural products, (b) stocks and bonds, and (c) exports. Thus, there is no price control over these items.

(2) Raw agricultural products include those products that retain the same physical form that they possessed when they left the farm gate. All other agricultural and food products would be considered processed and subject to the freeze. This would include all products canned, frozen, slaughtered, milled or processed in some other way that changes the physical form; packaging would not be considered a processing activity.

EXAMPLES:

Exempt

Live animals and poultry, shell eggs, raw milk, sugarcane and sugar beets, all fresh fruit, all fresh vegetables, honey, including strained, fresh fish, fresh seafood.

Nonexempt

Slaughtered animals, dressed poultry, pasteurized milk, "raw" and refined sugar, canned and frozen fruits, frozen vegetables.

(3) The following list contains additional examples of exempt and nonexempt agricultural products:

Exempt	*Nonexempt*
Live cattle, calves, hogs, sheep and lambs.	Carcasses and meat cuts.
Live Poultry	Dressed broilers and turkeys.
Raw milk	Pasteurized milk and processed products such as butter, cheese, ice cream.
Shell eggs, packaged or loose.	Frozen, dried or liquid eggs.
Sheared or pulled wool.	Wool products.
Raw honeycomb honey.	Processed and blended honeybutter product.
Mohair.	
Hay: bulk, pelleted, cubed or baled.	Dehydrated alfalfa meal or alfalfa meal pellets.
Wheat	Flour.
Feed grains including:	
Corn	Mixed feed.
Sorghum	Cracked corn.
Barley	Rolled barley.
Oats	Rolled oats.
Soybean	Soybean meal and oil.
Leaf tobacco	Cigarettes and cigars.
Baled cotton, cottonseed, cotton lint.	Cotton yard, cottonseed oil, cottonseed meal.
Fresh potatoes, packaged or not.	Frozen french fries, dehydrated potatoes.
Unmilled rice	Milled rice.
All raw nuts—shelled and unsheiled.	Roasted, salted or otherwise processed nuts.
Fresh mushrooms.	Canned or freeze dried mushrooms.
Fresh mint	Mint oil.
Fresh hops.	
Dried beans, peas, and lentils.	
Sugar beets and sugar cane.	Raw and refined sugar.
Maple sap	Maple syrup and sugar.
All seeds for planting.	Seeds processed for other uses.

Exempt	*Nonexempt*
Raw coffee bean	Roasted coffee bean.
All fresh vegetables and melons including:	Canned and frozen vegetables.
Tomatoes	
Lettuce	
Sweet corn	
Onions	
Green beans	
Cantaloupe	
Cucumbers	Dill pickles.
Cabbage	Packaged slaw.
Carrots	
Watermelons	
Green peas	
Asparagus	
Pepper	
Broccoli	
Cauliflower	
Spinach	
Green lima beans	
Honeydews	
Escarole	
Garlic	
Artichokes	
Eggplant	
Brussel sprouts	
Beets	
Unpopped popcorn	Popped popcorn.
Stumpage, or trees cut from the stump.	Milled lumber.
All fresh or naturally dried fruits, packaged or not, including:	Canned, artificially dried frozen fruit or juices.
Fresh oranges	Glazed citrus peel.
Grapes and raisins.	Canned grapes, wine.
Apples	Applesauce.
Peaches	
Strawberries	
Grapefruit	
Pears	
Lemons	
Plums and prunes.	Canned prunes and prune juice.
Cherries	
Cranberries	
Avocados	
Blueberries	
Apricots	
Tangerines	
Olives, uncured.	Canned olives.
Nectarines	
Raspberries	
Blackberries	
Figs	
Tangelos	
Limes	
Dates	
Papayas	
Bananas	
Pomegranates	
Currants	
Persimmons	
Garden plants and cut flowers.	Floral wreath.

(4) Fish products are classified as raw agricultural products and not covered by the freeze until they are shelled, shucked, skinned, or scaled.

(5) Transactions involving the sale of corporate stock (including an equity interest in a going concern) are not covered by the freeze. However, the use of such transactions to violate the intent of the freeze is not permitted.

410. *Items not covered by freeze.* (1) Child support and alimony payments, charitable contributions, State and local taxes, welfare payments, special per diem incentive charges on railroad freight cars authorized by the Interstate Commerce Commission, workmen's compensation payments, and interest rates, are not covered by the freeze on prices, rents, wages, and salaries. Elimination of the 7 percent excise tax on automobiles, however, has not been effected by the freeze and dealers must continue collection thereof unless the tax is specifically rescinded by Congress.

500. *Wage and salary guidelines.*

501. *General.* (1) No employer shall pay and no employee shall receive a wage, salary, or other form of compensation at a rate higher than that paid or received or in effect during the base period, nor shall any person use any means to obtain payment of wages, salaries or other form of compensation higher than those permitted under the Executive Order or the Regulation. Such remuneration shall be based upon a substantial number of actual transactions for services of like or similar nature.

(2) As used in Executive Order No. 11615, and Economic Stabilization Regulation No. 1, the term "wages and salaries" includes all forms of remuneration or inducement to employees by their employers, including but not limited to: Vacation and holiday payments; bonuses; layoff, and supplemental unemployment insurance benefits; night shift, overtime, and other premiums; employer contributions to insurance, savings, or other welfare benefits; employer contributions to pension or annuity funds; payments in kind, job prerequisites, cost-of-living allowances, expense accounts, commissions, discounts, stock options, payments for deferred compensation, and all other fringe benefits. In addition, there may be no changes in working conditions which result in more pay per hour worked (for example, a schedule which shortens the workweek without a proportionate decrease in pay).

(3) Deferred wage or salary increases which were negotiated to take effect in the future, cost-of-living increases built into wage contracts or provided by management, and routine in-grade increases not in effect on or before August 14, 1971, are not permitted after August 14, 1971. Regardless of any right or contract heretofore or hereafter existing, no change or adjustment shall be made in rates of wages, salaries, or other forms of compensation whether by retroactive increase or otherwise.

(4) For purposes of the regulation, wage, salary, or other form of compensation includes all forms of remuneration to an employee by an employer for personal service including, but not limited to, premium overtime rate payments, night shift, year-end, and other bonus payments, incentive payments, commissions, vacation and holiday payments, employer contributions to or payments of insurance or welfare benefits or pension funds or annuities, and payments in kind.

(5) Profits from family-owned businesses are not subject to the freeze. However, the amount of income to family members active in the management of the business, if paid as a salary under an agreed formula during the base period, is frozen at the formula rate.

NOTE: It is important to point out that ceilings have been established for prices and wages and the President has asked that dividends be voluntarily frozen.

502. *Specific.* Based on the general guidance provided above and determinations of the Cost of Living Council the following specific guidance is provided:

(1) Deferred wage or salary increases which have been negotiated to take effect during the period of the wage freeze are not permitted.

(2) There will be no cost-of-living increases during the 90-day freeze.

(3) The freeze does not require termination of bargaining for wage changes during the 90-day freeze period. However, no wage increase negotiated during the 90-day period can apply to the period of the freeze nor can it go into effect during the period of the freeze.

(4) If a strike is now in progress, contract negotiations can proceed during the course of the freeze. However, no increases in wages negotiated can be paid for services rendered during the period the freeze is in effect.

(5) State and local governments are subject to Executive Order No. 11615 freezing wages and prices. Accordingly, cost-of-living wage or salary increases ordered by a municipal government to become effective subsequent to the date of the Executive Order are not permitted during the 90-day freeze period. This includes the wages of State and local governmental employees such as firemen, policemen, and the like.

(6) Increases in the salaries of teachers may be granted if the contract period started before August 15. If the contract period started after August 15, the increase is not allowed. For example, if teachers have reached a new agreement on pay scales for the coming school year but the contract does not go into effect until September 1, teachers cannot receive the pay increase. However, teachers who were eligible to be paid over a 12-month period but in fact are being paid over a 10-month period are eligible for a pay raise which was in effect in the school district before August 15, 1971. Attached hereto and incorporated herein as Annex No. 2 is an official summary of Council decisions on wage and salary controls in the field of education.

(7) The wages and salaries of Federal Government employees are frozen during the 90-day freeze period.

(8) The wage freeze applies to all employers regardless of the number of employees they employ.

(9) Scales for wages and salaries for new jobs will be determined on the basis of comparable jobs within the affected business or firm. If no comparability exists within such entities, such scales will be determined on the basis of comparable jobs in nearby comparable firms.

(10) Employees being severed for various reasons and due severance pay in excess of their normal pay rate in effect as of August 14 can receive their severance pay if severance pay procedures are a part of the understood corporate procedure and the firm is willing to certify that this was the procedure they had in effect as of August 14.

(11) If a salary increase was granted and the employee actually performed under the new rate prior to August 15, he can be paid at the higher rate if the pay day is after August 15 provided there are adequate records to demonstrate that the increase was put into effect prior to the freeze date.

(12) The President's program does not call for reducing compensation levels below those in effect on August 15. Consequently, such matters are left entirely to negotiation between labor and management.

(13) Unions and management cannot negotiate for pay increases to be effective after the freeze which will be retroactive to cover the period of the freeze.

(14) Commission rates or piece rates cannot be increased over those existing in the base period.

(15) Employees who are U.S. citizens employed by U.S. firms abroad are subject to the freeze.

(16) Military pay is subject to the terms and conditions of the President's freeze on wage increases. Military personnel who qualify for proficiency pay increases and similar learning pay programs of the military will be treated in the same manner as civilians are treated, i.e., increases will be authorized if the person has increased his proficiency or has been promoted to a new position.

Exemptions. Certain exemptions are granted to the military: Pay for personnel in the combat zone, missing in action personnel, prisoners of war, and hospitalized war casualties are exempted from the freeze and their increases may go into effect as scheduled.

In addition, benefits for military personnel placed in a retired status during the freeze period will be computed and paid as if the freeze were not in effect on the date of their establishing that status.

(17) If a firm has a range of salaries for the same job, the employee may be paid any salary within the range which the qualifications of the applicant justify as long as the average wage paid by the firm in this job classification does not increase.

(18) Wage increases may be granted during the freeze for workers whose wages are closely tied to increases for other workers that were negotiated before the freeze if the following conditions prevail:

(a) The agreement to which the increases are linked was reached before August 15;

(b) Prior to August 15, work was performed (by the workers whose wages are closely tied to the increases reached before the freeze), that would be eligible for payment at the new rate;

(c) The increased wage rate for the workers whose wages are closely tied to negotiated increases was scheduled to go into effect on the same day as the negotiated wage increases as a matter of established practice;

(d) The workers are employees of the same firm; and

(e) The company is able to demonstrate that this procedure is an established practice.

(19) Employees who are U.S. citizens working abroad for companies which are incorporated in the United States are subject to the freeze.

(20) An employer cannot reduce the official work day from 8 hours to 7 hours and pay overtime beginning after 7 hours. Wages and salaries include all forms of compensation, including overtime. Indirect means to increase compensation above ceiling rates are not permitted.

(21) Professional athletes who had not entered into new contracts prior to the freeze, cannot negotiate contracts during the 90-day period which call for increases in salary to cover their services during the freeze.

(22) The freeze cannot be used to continue wage prices which are illegal under statutes prohibiting discrimination on the basis of age, sex, or race, e.g., lower pay for equal work by women.

(23) Veterans returning to their premilitary service employment are normally entitled to receive all the increases they would have received if they had not served in the military. They can receive these increases when rehired during the freeze if the wage is not above the ceiling wage established in the base period.

(24) If a salary increase was granted prior to August 15 and the employee actually performed under the new rate on or before August 15, he can be paid at the higher rate if the pay day is after August 15 provided there are adequate records to demonstrate that the increase was put into effect prior to the freeze date.

(25) If an employee is transferred from a job paid on a flat hourly rate to a job paid by an incentive system it is not a violation of the wage-price freeze as long as the new job is compensated under a previously established incentive system. However, no new incentive system can be established during the freeze.

(26) An employer may change the payment system for a job from a flat rate system to a previously established incentive system provided the employee on that job receives no more than the ceiling rate for the job established during the base period.

(27) A company has an established policy of increasing a supervisor's compensation when he must be temporarily transferred to a different city for an extended period. The company can continue to pay this extra compensation when these transfers are necessary but only if the company can document the fact that this is an established company policy. Furthermore, it can only pay at the rates previously established for such extra compensation.

(28) An apartment manager receives free or low-rental costs for an apartment as a part of wages. An upgrade in the quality of the manager's apartment would constitute an increase in compensation and as such is not allowed under the terms of the freeze. However, such increases can be offset by proportionate adjustments in other areas of compensation.

(29) If company (1) purchased company (2) after August 15, 1971, company (2) employees cannot be paid higher rates of compensation which may have prevailed in company (1) during the base period. A change in corporate ownership does not justify a change in the wage ceilings applicable to the jobs that were in company (2).

(30) If a labor agreement had been reached prior to August 15, but had not been placed in effect, employees cannot be awarded any additional wages involved. The new rate can be paid, however, if labor and management had reached an agreement and work was performed or wages accrued prior to August 15 at the new wage rate.

(31) A company had in existence prior to the freeze a policy of increasing the pay of employees transferred to higher cost-of-living areas, for example—New York City. Such plans are not prohibited during the freeze. However, the employer must be able to document the existence of such a plan prior to the freeze, and must not increase the differential during the freeze.

(32) If a person's wage increase became effective on August 15, he only gets the higher pay for that date. To continue to get the higher pay after August 15, the wage increase would have had to be "in effect" prior to August 15. "In effect" means that it was agreed to before August 15, and that the person either performed or accrued pay under the increased rate prior to August 15.

(33) An employer may not give employees no-interest, no-maturity loans or other grants in lieu of pay increases. Loans or grants may only be made according to an established system for making such loans or grants. A new system may not be developed which in effect provides a pay increase ruled out by the freeze.

(34) If an agreement has been reached between a company and an employee specifying that part of the employee's salary will be held by the company until the end of the company's fiscal year as a binder, the employee may receive this held pay if the end of the fiscal year falls during the freeze. The binder does not constitute increased compensation, but is a return of previously earned salary.

(35) Pay increases retroactive to August 9 were proposed by management and formally accepted by the union prior to August 15, but management did not formally sign the contract until August 16. The pay increase can take effect as long as the parties involved can document that the agreement had been reached and work performed or wages accrued prior to August 15.

(36) Certain California counties are chartered in such a way that State law requires a 30-day passage of time before county boards of supervisors' resolutions and ordinances become operative. At least one county board of supervisors, San Joaquin, passed an ordinance prior to August 15, 1971, placing wage and salary rates in effect for the county's employees prior to August 15. However, the 30-day time period requirement carried past the August 15 date. The raises can be paid since the ordinance was passed prior to the freeze, to be retroactive to the date it was passed.

(37) Piece rates in the California raisin harvest have in past years been determined by the abundance and condition of the crop, with higher rates when sparse crop conditions prevailed because of the greater effort required to harvest. This factor can be considered covered by the wage freeze. The difficulty of harvesting varies with the abundance of the crop. The piece-rate set should be consistent with the historical pattern for a similar crop.

503. *Promotions and increased training.* (1) Policy on promotions provides that:

(a) Bona fide promotions that constitute an advancement to an established job with greater responsibility are allowed.

(b) Increases in certified rates for apprentices and learners under programs established prior to August 15 are allowed.

(c) Merit and longevity increases are not allowed.

(2) Where the employer is willing to certify that an agreement was in existence that provided for increases in pay dependent on employees completing educational requirements for specific job levels, the pay increase can be granted during the freeze. For example, a teacher who has been awarded a master's degree can receive the increment which is normally given. If the effective date of the teacher's contract is after August 15, the increment must be the amount that was granted last year. Since the day of August 15 is not subject to the freeze the portion of the payment for that day may be made.

(3) Newly hired reporters progress from year to year at a higher rate of pay until they reach "journeyman" stage. If the conditions specified below apply to any occupation, including reporters, the employee is eligible for scheduled wage increases under the program. If these conditions do not exist, these increases are considered longevity increases which may not be granted. A bona fide apprentice or learners program must be demonstrated by the existence of a formal program of on-the-job classroom training whereby the apprentice or learner assumes greater responsibilities or additional functions as he progresses through each step of the program. These must be established programs which were in existence prior to the freeze.

(4) If a worker is hired on a probationary basis and the established practice of the company is to increase his wage rate at the end of the probationary period, he may receive this wage increase during the freeze. The probationary period is similar to an apprenticeship or learners program and the wage increase may be granted if the probationary period for the job does not exceed 3 months.

504. *Fringe benefits.* (1) Fringe benefits are considered a form of compensation and cannot be raised during the freeze period.

(2) A company cannot institute a previously planned profit sharing program during the freeze. Such a program is considered to be a fringe benefit and cannot be increased from the base period level during the freeze.

(3) New stock options cannot be issued during the freeze.

(4) Previously planned increases in pension benefits for those retired before the freeze or those about to retire are allowed, but unplanned increases are not allowed. For example, a scheduled increase in pensions which is planned for October 1 may go into effect. A person who retires on October 15 may also receive this increase.

(5) An increase in an employer's contribution can be made to a pension fund to finance a benefit increase which was granted and became effective before August 15.

(6) Business and government can continue to make cash awards during the freeze to employees for outstanding performance under the same formula and controls as existed during the base period. Records will have to be maintained on the incidence and amount of these awards which demonstrate that these programs are not used to give employees wage increases in violation of the freeze.

(7) An employer cannot increase the number of days allowed off for purposes such as funerals, etc., since this constitutes an increase in fringe benefits.

600. *Rent guidelines.*

601. *General.* (1) The ceiling rent for commercial property, housing accommodations, hotels, motels, rooming houses, farms and other establishments, together with all privileges, services, furnishings, furniture, equipment, facilities, improvements, and any other privileges connected with the use thereof, shall be no greater than the highest rent charged for the same property during the base period. If the property was not rented during the base period, the ceiling price shall be no higher than the highest rent charged during the nearest preceding 30-day period prior to the base period. If the property was never previously rented, the ceiling rent shall be no higher than the ceiling rent charged for similar or comparable property in the locality or area.

(2) "Rent" includes charges for any building, structure, or part thereof, or land appurtenant thereto, or services, furnishings, furniture, equipment, facilities, and improvements connected with the use of occupancy of such property.

602. *Specific.* Based on the general guidance provided above, the following specific guidance is provided:

(1) Apartment house and other rent fees are included in the 90-day freeze.

(2) The standard to be used in determining the rent ceiling for new or unrented units will be that generally prevailing for comparable units in the immediate area.

(3) If a rent agreement is signed August 1 but the effective date of the agreement is after August 15, any increase in rent is not permitted.

(4) If a tenant's lease expires during the freeze, his rent cannot be raised to the level which is being paid by new tenants in similar units.

(5) State-aided and Federal low-rent housing programs mandate that rents rise according to the income of the individual. Therefore, under these programs, increases in rentals tied to family incomes at rates established prior to August 15, 1971, will be permitted as long as rates per given amount of family income are hot raised.

(6) A landlord would be in violation of the freeze if he attempted to evict a tenant for refusing to pay rent in excess of the ceiling rent applicable to his rental apartment or house. Section 10(a) of OEP Economic Stabilization Regulation No. 1 prohibits any practice which constitutes a means to obtain a higher rent than that permitted under the freeze. Therefore, such an eviction would constitute a violation of the freeze.

(7) The rental rate for property which was not used for rental purposes prior to the freeze is based on comparable units in the immediate area during the base period.

(8) Prior to August 15, 1971, an owner of a multi-family project subject to control of rents by a Federal or local regulatory agency applied for an increase in rents. Prior to August 15, 1971, the regulatory agency authorized the increase, which was to become effective after August 15, 1971. The owner cannot charge the new rents as the rents in existence during the base period are the maximum rents that may be charged.

(9) A city has approved a new occupancy tax on all rental dwellings, to become effective after August 15, 1971. A property owner cannot increase rents to compensate for this increase in expenses.

(10) A property owner (such as a public housing authority) has established a rental schedule based on charging 20 percent of the tenants' income for rent. Prior to August 15, 1971, the owner announced to all tenants that starting after August 15, 1971, the percentage of income paid for rent would be increased to 25 percent. The owner cannot collect the increased rents since he is restricted to that percentage of income charged for rents which prevailed during the base period.

(11) A property owner has a rent schedule in existence prior to August 15, 1971, which establishes rents for each individual dwelling. On that earlier date, he announced that he is changing to a system of establishing rents as a percentage of tenants' income after August 15, 1971. He can charge such percentage-of-income rents after August 15, 1971, but the rent may be no higher than the dollar amount in the base period for any individual unit.

(12) The property owner of a vacation residence rents the residence for the season November 1 to May 1 each year at a season rental of $1,000. He wishes to rent the property after August 15, 1971, for the term of 1 year. He may charge the rent generally prevailing for comparable units in the immediate area for year round use during the base period.

(13) If a rental unit becomes vacant during the freeze period, a higher rate cannot be charged when it is rented again.

(14) A landlord cannot require a tenant to pay utilities after August 15, 1971, if prior to that date utilities had been paid by the landlord.

(15) A landlord cannot require a person to rent or purchase furniture, or to rent a garage before agreeing to rent his property, where it was not his established practice prior to August 15, 1971. Any practice which constitutes a means to obtain higher rent than is permitted under the freeze is prohibited.

(16) The policies which have been issued on property prices, rents, and improvements apply to commercial property.

(17) A 10-year lease was negotiated and the tenant assumed possession on September 1, 1966. The terms of the lease called for monthly payments at $300 for the first 5 years and $350 for the second 5 years. This contract specifies a total amount to be paid within a specified time. Although the payments are due to increase September 1, the increase cannot be paid. The stated total rental is based on the monthly rate charged. The monthly rate is frozen at $300 a month.

(18) An increase in property taxes cannot be passed on to the tenant even if the lease specifically provides for the tenant to pay increased taxes.

(19) If a tenants' rent is increased on August 15, the increase is not effective during the freeze or is effective only for the 1 day of August 15. On August 16, the landlord must return to the rent charged during the base period.

(20) All provisions relating to prices, rents, and improvements apply equally to residential and commercial property.

(21) An increase in rent may be charged for property which undergoes a substantial capital improvement if the following criteria are met:

(a) The capital improvement must equal at least 3 months' rent (with a minimum of $250) on items that would be classified as capital improvements by the Internal Revenue Service.

(b) If condition (a) is met the unit may be treated as a new rental unit, such as an apartment or commercial establishment, with rent to be no higher than the rent charged on comparable apartments in the market area, but in no event shall the increase per month exceed 1½ percent of the amount spent for capital improvement.

(22) Some leases for use of farms provide for cash rent; some provide for a share of the crop to be paid in lieu of rent. A shift from one system to the other can be made effective during the freeze period. If the shift is from cash rent to crop sharing, the formula used to compute shares must be consistent with established formulas in the area. If the shift is from crop sharing to cash rent, then the amount of the rent should be consistent with comparable rents in the area during the period.

700. *Recordkeeping.*

701. *General.* (1) All records in existence reflecting prices which were charged for the commodities or services during the base period, together with all other pertinent records of any kind or description shall be preserved, and there shall be maintained available for public inspection a record of the highest prices charged during the base period. All records hereafter required to be kept pursuant to regulations or directives issued under this program shall be maintained and preserved.

(2) All persons subject to regulations and directives under this program shall maintain and preserve all records which are necessary to show the manner by which the ceiling rentals were determined and the record of payments made by persons in occupancy of real property or any part thereof and shall maintain available for public inspection a record of the highest rents charged during the base period.

(3) All employers shall maintain and preserve all records which reflect the rates of wages, salaries, or other forms of compensation paid during the base period.

(4) All persons covered by OEP Economic Stabilization Regulation No. 1, upon demand of the Council, the OEP, or their authorized representatives, shall make available for inspection and copying such books and records as may be deemed necessary by the Council or the OEP to carryout the purpose and provisions of Executive Order No. 11615 and the rules and regulations promulgated thereunder.

702. *Specific.* Based on the general guidance provided above and determinations of the Cost of Living Council, the following specific guidance is provided:

(1) The Executive order is interpreted to require that records shall be maintained for other than the specified base period if another base period is used to establish prices.

800. *Applicability.* The provisions of OEP Economic Stabilization Regulation No. 1 are applicable only to the U.S. Customs Zone: The United States and the Commonwealth of Puerto Rico. The regulation does not apply to territories and possessions of the United States, nor to Okinawa, the Trust Territories, or the Panama Canal Zone.

900. *Violations and penalties.* (1) Any practice which constitutes a means to obtain a higher price, wage, salary, or rent than is permitted by OEP Economic Stabilization Regulation No. 1 is a violation of the regulation. Such practices include, but are not limited to, devices making use of inducements, commission, kickbacks, retroactive increases, transportation arrangements, premiums, discounts, special privileges, tie-in agreements, trade understandings, falsification of records, substitution of inferior commodities, or failure to provide the same services and equipment previously sold.

(2) Whenever it appears that any person is engaged, or is about to engage, in any acts or practices constituting a violation of any regulation or order under this program, the U.S. Government may, in its discretion, bring in action in the proper district court of the United States or other place subject to the jurisdiction of the United States to enjoin such acts or practices. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted. In addition, upon proper application, such court may issue mandatory injunctions commanding any person to comply with any regulation or order under the program.

(3) Any person who willfully violates the provisions of Executive Order 11615 or regulations and directives under this program shall be subject to a fine of not more than $5,000 for each violation.

1000. *Information.* All persons seeking information with respect to the provisions of this circular or the administration of this program should contact the local office of the Internal Revenue Service, or the Regional Service and Compliance Center of the Office of Emergency Preparedness in their geographical area, or such other local Federal offices as may be hereafter designated. Persons requesting exemptions, or adjustments should direct their request, in writing, to the Director of the appropriate Regional Service and Compliance Center. OEP Regional Service and Compliance Centers are located as follows:

Regions	Address and telephone	States served
Boston (1)	John F. Kennedy Federal Bldg., Room 2003L, Boston, Mass., 02203, Telephone—(900) 223-2490 or 4053, Area Code 617.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
New York City (2)	26 Federal Plaza, Room 1355, New York, N.Y. 10007, Telephone—(900) 466-8450, Area Code 212.	New Jersey, New York, Puerto Rico, Virgin Islands.
Philadelphia (3)	Industrial Valley Bank Bldg., Suite 1600, 1700 Market St., Philadelphia, PA 19103, Telephone—(900) 524-2435, Area Code 215.	Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.
Atlanta (4)	Continental Insurance Bldg., Suites 514, 518, 520, 161 Peachtree St. NE., Atlanta, GA 30303, Telephone—(900) 526-4401 or 4545, Area Code 404.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina South Carolina, Tennessee.

Regions	Address and telephone	States served
Chicago (5)	33 East Congress Pkwy., Room 204A, Chicago, IL 60604, Telephone—(900) 591-5111, Area Code 312.	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.
Dallas (6)	Federal Bldg, 1100 Commerce St., Room 4C-38, Dallas, TX 75202, Telephone—(900) 749-1111, Area Code 124.	Arkansas, Louisiana, Oklahoma, New Mexico, Texas.
Kansas City (7)	New Federal Office Bldg., 601 East 12th St., Room 142, Kansas City, MO 64106, Telephone—(900) 374-5831, Area Code 316.	Iowa, Kansas, Missouri, Nebraska.
Denver (8)	Federal Regional Office Bldg., Room 710, Denver, Colo. 80225, Telephone—(900) 837-4981, Area Code 303. Rent—837-3981. Price—837-4856. Wage—837-3876. Administration—837-3827.	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
San Francisco (9)	450 Golden Gate Ave., Room 2029, San Francisco, CA 94102, Telephone—(900) 556-7746, Area Code 415. Wage—556-2452. Price—556-6260. Rent—556-7027.	Arizona, California, Hawaii, American Samoa, Guam.
Seattle (10)	Federal Office Bldg., Room 1095, 909 First Ave., Seattle, WA 93104, Telephone—(900) 442-4552, Area Code 206.	Alaska, Idaho, Washington.

1001. *Effective date.* This circular, unless modified, superseded or revoked, is effective on the date of publication for a period terminating at midnight of November 13, 1971.

Dated: September 20, 1971.

G. A. LINCOLN,
Director, Office of Emergency Preparedness.

ANNEX NO. 1 TO OEP ECONOMIC STABILIZATION CIRCULAR NO. 101

Opening remarks by Arnold R. Weber, Executive Director, Cost of Living Council at news conference August 28, 1971:

In the last 12 days, the Cost of Living Council has considered a large number of issues concerning the wage-price freeze. Decisions on these issues have been made in the spirit of the President's basic premise: That the inflation threatening the Nation's economic stability must be halted. As these decisions have been made, we have distributed them to the American public as quickly as possible, because we know that many critical decisions hang upon those actions.

Again today we are issuing a press release, Q & A No. 9, which addresses issues decided by the Council. One of those is the issue of seasonality, which I would like to discuss with you now.

Seasonality. As you know, the prices and wages associated with a large number of products and industries follow distinct seasonal patterns. This is the issue of seasonality and it is not only an important issue, but one that requires immediate action.

The key question is: Should prices and wages that follow a distinct seasonal pattern qualify for exemption under the wage-price freeze?

The answer is not simple. To qualify, prices and wages must show a distinct fluctuation at a specific, identifiable point in time. There must also be a documented and established practice that has taken place in each of the past 3 years. Examples are Puerto Rican hotel rates at the beginning or end of the fall/winter season, auto dealers' selling prices at new-model-introduction time; and wage rates for seasonal agricultural workers.

The important thing here is that each seasonal price change must be tied to a specific date, e.g., the introduction of new car models, the end of a specific month as in the case of traditional August furniture sales, the onset of a specific holiday such as Labor Day, or the start of a particular harvest season. The price change may not take place earlier this year than in 1970, unless the date is tied to a specific event such as previously planned introduction of new models or new television programs.

If the price or wage change qualifies as seasonal by the criteria just stated, the seller is permitted a choice of base periods to use in determining his ceiling price or wage. He may use the statutory base period (30 days prior to August 14 or the most recent 30 days when sales were made) or he may use the same seasonal period for 1970 (from the date of the specific event through November 13).

His selling price is based, therefore, on the prices he realized on a substantial number of transactions during whichever of the alternative base periods he chooses to use.

The seller or employer must have adequate records available to demonstrate the existence of the traditional practice in 3 preceding years and the basis for calculating his selling price for the 1970 period. New establishments or activities may determine their qualification from that generally prevailing for similar establishments or activities in the immediate area.

Industries that regularly introduce new models require special procedures; separate ceilings must be calculated for the 1971 models and the 1972 models (even if there is no difference in the posted prices of the two models). Taking automobiles, washing machines, or snowmobiles, for example, the ceiling for the 1971 models would continue to be based on the July 16-August 14, 1971, base period, while the ceiling for the 1972 models would, if the dealer chooses, be based on prices charged for the 1971 models when they were introduced during the comparable 1970 period.

ANNEX NO. 2 TO OEP ECONOMIC STABILIZATION CIRCULAR NO. 101

Cost of Living Council today issued the following summary to decisions on wage and salary contracts in the field of education.

If a teacher (or other educational personnel) in a school system has either performed work prior to August 15 under a new contract calling for a wage increase or if the teacher was eligible to have earned a salary at the new rate prior to August 15 the new rate is permissible. To be eligible means that the teacher in fact accrued earnings (at the new rate) which covered a period prior to August 15, although he or she may not have actually performed any work during that period.

In many cases a contract may read that its effective date is July 15 or some other day prior to August 15. The effective date of the pay increase for purposes of the wage-price freeze for individual contracts is determined by the two criteria—when the work is performed or when the individual is eligible to receive the new increase. Eligibility is proven by the period covered by and indicated on the paycheck (which may be issued after August 15). As an example, if a college has five cafeterias, three of which close down for the summer, and if the cafeteria workers are employed under a wage scale and under individual contracts keyed to those scales, the increase applies only to the summer employee who performed work prior to August 15. Those returning in September who have not performed work under the new contract do not receive the increase. If, however, there was one uniform system contract for all, then those cafeteria workers returning in the fall also receive the increase.

The question has arisen as to whether this applies to cafeteria workers and others. Where there is a system contract that meets the above criteria it applies. Otherwise the rule that applies is that before the increase is granted work must be performed under the new individual contract or the individual must have been eligible to accrue pay during a period prior to August 15.

A distinction is drawn between a system's contract negotiated for all teachers, or for other personnel, and a pay schedule on which individual contracts are based. Under the former, all teachers are eligible for increases if one teacher has performed under the contract prior to August 15 or was eligible to earn under it; under the uniform pay schedule each individual is dealt with individually: If he or she has performed work under a contract prior to August 15 or has been eligible to earn the new increase prior to that date the increase is allowed.

Another question involves multiyear contracts calling for annual increases on a date after the August 15 freeze. The increase may not go into effect.

What about longevity increases due after August 15? The longevity increase is frozen even though the pay raise is approved under conditions described here.

Does a teacher who has completed courses and received additional degrees making her eligible for the higher pay rate get a new salary level? Yes. This is a promotion, not a pay raise.

Can a newly hired teacher whose contract is signed after the freeze date collect the higher pay in a school system where all the wages are frozen under these rulings? No.

The question has been asked as to how this applies to college teachers. Where there is a system contract uniformly applying to college teachers in a college or university system, the same rule applies—if work was performed by any one faculty member under the new contract prior to August 15, or if any faculty member accrued the new salary prior to that date even if no work was performed, all faculty members affected by the contract are eligible for the increase. Where there are individual contracts, the two criteria of work performed or eligibility for accruing salary apply.

It is apparent that variations in contracts will continue to raise questions. School related organizations needing further information for their particular situations should wire Teacher Information at one of the 10 OEP regional centers, and state their specific questions or problems. A response will be made as soon as possible. Only requests from school related organizations will be honored.

[FR Doc.71-14035 Filed 9-20-71;8:43 pm]

Proposed Rule Making

DEPARTMENT OF JUSTICE

Bureau of Narcotics and Dangerous Drugs

[21 CFR Part 308]

SCHEDULES OF CONTROLLED SUBSTANCES

Proposed Removal of Exceptions from Amphetamine Combination Products

An order was published in the FEDERAL REGISTER of July 7, 1971 (36 F.R. 12734), transferring from Schedule III to Schedule II all materials, compounds, mixtures, and preparations containing any quantity of amphetamine (or its salts, optical isomers, or salts of its optical isomers) or methamphetamine (or its salts, isomers, or salts of isomers), with two types of exceptions: First, from specific products (Eskatrol, Fetamin, Biphetamine, and Biphetamine-T), and second, "those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances which are currently listed as excepted compounds under 21 CFR 308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that contains a lesser quantity of controlled substances." The specific products listed were later transferred to Schedule II by orders published in the FEDERAL REGISTER of July 23, 1971 (36 F.R. 13686), and August 18, 1971 (36 F.R. 15744).

The "excepted compounds" listed in 21 CFR 308.32, and the other drugs of similar or lesser quantitative composition, were excepted from application of certain parts of the Controlled Substances Act and the Controlled Substances Import and Export Act by order of the Director published in the FEDERAL REGISTER of April 24, 1971 (36 F.R. 7805, § 308.32(a)). This was done for administrative purposes only until criteria could be adopted by which the Bureau could determine whether to except any compound under section 202(d) of the Act. The order expressly stated that "The excepting of these drugs by the Director should not be construed as an adoption or rejection of the criteria by which these drugs were originally excepted."

The Director has determined that no compound, mixture, or preparation containing any quantity of amphetamine (or its salts, optical isomers, or salts of its optical isomers) or methamphetamine (or its salts, isomers or salts of its isomers) and one or more active medicinal ingredients not having a stimulant effect on the central nervous system, contains such ingredients in such combinations, quantity, proportion, or concentration as to vitiate the potential for abuse of the amphetamine or methamphetamine substances.

Therefore, under the authority vested in the Attorney General by section 202 (d) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812(d)), and redelegated to the Director, Bureau of Narcotics and Dangerous Drugs by § 0.100 of Title 28 of the Code of Federal Regulations, the Director hereby proposes that:

1. Section 308.13(b)(3) of Title 21 of the Code of Federal Regulations be amended to read:

§ 308.13 Schedule III.

* * * * *

(b) * * *

(3) These compounds, mixtures, or preparations in dosage unit form containing any stimulant substances which compounds, mixtures or preparations were listed on August 25, 1971, as excepted compounds under 21 CFR 308.32, and any other drug of the quantitative composition shown in that list for those drugs on which is the same except that it contains a lesser quantity of controlled substances.

2. Section 308.32(b) of Title 21 of the Code of Federal Regulations be amended by deleting the following drugs:

§ 308.32 Excepted compounds.

* * * * *

Trade name or other designation	Composition	Manufacturer or supplier
* * *	* * *	* * *
Edrisal	Tablet: Dextroamphetamine sulfate 2.5 mg.; asprin, 0.16 gm.; phenacetin 0.16 gm.	Smith Kline & French Laboratories.
* * *	* * *	* * *
Genegesic Capsules	Capsule: Methamphetamine hydrochloride, 1.2 mg.; chlorpheniramine maleate, 3.8 mg.; phenacetin, 120.0 mg.; salicylamide, 180.0 mg.; caffeine, 30.0 mg.; ascorbic acid, 50.0 mg.	General Pharmaceutical Products Inc.
* * *	* * *	* * *
Hovizyme	Tablet: Methamphetamine hydrochloride, 0.5 mg.; conjugated estrogen-equine, 0.125 mg.; methyl testosterone, 1.25 mg.; amylase, 10.0 mg.; protease, 5.0 mg.; cellulase, 2.0 mg.; nicotinyl alcohol tartrate, 7.5 mg.; dehydrocholic acid, 50.0 mg.; ascorbic acid, 50.0 mg.; ferrous fumarate, 6.0 mg.	Ayerst Laboratories.
* * *	* * *	* * *
Mediatric	Tablet of capsule: Methamphetamine hydrochloride, 1 mg.; conjugated estrogens-equine, 0.25 mg.; methyl testosterone, 2.5 mg.	Ayerst Laboratories.
Mediatric Liquid	Solution (15 cc.): Methamphetamine hydrochloride, 1 mg.; conjugated estrogens-equine, 0.25 mg.; methyl testosterone, 2.5 mg.	Do.
* * *	* * *	* * *
Special Formula 711	Tablet: d-Amphetamine sulfate, 2.5 mg.; mephenesin, 500 mg.; salicylamine, 300 mg.	Detroit First Aid Co.
* * *	* * *	* * *
Thora-Dex No. 1	Tablet: Dextroamphetamine sulfate, 2 mg., chlorpromazine hydrochloride, 10 mg.	Smith Kline & French Laboratories.
Thora-Dex No. 2	Tablet: Dextroamphetamine sulfate, 5 mg., chlorpromazine hydrochloride, 25 mg.	Do.
* * *	* * *	* * *

In his order published July 7, 1971 in the FEDERAL REGISTER (36 F.R. 12736), the Director recognized that certain combination drugs containing amphetamine or methamphetamine exempted under the Drug Abuse Control Amendments of 1965 were not expressly excepted under § 308.32. The Director stated that, as a matter of policy, those substances would be deemed excepted under § 308.32 pending further action of the Bureau. This proposed rule would apply to those substances as well.

The effect of this proposed order would be to subject the so-called "excepted compounds" containing amphetamine and methamphetamine to all of the requirements of sections 305, 307, and 309 of the Controlled Substances Act (relating to labeling, recordkeeping, and prescription requirements for controlled substances), sections 1002, 1003, and 1004 of the Controlled Substances Import and Export Act (relating to importation, exportation, transshipment, and in-transit shipment of controlled substances), and § 301.74(d) of Title 21 of the Code of Federal Regulations (relating to sampling of controlled substances). This proposal is not intended to transfer, and will not have the effect of transferring any "excepted compound" containing amphetamine from Schedule III to Schedule II.

All interested persons are invited to submit their comments or objections in writing regarding this proposal. These comments or objections should state with

particularity the issues concerning which the person desires to be heard. Comments and objections should be submitted in quintuplicate to the Office of Chief Counsel, Bureau of Narcotics and Dangerous Drugs, Department of Justice, Room 611, 1405 Eye Street NW., Washington, D.C. 20537, and must be received no later than 30 days after publication of this proposal in the FEDERAL REGISTER.

In the event any person desires to comment on or object to this proposal as it applies to a particular compound, mixture, or preparation, he should submit as part of his comments or objections the following information:

(1) The complete quantitative composition of the dosage form.

(2) Description of the unit dosage form together with complete labeling.

(3) A summary of the pharmacology of the product including animal investigations and clinical evaluations and studies, with emphasis on the psychic and/or physiological dependence liability (this must be done for each of the active ingredients separately and for the combination product).

(4) Details of synergisms and antagonisms among ingredients.

(5) Deterrent effects of the noncontrolled ingredients.

(6) Complete copies of all literature in support of claims.

(7) Reported instances of abuse.

(8) Reported and anticipated adverse effects.

(9) Number of dosage units produced for the past 2 years.

After consideration of the comments on or objections to this proposal, the Director shall issue and publish in the FEDERAL REGISTER his final order on this matter. In the event that an interested party submits objections to this proposal which present grounds for this rule not to be finalized and requests a hearing in accordance with 21 CFR 316.74, the Director may, in his discretion, order a hearing on such issues as the Director deems it necessary and desirable to have a hearing. If a hearing is so ordered, the party will be notified by registered mail of the time and place that the hearing will be held. If objections submitted do not present grounds which the Director deems sufficient to justify a hearing, the party will be so advised by registered mail.

Dated: September 13, 1971.

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

[FR Doc.71-13728 Filed 9-20-71;8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

INCOME TAX

Advertising and Other Activities

Correction

In F.R. Doc. 71-13253, appearing at page 18316 in the issue of Saturday, September 11, 1971, the following changes should be made:

1. In § 1.512(a)-1(b) the following language should be inserted between the existing 10th and 11th lines: "Thus, for example, salaries of personnel employed full-time in carrying on unrelated business activities are directly".

2. In § 1.512(a)-1(h) the word "he" in the penultimate line should read "it".

DEPARTMENT OF THE INTERIOR

Oil Import Administration

[32A CFR Ch. X]

ALLOCATIONS OF CRUDE OIL IN DISTRICTS I–IV AND REFINERY INPUTS IN DISTRICTS I–IV AND DISTRICT V

Notice of Proposed Rule Making

Paragraphs (a) and (b) of section 10 of Oil Import Regulation 1 (Revision 5), as amended, provide for the making of allocations of imports of crude oil and unfinished oil to refiners in Districts I–IV. The present schedule for computing allocations contained in paragraph (b) of section 10 consists of a four-step sliding scale. Review of the present system indicates that a revision of the system, working toward a more fair and equitable method in the distribution of allocations, may be in order. Accordingly, it has been determined that public comments on a proposed new allocation procedure should be solicited. No action in respect to the allocation system in District V is being taken at this time.

It is proposed that the current four-step scale as set forth in paragraph (b) of section 10 of the Oil Import Regulation 1, as revised and amended, be reduced to a two-step sliding scale (0–30,000 b/d and 30,000 b/d plus). It is contemplated that the percentage allocated under the first step in the proposed schedule, paragraph (b) of section 10, for the upcoming allocation period and for each succeeding allocation period thereafter, would remain constant at 20 percent. Under this concept, the second step under the schedule would, by necessity, be adjusted annually, consistent with the quantity of imports of crude oil and unfinished oils available for distribution after allocations have been computed and satisfied under the first step of the scale.

A determination has not yet been made as to the quantity of imports of crude oil and unfinished oils that will be available for allocation under section 10 for the allocation year beginning January 1, 1972. Because applications for allocations containing actual qualified refinery inputs for the year ending September 30, 1971, have not been received, actual refinery inputs for that period are unknown. However, for the purpose of illustration, there follows an example of the allocation method proposed for the allocation period beginning January 1, 1972 and ending December 31, 1972; it is based upon the following assumptions:

(1) 700,000 b/d of crude oil and unfinished oils available for allocation under paragraph (a) and (b) of section 10.

(2) 9,900,000 b/d=Total qualified "refinery inputs" for the year ending September 30, 1971.

(3) 1,600,000 b/d=Aggregate of "refinery inputs" covered by the first step (0 to 30,000 b/d).

(4) 8,300,000 b/d=Balance of aggregate quantity of "refinery inputs" (i.e., above 30,000 b/d).

The following illustrates the computation which would determine the percent factor for the second step of the scale:

(a) 1,600,000 b/d×20 percent=320,000 b/d of imports available under the first step.

(b) 700,000 b/d minus 320,000 b/d=380,000 b/d of imports available under the second step.

(c) 380,000÷8,300,000=0.0458.

(d) 0.0458×100=4.58 percent factor of the second step. Hence, the allocation of an eligible application having a total of 200,000 b/d of "refinery inputs" would be determined as follows:

30,000 b/d×20%	= 6,000 b/d
170,000 b/d×4.58%	= 7,786 b/d
200,000 b/d allocation	=13,786 b/d

In addition, it is proposed to amend section 22(k)(1)(ii) of the oil import regulations to define more specifically the extent and nature of the processing required of unfinished oils imported pursuant to an allocation before such imports qualify as "refinery inputs" as a basis for making allocations.

Final action upon these proposals will be subject to the concurrence of the Director, Office of Emergency Preparedness. Comments should be submitted to the Administrator, Oil Import Administration, Department of the Interior, Washington, D.C. 20240, by October 20, 1971. Persons submitting comments are asked to supply fifteen (15) copies.

RALPH W. SNYDER, JR.,
Acting Administrator, Oil Import Administration.

SEPTEMBER 17, 1971.

1. Paragraphs (a) and (b) of section 10 would be amended to read as follows:

Sec. 10 Allocations; refiners; Districts I–IV.

(a) For the allocation period January 1, 1972 through December 31, 1972, the Administrator shall allocate, as provided in paragraph (b) of this section, approximately 700,000 b/d of imports of crude oil into Districts I–IV among eligible persons having refinery capacity in these districts.

(b) Each eligible applicant shall receive an allocation of imports of crude oil based on refinery inputs for the year ending September 30, 1971, and computed according to the following schedule:

Average b/d		Percent of input		Number of days
0-30,000	×	20.0	×	365
30,000-plus	×	4.58		

* * * * *

2. Subdivision (ii) of subparagraph (1) of paragraph (k) of section 22 would be amended effective October 1, 1971, to read as follows:

Sec. 22 Definitions.

* * * * *

(k) * * *

(1) * * *

(ii) Unfinished oils imported pursuant to an allocation and processed in a crude distillation unit (distillation tower feeding predominantly crude oil), cracker, reformer, coker, or alkylation unit, and * * *

[FR Doc.71-13893 Filed 9-20-71;8:49 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-SO-147]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Auburn, Ala., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Ayiation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Auburn transition area described in § 71.181 (36 F.R. 2140) would be redesignated as:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Auburn-Opelika Airport (lat. 32°27'00" N., long. 85°26'00" W.); within 2 miles each side of the extended centerline of Runways 18/36, extending from the 5-mile-radius area to 6 miles north of the runway end; within 5 miles each side of Tuskegee VORTAC 056° radial, extending from the 5-mile-radius area to the VORTAC; within 5 miles each side of Columbus VORTAC 270° radial, extending from the 5-mile-radius area to 11.5 miles west of the VORTAC; excluding the portion that coincides with the Columbus, Ga., transition area.

The proposed alteration is required to provide controlled airspace protection for IFR aircraft executing the new VOR/DME A Instrument Approach Procedure, utilizing the Tuskegee, Ala. VORTAC, and the revised VOR Runway 28 Instrument Approach Procedure, utilizing the Columbus, Ga., VORTAC, to Auburn-Opelika Airport.

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

Issued in East Point, Ga., on September 10, 1971.

GORDON W. BECKER,
Acting Director, Southern Region.

[FR Doc.71-13839 Filed 9-20-71;8:46 am]

[14 CFR Part 71]

[Airspace Docket No. 71-SO-146]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Haleyville, Ala., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Wipple Street, East Point, GA.

The Haleyville transition area (§ 71.181) would be designated as:

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Haleyville Municipal Airport (lat. 34°16'40" N., long. 87°36'05" W.); within 5 miles each side of Hamilton VORTAC 077° radial, extending from the 5.5-mile-radius area to 11.5 miles east of the VORTAC.

The proposed designation is required to provide controlled airspace for IFR operations at Haleyville Municipal Airport. A prescribed instrument approach procedure to this airport, utilizing the Hamilton VORTAC, is proposed in conjunction with the designation of this transition area.

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

Issued in East Point, Ga., on September 10, 1971.

JAMES G. ROGERS,
Director, Southern Region.

[FR Doc.71-13840 Filed 9-20-71;8:46 am]

National Highway Traffic Safety Administration

[49 CFR Part 575]

[Docket No. 25; Notice 2]

UNIFORM TIRE QUALITY GRADING

Consumer Information

This notice proposes a new Consumer Information regulation, "Uniform Tire Quality Grading." The regulation would require manufacturers of new pneumatic tires for passenger cars to grade each tire with a number that indicates how well the tire performs, based upon specified tests, in each of four areas of performance. These are high speed performance, endurance, road hazard resistance, and uniformity and balance. It is anticipated that these will be supplemented in the future with grading requirements in the areas of treadwear and traction.

An advance notice of proposed rule making concerning a system of uniform tire quality grading was published May 16, 1968 (33 F.R. 7261). Since that time, the National Highway Traffic Safety Administration has engaged in a testing program to obtain information and data on creating this grading system, and this notice is based upon the material and data obtained.

Under the regulation, each tire would be awarded a certain number of "quality points," up to a specified maximum in each area of performance. Each tire would be required to have a label affixed to its tread surface that indicates the grade that the tire is awarded in each area, the maximum grade that is achievable in each area, and an explanation of what each grade in each area represents. This information would also be required to be available for examination by prospective purchasers where the tires are offered for sale. Moreover, the information would be required to be furnished with new vehicles in the same manner that existing consumer information is furnished, and to be available to prospective purchasers of new vehicles. This proposed requirement is intended to inform purchasers of new vehicles about the performance capability of the vehicle's tires, in the same manner that they are informed of its other performance capabilities. The information would have value to consumers

who may wish to change over their original equipment tires at the time of purchase, as well as when they decide to replace them.

Grading in each of the performance areas would be accomplished by measuring the tire's performance when subjected to certain specified tests. Three of the tests, high speed performance, endurance, and strength, are based on the tests of Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires for Passenger Cars." These tests have been adapted to the Consumer Information format, whereby the manufacturer of the tire will state the performance grade that he determines that the tire will meet or exceed. In these tests, the tire's grade will be based on the degree by which it exceeds the Standard No. 109 minimum requirements. The fourth area of performance, uniformity and balance, is based on tests performed using both a tire uniformity machine as specified in SAE Recommended Practice J332, "Testing Machines for Measuring the Uniformity of Passenger Car Tires," January 1969, and a static balancing machine, a schematic diagram of which is provided in the standard.

Accordingly, it is proposed that Part 575 of Chapter V of Title 49, Code of Federal Regulations, be amended by revising §§ 575.4 and 575.6, and by adding a new § 575.109, as set forth below.

Proposed effective date: September 1, 1972.

Interested persons are invited to comment on the proposal. Comments are particularly requested concerning the explanatory phrases incorporated into the label that are intended to indicate to consumers the uses for which the tire is suitable. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted. All comments received before the close of business on December 20, 1971, will be considered, and will be available for examination in the docket both before and after the closing date. To the extent possible, comments filed after the above date will also be considered by the Administration. However, the rule making action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rule making. The Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

This notice of proposed rule making is issued under the authority of sections 103, 112, 119, and 203 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392, 1401, 1407, 1423) and the delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.

Issued on September 14, 1971.

ROBERT L. CARTER,
Acting Associate Administrator,
Motor Vehicle Programs.

1. Sections 575.4 and 575.6 would be revised to read as follows:

§ 575.4 Application.

(a) *General.* Except as provided in paragraphs (b) through (d) of this section, each section set forth in subpart B of this part applies according to its terms to motor vehicles and tires manufactured after the effective date indicated.

(b) *Military vehicles.* This part does not apply to motor vehicles or tires sold directly to the Armed Forces of the United States in conformity with contractual specifications.

(c) *Export.* This part does not apply to a motor vehicle or tire intended solely for export and so labeled or tagged.

(d) *Import.* This part does not apply to motor vehicles or tires imported for purposes other than resale.

§ 575.6 Requirements.

(a) At the time a motor vehicle is delivered to the first purchaser for purposes other than resale, the manufacturer of that vehicle shall provide to that purchaser, in writing and in the English language, the information specified in Subpart B of this part that is applicable to that vehicle and its tires. The document provided with a vehicle may contain more than one table, but the document must clearly and unconditionally indicate which of the tables applies to the vehicle and its tires.

EXAMPLE 1: Manufacturer X furnishes a document containing several tables, which apply to various groups of vehicles that it produces. The document contains the following notation on its front page: "The information that applies to this vehicle is contained in Table 5." The notation satisfies the requirement.

EXAMPLE 2: Manufacturer Y furnishes a document containing several tables as in Example 1, with the following notation on its front page:

"Information applies as follows:
Model P, 6-clyinder engine—Table 1. Model P, 8-cylinder engine—Table 2. Model Q, Table 3."

The notation does not satisfy the requirement, since it is conditioned on the model or the equipment of the vehicle with which the document is furnished, and therefore additional information is required to select the proper table.

(b) Every manufacturer of motor vehicles or tires shall provide for examination by prospective purchasers, at each location where its vehicles or tires are offered for sale by a person with whom the manufacturer has a contractual, proprietary, or other legal relationship, or by a person who has such a relationship with a distributor of the manufacturer concerning the vehicle or tire in question, the information specified in Subpart B of this part that is applicable to each of the vehicles or tires offered for sale at that location. With respect to newly introduced vehicles or tires, the information shall be provided for examination by prospective purchasers not later than the day on which the manufacturer first authorizes those vehicles or tires to be put on general public display and sold to consumers.

(c) Each manufacturer of motor vehicles or tires shall submit to the Administrator 10 copies of the information specified in Subpart B of this part that is applicable to each of the manufacturer's vehicles or tires offered for sale, at least 30 days before that information is first provided for examination by prospective purchasers pursuant to paragraph (b) of this section.

2. A new § 575.109 would be added to read as follows:

§ 575.109 Uniform tire quality grading.

(a) *Scope.* This section requires tire manufacturers to provide grading for passenger car tires in the areas of high speed performance, endurance, road hazard resistance, and uniformity and balance.

(b) *Purpose.* The purpose of this section is to aid the consumer in making an informed choice in the purchase of passenger car tires.

(c) *Application.* This section applies to new pneumatic tires for passenger cars manufactured after 1948.

(d) *Requirements.* Each manufacturer of tires shall furnish the information specified in subparagraphs (1) through (5) of this paragraph, in the form illustrated in Figure 1, in letters not less than three thirty-seconds of an inch high, on a label affixed to the tread surface of each tire in a manner such that it is not easily removable. Each tire shall be capable, under the conditions and procedures specified in this section, of performing at least as well as the grade (number of quality points) placed on the tire for each area of performance indicates.

(1) The numbers 3, 2, or 1, representing the number of quality points for high speed performance that the tire is graded in accordance with subdivisions (i), (ii), or (iii) of this subparagraph, when the tire is tested in accordance with the conditions specified in paragraph (e) of this section and the high-speed performance test procedure specified in paragraph (f) (1) of this section.

(i) The tire may be graded 3 quality points if there is no separation, splitting, or breaking of any portion or component of the tire at the completion of the 120-m.p.h. stage of the test as specified in paragraph (f) (1) (ix) of this section.

(ii) The tire may be graded 2 quality points if there is no separation, splitting, or breaking of any portion or component of the tire at the completion of

the 100-m.p.h. stage of the test as specified in paragraph (f)(1)(ix) of this section.

(iii) The tire may be graded 1 quality point if there is no separation, splitting, or breaking of any portion or component of the tire at the completion of the 85-m.p.h. stage of the test as specified in paragraph (f)(1)(ix) of this section.

(2) The number 2 or 1, representing the number of quality points for tire endurance that the tire is graded in accordance with subdivisions (i) or (ii) of this subparagraph, when the tire is tested in accordance with the conditions specified in paragraph (e) of this section and the endurance test procedure specified in paragraph (f)(2) of this section.

(i) The tire may be graded 2 quality points if there is no separation, splitting, or breaking of any portion or component of the tire after completion of the stage of the test procedure specified in paragraph (f)(2)(v) of this section.

(ii) The tire may be graded 1 quality point if there is no separation, splitting, or breaking of any portion or component of the tire after completion of the stage of the test procedure specified in paragraph (f)(2)(iii) of this section.

(3) The number 3, 2, or 1, representing the number of quality points for road hazard resistance that the tire is graded in accordance with subdivisions (i), (ii), or (iii) of this subparagraph, when the tire is tested in accordance with the conditions specified in paragraph (e) of this section, and the road hazard resistance test procedure specified in paragraph (f)(3) of this section.

(i) The tire may be graded 3 quality points if the value obtained pursuant to the computation specified in paragraph (f)(3)(vi) of this section is at least 135 percent of the value specified for the tire in Figure 2.

(ii) The tire may be graded 2 quality points if the value obtained pursuant to the computation specified in paragraph (f)(3)(vi) of this section is at least 120 percent of the value specified for the tire in Figure 2.

(iii) The tire may be graded 1 quality point if the value obtained pursuant to the computation specified in paragraph (f)(3)(vi) of this section is at least equal to the value specified for the tire in Figure 2.

(4) The number 2 or 1, representing the number of quality points for tire uniformity and balance that the tire is graded in accordance with subdivisions (i) or (ii) of this subparagraph, when the tire is tested in accordance with the conditions specified in paragraph (e) of this section, and the uniformity and balance test procedure specified in paragraph (f)(4) of this section.

(i) The tire may be graded 2 quality points if it conforms to each of the following:

(a) Its radial force is less than 32 pounds peak to peak,

(b) Its lateral force is less than 16 pounds peak to peak, and

(c) Its balance moment is less than 24 ounce-inches.

(ii) The tire must be graded 1 quality point if any one of the following is true:

(a) Its radial force is 32 pounds or more peak to peak, or

(b) Its lateral force is 16 pounds or more peak to peak, or

(c) Its balance moment is 24 ounce-inches or more.

(5) The maximum allowable number of quality points and an explanation of each grade for each area of tire performance, as illustrated in Figure 1.

(e) *Conditions.* (1) Each tire shall be able to achieve the level of performance indicated by the grade it is given for each area of performance. An individual tire need not, however, meet further requirements after having been subjected to any one of the test groups in subdivisions (i), (ii), or (iii) of this subparagraph.

(i) The high speed performance test.

(ii) The endurance test.

(iii) The uniformity and balance, and the road hazard resistance tests.

(2) Except in the case of the test for uniformity and balance, each tire shall meet the performance level indicated by the grade it is given for each area of performance when tested on any test rim as defined in S3. of Motor Vehicle Safety Standard No. 109 in § 571.21 of this chapter.

(f) *Procedures.* (1) High speed performance test.

(i) Mount the tire on a test rim and inflate it to the applicable pressure specified in figure 3.

(ii) Condition the tire-rim assembly to 100° F. for 3 hours.

(iii) Adjust the pressure to the applicable value specified in figure 3.

(iv) Mount the tire-rim assembly on an axle, and press the tire tread against the surface of a flat-faced steel test wheel that is 67.23 inches in diameter and is at least as wide as the section width of the tire.

(v) During the test, including the pressure measurements specified in subdivisions (i) and (iii) of this subparagraph, maintain the temperature of the ambient air as measured 12 inches from each point on the tire sidewall, at 100° F. Locate the temperature sensor so that its readings are not affected by heat radiation, drafts, variations in the temperature of the surrounding air, or guards or other devices.

(vi) Press the tire against the test wheel at the load indicated for the tire as follows:

If the tire's maximum permissible inflation pressure is	*The load shall be that specified in Table 1 of Appendix A of Standard No. 109 for the tire's size designation and type, at the following inflation pressure*
32 p.s.i.	24 p.s.i.
36 p.s.i.	28 p.s.i.
40 p.s.i.	32 p.s.i.

(vii) Rotate the tire at 50 m.p.h. for 2 hours.

(viii) Remove the load, allow the tire to cool to 100° F., and then readjust the inflation pressure to the applicable pressure specified in Figure 3.

(ix) Reapply the load and without interruption or readjustment of inflation pressure, rotate the tire at 75 m.p.h. for 30 minutes, then at 80 m.p.h. for 30 minutes, then at 85 m.p.h. for 1 hour, and then at 5-mile-per-hour increments for 1 hour until the tire has been run at 120 m.p.h. for 1 hour, or to failure, whichever occurs first.

(2) Tire endurance test.

(i) Perform steps in subdivision (i) through (v) of subparagraph (1) of this paragraph.

(ii) Press the tire against the test wheel, and test the tire at 50 m.p.h. without interruption, for 4 hours, then for 6 hours, and then for 24 hours, at the following loads:

If the maximum permissible inflation pressure of the tire is	It shall be tested for the applicable time span at the load specified in Table I of Appendix A of Motor Vehicle Safety Standard No. 109, for the tire's size designation and type, at the inflation pressure specified below:		
	4 hours	*6 hours*	*24 hours*
32 p.s.i.	24 p.s.i.	28 p.s.i.	32 p.s.i.
36 p.s.i.	28 p.s.i.	32 p.s.i.	36 p.s.i.
40 p.s.i.	32 p.s.i.	36 p.s.i.	40 p.s.i.

(iii) After running the tire for the required time span, allow the tire-rim assembly to cool, without readjusting the inflation pressure, until the tire shoulder temperature reaches 100° F. or until 2 hours elapse, whichever occurs last. Determine the tire shoulder temperature for this procedure by inserting a temperature probe three-eighths of an inch into the center of the outermost tread rib.

(iv) Readjust the tire pressure to 4 p.s.i. lower than the initial pressure specified according to subdivision (i) of this subparagraph.

(v) Press the tire against the wheel, and test the tire at 50 m.p.h. without interruption for 48 hours (2,400 miles), or to failure, whichever occurs first, at the load specified in subdivision (ii) of this subparagraph in the 24-hour column.

(3) Road hazard resistance test.

(i) Perform steps in subdivisions (i) through (iii) of subparagraph (1) of this paragraph.

(ii) Force a cylindrical steel plunger having a hemispherical end with a diameter of ¾-inch perpendicularly into a tread rib as near as possible to the center line of the tread, avoiding penetration into the tread groove, at a rate of 2 inches per minute, until the tire breaks or the plunger is stopped by the rim.

(iii) Record the force and distance of penetration just before the tire breaks, or if it does not break, just before the plunger is stopped by the rim.

(iv) Repeat the steps specified in subdivisions (ii) and (iii) of this subparagraph at 72 degree intervals, until five measurements are made.

(v) Compute the breaking energy for each test point by the following formula:

$$W = \frac{FP}{2}$$

where W=breaking energy, F=force in pounds, and P=penetration in inches.

(vi) Divide the average of the values obtained pursuant to subdivision (v) of

this subparagraph by the minimum breaking energy value for the tire as specified in Figure 2, and multiply that quotient by 100. The computation is as follows:

$$\frac{V}{M} \times 100$$

where V = average breaking energy value, and M = the minimum breaking energy value for the tire as specified in Figure 2.

(4) Uniformity and balance test.

(i) Mount the tire on a rim having a flange height of three-eighths of an inch and, for its respective nominal diameter, a bead seat that is ground to the dimension indicated, and the width specified in Figure 4.

(ii) Inflate the tire to 28 p.s.i.

(iii) Mount the tire on a tire uniformity device as specified in SAE Recommended Practice J332, "Testing Machines for Measuring the Uniformity of Passenger Car Tires," January 1969.

(iv) Place a load against the tire equal to 85 percent of the load specified for the tire's size designation and type at 24 p.s.i. in Table 1 of Appendix A of Motor Vehicle Safety Standard No. 109.

(v) Rotate the tire for 60 seconds at 450 r.p.m. and then stop the tire.

(vi) With the pressure maintained at 28 p.s.i. and the load as specified in subdivision (iv) of this subparagraph, using the instrumentation and optional instrumentation described in SAE Recommended Practice J332, determine the radial and lateral forces of the tire by rotating it in the uniformity machine for 1½ revolutions at 60 r.p.m., first in a clockwise and then in a counterclockwise direction.

(vii) Remove the tire from the machine, and from the test rim.

(viii) Place the tire in a device similar to that illustrated in Figure 5 and determine, in ounce-inches, its static balance moment.

DOT TIRE QUALITY GRADES

Tire grade	Suitable for—
Endurance:	
2	Use when the vehicle is frequently driven with full passenger and luggage loading.
1	Use when the vehicle is occasionally driven with full passenger and luggage loading.
This tire is graded.....:	
Road Hazard Resistance:	
3	Use primarily on unpaved roads.
2	Frequent use on unpaved roads.
1	Use on paved roads with only occasional use on unpaved roads.
This tire is graded.....:	
High Speed Performance:	
3	Frequent and prolonged driving on roads with no speed limitations.
2	Frequent and prolonged driving on roads with speed limitations up to 85 m.p.h.
1	Frequent driving at speeds up to 70 m.p.h., but infrequent driving at higher speeds.
This tire is graded.....:	

DOT TIRE QUALITY GRADES—Continued

Tire grade	Suitable for—
Uniformity and Balance:	
2	Use at speeds over 60 m.p.h., and at lower speeds where lack of vibration is considered important.
1	Use at speeds of less than 60 m.p.h., where vibration is not considered important.
This tire is graded.....:	

FIGURE 1

MINIMUM BREAKING ENERGY VALUES (INCH-POUNDS)

For bias ply tires with size designation of 6.00 (or 155 millimeters) and above and tires having a serie designation of 70 or below.

Cord material	Maximum permissible inflation pressure		
	32 p.s.i.	36 p.s.i.	40 p.s.i.
Rayon	1,650 in.-lbs	2,475 in.-lbs	3,300 in.-lbs.
Nylon or polyester.	2,600 in.-lbs	3,900 in.-lbs	5,200 in.-lbs.

For bias ply tires with size designation below 6.00 inches (or 155 millimeters)

Cord material	Maximum permissible inflation pressure		
	32 p.s.i.	36 p.s.i.	40 p.s.i.
Rayon	1,000 in.-lbs	1,875 in.-lbs	2,500 in.-lbs.
Nylon or polyester.	1,950 in.-lbs	2,925 in.-lbs	3,900 in.-lbs.

For Radial Ply Tires

Size designation	Maximum permissible inflation pressure		
	32 p.s.i.	36 p.s.i.	40 p.s.i.
Below 160 millimeters.	1,950 in.-lbs	2,925 in.-lbs	3,900 in.-lbs.
160 millimeters or above.	2,600 in.-lbs	3,900 in.-lbs	5,200 in.-lbs.

FIGURE 2

TEST INFLATION PRESSURES

Maximum permissible inflation pressure (in p.s.i.)	32	36	40
Pressure (in p.s.i.) to be used in tests for tire road hazard resistance, tire strength, and tire endurance	24	28	32
Pressure (in p.s.i.) to be used in test for high speed performance	30	34	38

FIGURE 3

WHEEL SIZE

Nominal diameter (inches)	Width (inches)	Bead seat ground diameter (inches)
10	4	9.968
12	4	11.968
13	4½	12.968
14	5½	13.968
15	5½	14.968
16	5½	15.968

FIGURE 4

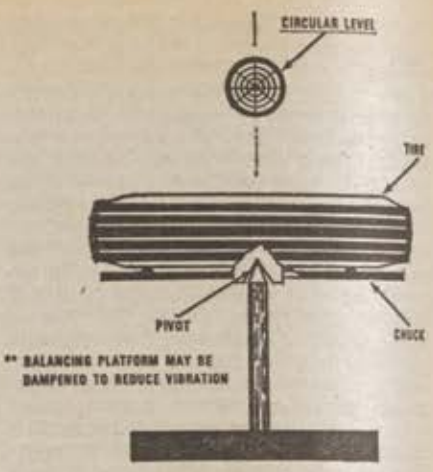

Figure 5

[FR Doc.71-13788 Filed 9-20-71;8:45 am]

CIVIL AERONAUTICS BOARD

[14 CFR Parts 214, 249]

[Docket No. 23834; EDR-212]

RETENTION OF PASSENGER NAMES AND ADDRESSES

Notice of Proposed Rule Making

SEPTEMBER 15, 1971.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Parts 249 and 214 of the Economic Regulations (14 CFR Parts 249, 214) which would increase the retention period for pro rata charter passenger manifests from 6 months to 2 years. The amendments are proposed under the authority of sections 204(a), 402, and 407 of the Federal Aviation Act of 1958, as amended (72 Stat. 743, 757, 766; 49 U.S.C. 1324, 1372, and 1377).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before October 22, 1971, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, DC, upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] PHYLLIS T. KAYLOR, *Acting Secretary.*

EXPLANATORY STATEMENT

Under Part 249 of the Economic Regulations (14 CFR Part 249) certificated route air carriers, supplemental air carriers, and foreign air carriers (to the extent that they perform pro rata charter

trips originating or terminating in the United States) are required to maintain a record of the names and addresses of all passengers transported on each pro rata charter trip for a period of 6 months. Under Part 214 (14 CFR Part 214) the same requirement applies to foreign air carriers holding permits authorizing charter transportation only. Essentially, the retention of charter passenger manifests is required in order that the Board may fulfill its responsibility under the Act to insure that charter flights and special services meet the regulatory requirements for such operations.[1]

Our experience, however, is that the existing retention period is not long enough to satisfy the needs of the Board's enforcement staff in policing the charter regulations generally, and particularly in obtaining facts upon which to determine whether alleged violations of such regulations have occurred. Specifically, there have been instances under the present regulations where the staff has been unable to obtain the passenger information necessary to corroborate charges of noncompliance with the 6-month prerequisite to bona fide charter group membership and the requirement that the members of a charter group may not be brought together by means of a solicitation of the general public. We tentatively conclude, therefore, that the public interest in strict enforcement of the charter regulations mandates that the Board establish a substantially longer period of retention of charter passenger manifests.

[1] EDR-59, Sept. 4, 1963 (28 F.R. 9824); ER-404, Apr. 24, 1964.

Accordingly, we are proposing to require certificated route air carriers and supplemental air carriers and, to the extent that they operate U.S. originating or terminating charter trips, foreign air carriers, and foreign charter air carriers, to retain their pro rata charter passenger manifests for a period of 2 years.

It is proposed to amend Parts 249 and 214 of the Economic Regulations (14 CFR Parts 249, 214) as follows:

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

1. Amend § 249.8, Item 12 of the "Category Records" to read as follows:

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

Category of records	*Period to be retained*
12. Names and addresses of all passengers transported on each pro rata charter trip.	2 years.

2. Amend paragraph (c) (3) of § 249.12 to read as follows:

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

(c) Each carrier shall, pursuant to Part 212 of this subchapter, maintain at its principal or general office * * *

(3) A record of the names and addresses of all passengers transported on each pro rata charter trip originating or terminating in the United States: 2 years.

3. Amend § 249.13(f), Item 302(c) of the "Category of Records" to read as follows:

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

Category of records	*Period to be retained*
302 Reservations reports and records:	
(c) Names and addresses of all passengers transported on each pro rata charter trip.	2 years.

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

4. Amend paragraph (a) (2) of § 214.6 to read as follows:

§ 214.6 Record retention

(a) Every foreign air carrier operating pursuant to this part shall retain true copies of * * *

(2) All passenger manifests including those filed by charterers: 2 years; and

[FR Doc.71-13857 Filed 9-20-71;8:48 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. N-1885-C]

NEVADA

Proposed Classification of Public Lands for Multiple-Use Management; Correction

SEPTEMBER 14, 1971.

In F.R. Doc. 70-14204, appearing on pages 16485 and 16486 in the issue for Thursday, October 22, 1970, legal description under paragraph 4 should be corrected to read:

T. 9 N., R. 22 E.,
Sec. 4, lots 1, 2, 8, 9, 10, 11, S½NE¼.

Also, in F.R. Doc. 70-15023, appearing on page 17275 in the issue for Tuesday, November 10, 1970, the following should be corrected to read:

T. 9 N., R. 22 E.,
Sec. 3, lots 3, 4, S½NW¼, N½SE¼.

For the State Director.

ROLLA E. CHANDLER,
Chief, Division of Technical Services.

[FR Doc.71-13854 Filed 9-20-71;8:47 am]

[Wyoming 27612]

WYOMING

Opening Lands to Small Tract Application

SEPTEMBER 14, 1971.

1. Pursuant to Small Tract Classification Wyoming 27612 dated March 16, 1971, the following described land will be opened to small tract application as set out below, for lease only for business site purposes under the Small Tract Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. 682a-e), as amended:

SIXTH PRINCIPAL MERIDIAN

T. 44 N., R. 98 W.,
Beginning at a point which bears S. 00°03' W., 1,630.41 feet to a point; thence S. 54° 00' W., 193.35 feet to a point; thence N. 22°35' W., 181.44 feet from the quarter corner between sections 13 and 14.
From the point of beginning by metes and bounds, N. 31°37'30" W., 85.51 feet; S. 58°36' W., 120.00 feet; S. 21°36' E., 83.88 feet; N. 59°48'30" E., 134.55 feet to the point of beginning.

The above described parcel of land contains 0.246 acre.

The land is located in Hot Springs County within the Hamilton Dome Field Camp, Wyo.

2. At 10 a.m. on September 24, 1971, the land will be open to applications for a business site lease for post office purposes under the Small Tract Act. All valid applications received at or prior to 10 a.m. on September 24, 1971, will be considered as simultaneously filed at that time. All applications filed after that time will be considered in the order of filing.

3. Applicants must file, in duplicate, with the Chief, Lands and Mining Section, Bureau of Land Management, Post Office Box 1828, 2120 Capitol Avenue, Cheyenne, WY 82001, application Form 2233-1 filled out in compliance with instructions on the form. Applicants will be limited to those who are designated as the Postmaster for the Hamilton Dome Post Office, and who can show ownership of the improvements in place on the land as of March 16, 1971. Copies of the application form can be secured from the above-named official. The application must be accompanied by a filing fee of $10 and a deposit of $150 advance rental for 1 year. Failure to transmit these payments with the application will render the application invalid. Advance rentals will be returned to unsuccessful applicants. All filing fees will be retained by the United States.

4. The lease will be issued for a term of 20 years. The lease will go with the position of Postmaster and will be subject to cancellation if the post office is abandoned or moved to another location.

MARLON C. OSBORNE,
Acting State Director.

[FR Doc.71-13833 Filed 9-20-71;8:46 am]

National Park Service

CARLSBAD CAVERNS NATIONAL PARK, NEW MEXICO, AND GUADALUPE MOUNTAINS NATIONAL PARK, TEXAS

Notice of Public Hearings Regarding Wilderness Proposals

Notice is hereby given in accordance with the provisions of the Act of September 3, 1964 (78 Stat. 890, 892; 16 U.S.C. 1131, 1132), and in accordance with Departmental procedures as identified in 43 CFR 19.5, that public hearings will be held November 20 and 23, 1971, for the purpose of receiving comments and suggestions as to the appropriateness of proposals for the establishment of wilderness within Carlsbad Caverns National Park, Eddy County, N. Mex., and Guadalupe Mountains National Park, Hudspeth and Culberson Counties, Tex. The November 20 hearings will be held at the Municipal Library Annex, Halagueno Park, Carlsbad, N. Mex., with the hearing for Carlsbad Caverns beginning at 9 a.m., and that for Guadalupe Mountains beginning at 1 p.m. Similar hearings will be held on November 23 at the Holiday Inn, Interstate 10 and Airways Boulevard (6655 Gateway West—near Airport), El Paso, TX, with the hearing for Guadalupe Mountains beginning at 9 a.m. and that for Carlsbad Caverns beginning at 1 p.m.

The wilderness proposal for Carlsbad Caverns National Park comprises some 24,000 acres, and that for Guadalupe Mountains National Park some 39,000 acres. All lands proposed for wilderness are presently within the exterior boundaries of the two parks.

Packets containing draft master plans, maps depicting the preliminary boundaries of the proposed wilderness areas, and additional information about the proposals may be obtained from the Superintendent, Carlsbad Caverns National Park, Post Office Box 1598, Carlsbad, NM 88220, or from the Director, Southwest Region, National Park Service, Old Santa Fe Trail, Post Office Box 728, Santa Fe, NM 87501.

Descriptions of the preliminary boundaries and maps of the areas proposed for establishment as wilderness are available for review in the above offices; at the Frijoles Ranger Station, Guadalupe Mountains National Park, adjacent to U.S. Highway 62-180, about 1 mile east of Pine Spring Camp, Tex.; and in Room 1013 of the Department of the Interior Building at 18th and C Streets NW., Washington, DC.

Interested individuals, representatives of organizations, and public officials are invited to express their views in person at the aforementioned public hearings, provided they notify the Hearing Officer, in care of the Superintendent, Carlsbad Caverns National Park, Post Office Box 1598, Carlsbad, NM 88220, by November 17, of their desire to appear. Those not wishing to appear in person may submit written statements on the wilderness proposals to the Hearing Officer, at that address for inclusion in the official records, which will be held open for 30 days following conclusion of the hearings.

Time limitations may make it necessary to limit the length of oral presentations and to restrict to one person the presentation made in behalf of an organization. An oral statement may, however, be supplemented by a more complete written statement which may be submitted to the Hearing Officer at the time of presentation of the oral statement. Written statements presented in person at the hearings will be considered for inclusion in the transcribed hearing records. However, all materials so presented at the hearings shall be subject to determinations that they are appropriate for inclusion in the transcribed hearing records. To the extent that time is available after presentation of oral statements by those who have given the required advance notice, the Hearing Officer will give others present an opportunity to be heard.

After an explanation of the proposals by a representative of the National Park Service, the Hearing Officer, insofar as possible, will adhere to the following order in calling for the presentation of oral statements.

1. Governor of the State or his representative.
2. Members of Congress.
3. Members of the State legislature.
4. Official representatives of the counties in which the proposed wilderness is located.
5. Officials of other Federal agencies or public bodies.
6. Organizations in alphabetical order.
7. Individuals in alphabetical order.
8. Others not giving advance notice, to the extent there is remaining time.

Dated: September 14, 1971.

THOMAS FLYNN,
Deputy Director,
National Park Service.

[FR Doc.71-13834 Filed 9-20-71;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968, as amended by 35 F.R. 12030, July 25, 1970), is hereby amended with regard to section 3-B, "Organization", as follows:

In lieu of the section "Office of Program Planning and Evaluation (3J31)," insert the following:

Office of Program Planning and Evaluation (3J31). (1) Develops and issues guidelines and standards for program planning and evaluation; (2) develops or coordinates the development of plans and evaluates program accomplishments; (3) coordinates development of program aspects of the Institute Planning-Programing-Budgeting System; (4) identifies and analyzes national mental health needs and their socio-economic implications; and (5) develops standards for mental health diagnosis, treatment, care, and rehabilitation.

In lieu of the section "Office of Program Liaison (3J33)," insert the following:

Office of Program Coordination (3J33). (1) Coordinates Institute relationships and activities with DHEW components; other Federal agencies; regional, State, and local mental health agencies; and citizen groups; (2) coordinates NIMH program activities that transcend the boundaries of individual Divisions; and (3) provides legislative reference services, assists in the development of legislation, and advises on legislative matters in mental health.

Approved: September 8, 1971.

RONALD BRAND,
Deputy Assistant
Secretary for Management.

[FR Doc.71-13864 Filed 9-20-71;8:48 am]

HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 3 (Health Services and Mental Health Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare (33 F.R. 15953, October 30, 1968), as amended, is hereby amended with regard to section 3-M, *"Organization,"* as follows:

Office of State Plans (3M55). (1) Directs the Service's programs for planning, construction, and modernization of hospitals, outpatient facilities, long-term care facilities, and rehabilitation facilities, supported by formula grants and by loan guarantees with interest subsidies; (2) conducts consultations, studies, and evaluation programs which support and supplement the construction program; and (3) develops regulations, policies, procedures, and guide material.

RONALD BRAND,
Deputy Assistant Secretary
for Management.

SEPTEMBER 8, 1971.

[FR Doc.71-13865 Filed 9-20-71; 8:49 am]

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

Part 8 (Social Security Administration) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare (33 F.R. 5830, 5832, April 16, 1968) is hereby amended as follows:

8-B. Assistant Bureau Director, Management and Appraisal, Division of Management and Appraisal (BDI) is superseded by the following:

Assistant Bureau Director, Administration (BDI). Directs the Bureau's financial, statistical, management improvement, and administrative management programs. Directs a program of training and personnel management. Formulates long- and short-range Bureau plans and work emphases. Surveys and appraises operating and administrative systems, methods, and organizations to develop and implement management improvements. Appraises the quality of adjudication of all stages of the disability claims process. Directs and coordinates a program of studies, statistical analyses, quality control, and management information to appraise and improve policies, procedures, and operations. Provides statistical data for use within and outside the Bureau.

Division of Appraisal (BDI). Directs the Bureau's program and technical appraisal activities that provide continuing intelligence on all aspects of the disability claims process, and on the effects of operating systems, methods, processes, and other factors on operating efficiency. Develops and utilizes continuing appraisal studies of disability claims processing, operating systems and procedures. Evaluates the efficiency of existing operational reviews and reporting systems, and develops recommendations for improvements in disability program administration.

Division of Management (BDI). Provides overall direction to the Bureau's financial and administrative management programs. Directs technical training, staff development, personnel management, and management services activities. Insures that Bureau fiscal, manpower, and equipment resources meet the current and future needs of the disability program.

Division of Management Information and Planning (BDI). Provides Bureau-wide leadership, guidance, and direction to the Bureau's short- and long-range planning program. Develops and designs management information and reporting systems that generate basic data for analysis of existing operations and for planning future growth and direction. Directs a management analysis program that involves organization planning and appraisal of management techniques, systems, and practices.

Division of Statistics and Quality Assurance (BDI). Plans, designs, and manages Bureau statistical programs and methods to provide continuing quantitative data on disability workloads, processing times, related operating experiences, and on medical, demographic, and other characteristics of disability beneficiaries. Analyzes and interprets statistical findings to keep Bureau management timely informed of significant trends, and relates these developments to operating conditions. Gives direction for installation and operation of BDI statistical quality assurance systems to insure timely detection and correction of possible work processing deficiences. Provides consultative services on the utilization of statistical methodology and on the availability and interpretation of statistical data. Directs the compilation of statistical data for special and recurring reports.

8-B. Division of Disability Studies (ORS) is superseded by the following:

Division of Disability Studies (ORS). Plans and directs a continuing national economic and social survey program to collect data on and to study the disabled population. Plans and directs studies of significant program issues requiring research into such areas as: The adequacy of protection available to disabled workers and their dependents; the causes and effects of disability; the proportion of allowances and disallowances in the disability insurance program; trends in

and effects of the rehabilitation of disabled beneficiaries; problems of representative payment to both institutionalized and noninstitutionalized beneficiaries; and comparative studies of beneficiaries with and without representative payees. Plans and directs studies on the continuing compatibility of adjudicative policies and procedures with disability program objectives and operating results. Studies the effect of alternative adjudicative techniques and policies and evaluates the extent to which collateral OASDHI and related program objectives are being attained.

(Section 6, Reorganization Plan No. 1 of 1953)

Dated: September 1, 1971.

RONALD BRAND,
Deputy Assistant Secretary for Management.

[FR Doc.71-13866 Filed 9-20-71;8:49 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGFR 71-90]

JAMES RIVER, VA.

Security Zone

By virtue of the authority vested in the Commandant, U.S. Coast Guard, by Executive Order 10173, as amended (33 CFR Part 6), sec. 6(b)(1), 80 Stat. 937, 49 U.S.C. 1655(b)(1), 49 CFR 1.46(b) and the redelegation of authority to Chief, Office of Operations, U.S. Coast Guard, as contained in the FEDERAL REGISTER of May 27, 1970 (35 F.R. 8279), I hereby affirm for publication in the FEDERAL REGISTER the order of H. E. Steel, Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads Area, who has exercised authority as Captain of the Port, such order reading as follows:

PORTION OF THE JAMES RIVER, OFF NEWPORT NEWS, VA., CLOSED TO NAVIGATION DURING LAUNCHING OF THE "U.S.S. CALIFORNIA" (DLNG-36)

SECURITY ZONE

Under the present authority of section 1 of title II of the Espionage Act of June 15, 1917, 40 Stat. 220, as amended, 50 U.S.C. 191, and Executive Order 10173, as amended, I declare that from 1130Q September 22, 1971, until 1400Q September 22, 1971, the following area is a Security Zone and I order it be closed to any person or vessel due to launching of the "U.S.S. California."

The waters of the James River from Newport News Channel LB No. 13, LL No. 3011.10 position 36°57'10" N., 76°24'50" W. to the James River Bridge and extending from the Newport News Shore to the 31-foot curve on the western side of the channel.

No person or vessel shall remain in or enter this security zone without permission of the Captain of the Port, 393 9611, ext. 220.

The Captain of the Port, Hampton Roads Area, shall enforce this order. In the enforcement of this order, the Captain of the Port may utilize, by appropriate agreement, personnel and facilities of any other Federal agency, or of any State or political subdivision thereof.

For violation of this order, section 2 of title II of the Espionage Act of June 15, 1917 (40 Stat. 220 as amended, 50 U.S.C. 192), provides:

If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or obstructs or interferes with the exercise of any power conferred by this chapter, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than 10 years, and may, in the discretion of the court, be fined not more than $10,000.

(a) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than $10,000.

Dated: September 16, 1971.

D. H. LUZIUS,
Acting Chief, Office of Operations.

[FR Doc.71-13852 Filed 9-20-71;8:47 am]

CIVIL AERONAUTICS BOARD

[Docket No. 20993; Order 71-9-52]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Specific Commodity Rates

Issued under delegated authority, September 13, 1971.

Agreement adopted by the joint conferences of the International Air Transport Association relating to specific commodity rates, Docket 20993, Agreement CAB 22332 R-16 through R-19; R-22 through R-27.[1]

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the joint conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement, adopted pursuant to unprotested notices to the carriers and promulgated in IATA letters dated July 27, August 10, August 12, and August 19, 1971, names additional rates under existing and new commodity descriptions and proposes to increase by 2 cents per kilogram an existing rate for Commodity Item 4706 (Milking Machines and Accessories) moving from Auckland to New York. These rates are set forth in the attachment hereto.[2]

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14:

1. It is found, on a tentative basis, that Agreement CAB 22332, R-24, by virtue of the increased charge provided therein, is inconsistent with Executive Order 11615 issued August 15, 1971, by the President and Board Order 71-8-78, dated August 17, 1971, implementing said Executive order; and

2. It is not found, on a tentative basis, that Agreement CAB 22332, R-16 through R-19, R-22; R-23; and R-25 through R-27 is adverse to the public interest or in violation of the Act, provided that tentative approval thereof is conditioned as hereinafter ordered.

Accordingly, it is ordered, That:

1. Action on Agreement CAB 22332, R-24, be and hereby is deferred with a view toward disapproval; and

2. Action on Agreement CAB 22332, R-16 through R-19; R-22; R-23; and R-25 through R-27, be and hereby is deferred with a view toward eventual approval, provided that approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publication; provided further that tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing.

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

This order will be published in the FEDERAL REGISTER.

[SEAL] PHYLLIS T. KAYLOR,
Acting Secretary.

[FR Doc.71-13858 Filed 9-20-71;8:48 am]

[1] R-20 and R-21 were withdrawn by IATA by letter dated Sept. 1, 1971.

[2] Attachment filed as part of the original document.

CIVIL SERVICE COMMISSION

RARE BOOKBINDER AND RESTORER, LIBRARY OF CONGRESS

Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage for the single position of Rare Bookbinder and Restorer, GS-1001-12, Office of the Assistant Director for Preservation, Administrative Office, Library of Congress, Washington, D.C. The finding is self-canceling when the position is filled.

Assuming other legal requirements are met, an appointee to this position may

be paid for the cost of travel and transportation to first post of duty.

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

[FR Doc.71-13848 Filed 9-20-71; 8:47 am]

DELAWARE RIVER BASIN COMMISSION

[Docket No. D-62-2]

KITTATINNY MOUNTAIN PUMPED STORAGE ELECTRIC POWER PROJECT

Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing in the Cultural Center Auditorium in the State Capital Complex on West State Street, Trenton, N.J., on October 1 beginning at 10 a.m.

The subject of the hearing will be the third amendment and supplement, dated March 1971, to the application of Jersey Central Power & Light Co., New Jersey Power & Light Co. and Public Service Electric and Gas Co. for approval, pursuant to section 3.8 of the Delaware River Basin Compact, of the proposed Kittatinny Mountain pumped storage electric generating project in Warren County, N.J. The project would have an installed capacity of 1.3 million kilowatts and would operate through enlargement of the existing Yards Creek upper reservoir on top of Kittatinny Mountain and use of the Delaware River Tocks Island Reservoir.

The application and an associated draft environmental impact statement were publicly released by the Commission on May 7, 1971, and noticed in the FEDERAL REGISTER (36 F.R. 9086) on May 19, 1971. They may be examined at the offices of the Commission. A limited number of copies are available upon request. Persons wishing to testify at the public hearing are requested to register with the Secretary (609-883-9500) to the Commission prior to 5 p.m. on September 29. Written testimony from witnesses unable to appear will be received and made part of the record.

W. BRINTON WHITALL,
Secretary.

SEPTEMBER 13, 1971.

[FR Doc.71-13856 Filed 9-20-71; 8:48 am]

FEDERAL POWER COMMISSION

[Docket No. CP72-42]

UNITED GAS PIPE LINE CO. AND MID LOUISIANA GAS CO.

Notice of Application

SEPTEMBER 20, 1971.

Take notice that on August 23, 1971, United Gas Pipe Line Co. (United), 1500 Southwest Tower, Houston, Tex. 77002, and Mid Louisiana Gas Co. (Mid Louisiana,), Post Office Box 1707, Shreveport, LA 71102, filed in Docket No. CP72-42 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing: (i) United to transport for Mid Louisiana up to 40,000 Mcf per day of natural gas through United's existing system; (ii) Mid Louisiana to sell to United certain limited volumes of natural gas on an excess availability basis; (iii) the designation of an additional exchange point under the existing exchange agreement between the companies; and (iv) the construction and operation of certain minor facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The application states that the transportation service to be rendered by United is necessary to permit Mid Louisiana to effectively utilize its recently certificated Hester Storage Field in St. James Parish, La., which is not yet physically connected with its main line system. United will be permitted to utilize existing capacity to advantage for transportation service and will obtain small volumes of gas on a fully interruptible basis. Such excess sales will be made by Mid Louisiana only after all existing customer volumes are delivered. The new exchange point will permit United and Mid Louisiana to exchange gas between locations adjacent to their respective storage facilities, thus providing increased operational flexibility for the benefit of both companies and the customers of each.

The facilities proposed herein are those to be constructed by United where its New Orleans to Baton Rouge line intersects with Mid Louisiana's Hester Storage Field facilities. These facilities will consist of enlarged pipeline taps and the rearrangement of certain existing facilities at an estimated cost of $800 and will permit the receipt of gas by United for transportation to the Baton Rouge area and the receipt and delivery of exchange gas volumes.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 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.71-13999 Filed 9-20-71; 10:14 am]

FEDERAL RESERVE SYSTEM

BOATMEN'S BANCSHARES, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Boatmen's Bancshares, Inc., St. Louis, Mo., for approval of acquisition of 80 percent or more of the voting shares of Bank of O'Fallon, O'Fallon, Mo.

There has come before the Board of Governors, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)) and § 222.3 (a) of Federal Reserve Regulation Y (12 CFR 222.3(a)), an application by Boatman's Bancshares, Inc., (applicant), St. Louis, Mo., a registered bank holding company, for the Board's prior approval of the acquisition of 80 percent or more of the voting shares of Bank of O'Fallon (Bank), O'Fallon, Mo.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Commissioner of Finance for the State of Missouri, and requested his views and recommendation. The Commissioner responded that his office had no objection to approval of the application.

Notice of receipt of the application was published in the FEDERAL REGISTER on June 26, 1971 (36 F.R. 12192), providing an opportunity for interested persons to submit comments and views with respect to the proposal. A copy of the application was forwarded to the U.S. Department of Justice for its consideration. Time for filing comments and views has expired and all those received have been considered.

The Board has considered the application in the light of the factors set forth in section 3(c) of the Act, including the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the Applicant and the banks concerned,

and the convenience and needs of the communities to be served, and finds that:

Applicant has three subsidiary banks with aggregate deposits of $328.8 million, representing 2.9 percent of the total commercial bank deposits in the State and, on the basis of deposits, is the sixth largest banking organization and sixth largest bank holding company in Missouri. (All banking data are as of December 31, 1970, adjusted to reflect holding company acquisitions and formations approved by the Board through July 31, 1971.)

Bank ($8.7 million of deposits), the only bank in O'Fallon, is located 35 miles northwest of St. Louis, and ranks sixth among the eight banks in St. Charles County and second among the five banks competing in its primary service area, which is approximated by the City of O'Fallon and environs. Bank holds 31.7 percent of the commercial bank deposits in its primary service area. Each of applicant's present subsidiary banks is located more than 23 miles from Bank, and none of them appears to compete with Bank to any significant extent. It appears, therefore, that consummation of the proposed acquisition would not eliminate any meaningful competition. Moreover, in light of the facts of record, including the distances separating applicant's present subsidiaries from Bank, Missouri's restrictive branching law, and the availability of numerous banking alternatives, it does not appear that any significant potential competition would be foreclosed by the consummation of applicant's proposal.

On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not adversely affect competition in any relevant area nor have undue adverse effects on other banks in the area involved and, in fact, may enhance competition in the service area by enabling Bank to become a more effective competitor. The financial and managerial resources and future prospects of applicant, its subsidiaries, and Bank are generally considered satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the communities to be served lend some weight in support of approval of the application. Applicant proposes to expand many of Bank's existing services and to assist Bank in establishing several new services, including data processing and trust services. The residents of Bank's service area should benefit from the added convenience resulting from the broader range of services offered by Bank.

In considering this application the Board noted that the applicant's tender offer to stockholders of Bank is in an amount greater than twice the per share book value. The premium is equal to 13 percent of deposits, and is greater than premiums ordinarily offered in cases that have been considered by the Board. As a matter of policy in its administration of the Holding Company Act, the Board is concerned with excessive premiums. Such premiums raise the question whether holding companies are making sound business judgments; they also tend to weaken the earning power of holding companies. An even more serious question is whether a bank is being acquired because of a dominant market position that will be exploited further by affiliation with a strong holding company. If so, the public interest would ordinarily require a holding company to enter the market de novo. In the present case, however, in view of the size of the community and the bank involved and the Board's evaluation of other relevant circumstances in the record, including the fact that another holding company has applied for a new charter in O'Fallon, the Board has concluded that the premium involved, although a matter of concern, is not such as to require denial of the application.

It is the Board's judgment that consummation of the proposed acquisition would be in the public interest, and that that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above, provided that the acquisition so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors,[1] September 10, 1971.

[SEAL] TYNAN SMITH, *Secretary.*

[FR Doc.71-13855 Filed 9-20-71;8:48 am]

CENTRAL BANCORPORATION, INC.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by The Central Bancorporation, Inc., which is a bank holding company located in Cincinnati, Ohio, for prior approval by the Board of Governors of the acquisition by applicant of 100 percent of the voting shares (less directors' qualifying shares) of The Canal Winchester Bank, Canal Winchester, Ohio.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Cleveland.

Board of Governors of the Federal Reserve System, September 15, 1971.

[SEAL] TYNAN SMITH, *Secretary.*

[FR Doc.71-13842 Filed 9-20-71;8:47 am]

FIRST VIRGINIA BANKSHARES CORP.

Notice of Application for Approval of Acquisition of Shares of Bank

Notice is hereby given that application has been made, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)), by First Virginia Bankshares Corp., which is a bank holding company located in Arlington, Va., for prior approval by the Board of Governors of the acquisition by Applicant of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Bank of Surry County, Inc., Surry, Va.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks

[1] Voting for this action: Vice Chairman Robertson and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Burns.

concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Richmond.

Board of Governors of the Federal Reserve System, September 15, 1971.

[SEAL] TYNAN SMITH, *Secretary.*

[FR Doc.71-13843 Filed 9-20-71;8:47 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-4847]

ECOLOGICAL SCIENCE CORP.

Order Suspending Trading

SEPTEMBER 15, 1971.

The common stock, 2-cent par value, of Ecological Science Corp. being traded on the American Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange and the Pacific Coast Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Ecological Science Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such security on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 15 (c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 16, 1971, through September 25, 1971.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-13825 Filed 9-20-71;8:45 am]

[File No. 24SF-3760]

ECOPONICS, INC.

Order Temporarily Suspending Exemption, Statement of Reasons, and Notice of Opportunity for Hearing

SEPTEMBER 14, 1971.

I. Ecoponics, Inc. (Ecoponics), 5040 North 35th Avenue, Phoenix, AZ, was incorporated under the laws of Arizona on July 13, 1971. Its stated purpose is to engage in the business of the sale of greenhouses for the growing of hydroponic agricultural products. To date Ecoponics has engaged in no business operations. Ecoponics filed a notification under Regulation A with the San Francisco Regional Office on July 22, 1971, for the purpose of obtaining an exemption from registration as required by the Securities Act of 1933, as amended, pursuant to the provisions of section (b) of it and Regulation A promulgated under it.

II. The Commission, on the basis of information reported to it by its staff, has reasonable cause to believe that:

A. The notification and offering circular omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading and contains untrue statements of material facts, in that:

1. The offering circular fails to set forth the disadvantages of the hydroponic process about which Ecoponics was aware. Such disadvantages include:

(a) A large initial investment required to conduct hydroponic cultivation as compared with soil cultivation;

(b) The more rapid spread of plant disease in the hydroponic process as compared with soil cultivation;

(c) The necessity for technical training and considerable experience in the hydroponic process;

(d) The fact that the hydroponic process is practical for only a limited number of crops which are of relatively high value per unit;

(e) The need for and difficulties of properly aerating the nutrient solution in the hydroponic process; and

(f) The difficulty of supporting the plants while they are grown in the hydroponic process.

B. The proposed offering would be made in violation of section 17 of the Securities Act of 1933 by reason of the omissions stated above.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the Issuer under Regulation A be temporarily suspended,

It is ordered, Pursuant to Rule 261(a), subparagraphs 2 and 3 of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of Ecoponics, Inc. under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the Issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having an interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that, if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the 30th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will be promptly given by the Commission.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc. 71-13826 Filed 9-20-71;8:45 am]

[File No. 24D-3092]

INSTITUTIONAL SECURITIES OF COLORADO, INC.

Order Temporarily Suspending Exemption, Statement of Reasons, and Notice of Opportunity for Hearing

SEPTEMBER 14, 1971.

I. Institutional Securities of Colorado, Inc. (issuer), Mezzanine, Albany Hotel, 17th and Stout Streets, Denver, CO 80202, a Colorado corporation, with offices stated to be located at Mezzanine, Albany Hotel, 17th and Stout Streets, Denver, CO, filed with the Commission on May 19, 1971, a notification and offering circular relating to a proposed offering of 200,000 shares of its 10¢ par value common stock at $1.25 per share, for an aggregate of $250,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof, and Regulation A promulgated thereunder. The offering commenced on June 18, 1971 with Vail Securities Investment (underwriter), Post Office Box 11, Vail, CO, named as the underwriter. The offering was completed on July 14, 1971.

II. The Commission has reasonable cause to believe that:

(A) The terms and conditions of Regulation A were not complied with in that:

1. Underwriter made offers to sell the securities covered by the filing prior to the time when the waiting period had expired.

2. During the course of the offering the underwriter and members of the selling group made written offers to sell the securities in violation of Rule 256(a)(1).

(B) The notification and offering circular contain untrue statements of material facts and omit to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading, particularly with respect to the following:

1. The statement in the offering circular that the underwriter may effect transactions which stabilize or maintain the market price of the issuer's stock at a level above that which might otherwise prevail in the open market and the

failure to disclose that offers to buy issuer's stock were made by the underwriter during the offering otherwise than in accordance with Rules 10b–6 and 10b–7 under the Securities Exchange Act of 1934, as amended.

2. The statement in the offering circular that all funds received by the underwriter would be immediately deposited pursuant to the terms of an escrow agreement entered into by the issuer, the underwriter, and the Colorado State Bank, Denver, Colo., in a special account entitled "Vail Securities Investment, Special Account for the Benefit of Subscribers to the Shares of Institutional Securities of Colorado, Inc." and the failure to disclose that underwriter did not immediately transmit such funds to such bank but instead deposited some of such funds with the Bank of Vail, Vail, Colorado, in an account entitled "Vail Securities Investment Escrow Account" and withdrew some of such funds from such bank account for underwriter's own use.

'(C) The offering was made in violation of section 17(a) of the Securities Act of 1933, as amended, by reason of the matters described above.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended,

It is ordered, Pursuant to Rule 261(a), of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of Institutional Securities of Colorado, Inc. under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry hereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that, if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the 30th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71–13827 Filed 9–20–71;8:45 am]

[812–3014]

KIDDER, PEABODY & CO., INC.

Notice of Filing of Application for an Order of Exemption From Transactions

SEPTEMBER 15, 1971.

Notice is hereby given that Kidder, Peabody & Co., Inc. (Applicant), 20 Exchange Place, New York, N.Y. 10005, prospective representative of a group of underwriters of a proposed offering of shares of Paul Revere Investors, Inc. (Paul Revere), a registered closed-end investment company, has filed an application pursuant to section 6(c) of the Investment Company Act of 1940 (Act) for an order exempting Applicant and its co-underwriters from section 30(f) of the Act to the extent that section adopts section 16(b) of the Securities Exchange Act of 1934 (Exchange Act) in respect of their transactions incident to the distribution of Paul Revere shares. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Shares of Paul Revere are to be purchased by the underwriters pursuant to an underwriting agreement to be entered into between Paul Revere and the underwriters represented by Applicant. It is intended that upon the effective date of Paul Revere's registration statement under the Securities Act of 1933, the Paul Revere shares will be sold to the public.

It is quite possible that Applicant and one or more other members of the underwriting group may each acquire, in accordance with the provisions of the underwriting agreement, more than 10 percent of the Paul Revere common stock which will be outstanding at the time of the closing of the initial public offering of the shares.

Since section 30(f) of the Act subjects every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of outstanding securities of Paul Revere to the same duties and liabilities as those imposed by section 16 of the Exchange Act, such Underwriter or Underwriters would become subject to the filing requirements of section 16(a) of the Exchange Act and, upon resale of the shares purchased by them to their customers, subject to the obligations imposed by section 16(b) of the Exchange Act.

Rule 16b–2 under the Exchange Act exempts certain transactions in connection with a distribution of securities from the operation of section 16(b) of the Exchange Act. Applicant states that the purpose of the purchase by Applicant and the other underwriters is for resale in connection with the initial distribution of shares of Paul Revere. The purchases and sales will thus be transactions effected in connection with a distribution of a substantial block of securities within the purpose and spirit of Rule 16b–2.

It is possible, however, that Applicant and certain of its co-underwriters will not be exempted from section 16(b) by the operation of Rule 16b–2, as they may fail to meet the requirement stated in paragraph (a)(3) of Rule 16b–2 that the aggregate participation of persons not within the purview of section 16(b) of the Exchange Act be at least equal to the participation of persons receiving the exemption under Rule 16b–2. It is possible that one or more of the underwriters who, pursuant to the underwriting agreement, will purchase more than 10 percent of the shares of Paul Revere, may be obligated to purchase more than 50 percent of such shares being offered pursuant to the underwriting agreement.

In addition to purchases from Paul Revere and sales to customers, there may be the usual transactions of purchase or sale incident to a distribution such as stabilizing purchases, purchases to cover over-allotments and sales of shares purchased in stabilization.

Applicant states that there is no possibility of using inside information and, in fact, that there is no inside information in existence, since Paul Revere, prior to the initial distribution, will have virtually no assets or business of any sort. No director or officer of any underwriter is a director or officer of Paul Revere.

Applicant thus submits that the requested exemption from the provisions of section 30(f) of the Act is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Section 6(c) authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities, or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 29, 1971, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon

said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-13828 Filed 9-20-71;8:45 am]

[70-5081]

LOUISIANA POWER & LIGHT CO. AND MIDDLE SOUTH UTILITIES, INC.

Notice of Proposed Issue and Sale of Common Stock by Subsidiary Company to Holding Company

SEPTEMBER 14, 1971.

Notice is hereby given that Middle South Utilities, Inc. (Middle South), 280 Park Avenue, New York, NY 10017, a registered holding company, and Louisiana Power & Light Co. (Louisiana), a public-utility subsidiary company of Middle South, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a), 7, 9(a), 10, and 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

Louisiana proposes to issue and sell to Middle South (the holder of all of the issued and outstanding shares of Louisiana's common stock, no par value), and Middle South proposes to acquire, 1,852,000 additional shares of Louisiana's common stock, no par value, for an aggregate purchase price of $10 million in cash. Upon completion of the foregoing transaction, Louisiana will have issued and outstanding 22 million shares of common stock, no par value, which will be stated in its Common Capital Stock Account at an aggregate of $135,925,000. Louisiana proposes to use the net proceeds from the sale of the additional common stock for its current construction program, estimated at $90,100,000 for 1971, the repayment of short-term promissory notes then outstanding, and other corporate purposes.

It is stated that no special or separate expenses are anticipated in connection with this transaction by either Louisiana or Middle South and that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 6, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-13829 Filed 9-20-71;8:45 am]

[70-5080]

MONONGAHELA POWER CO.

Notice of Proposed Issue and Sale of Short-Term Notes to Banks and Commercial Paper Dealer and Exception From Competitive Bidding

SEPTEMBER 15, 1971.

Notice is hereby given that Monongahela Power Co. (Monongahela), 1310 Fairmont Avenue, Fairmont, WV 26554, a registered holding company and an electric utility subsidiary company of Allegheny Power System, Inc., also a registered holding company, has filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Monongahela requests that from the date of the granting of this application to December 31, 1973, the exemption from the provisions of section 6(a) of the Act afforded to it by the first sentence of section 6(b) of the Act, relating to the issue of short-term notes, be increased to the extent necessary to cover the issue and sale of notes to banks and to dealers in commercial paper up to the maximum amount allowable under Monongahela's charter without preferred stockholder consent, which, as of June 30, 1971, amounted to $29,950,000. Monongahela proposes, under the proposed exemption, to issue and sell from time to time its short-term notes to banks and to dealers in commercial paper prior to December 31, 1973: *Provided*, That none of such notes shall mature later than June 30, 1974, and: *Provided further*, That $29,950,000 represents the maximum amount of notes to be outstanding at any one time. Changes may be made in the maximum amount of notes to be outstanding upon the filing of a posteffective amendment and additonal authorization by the Commission. The proceeds from the sale of the notes will be used by Monongahela to reimburse its treasury for past expenditures made in connection with its construction program and that of its subsidiary company; to pay in part the cost of future construction; and for other corporate purposes. Construction expenditures of Monongahela and its subsidiary company for the years 1971, 1972, and 1973 are estimated to total $173 million. The application states that, unless otherwise authorized by the Commission, any of Monongahela's short-term debt outstanding hereunder after December 31, 1973, will be retired from internal cash resources, permanent debt or equity financing, or cash capital contributions.

Each note payable to a bank will be dated as of the date of issue and will mature not more than 270 days after the date of issue or renewal thereof. Each such note will bear interest at the prime rate of commercial banks at the time of issue and will be prepayable at any time without premium or penalty. Although no commitment or agreement for any of the proposed borrowings has been made, Monongahela expects that borrowings will be effected from First National City Bank of New York and Mellon National Bank & Trust Company, Pittsburgh, Pa., and that the maximum to be borrowed and outstanding at any one time from such banks will be $20 million and $15 million, respectively.

The commercial paper notes will be in the form of promissory notes in denominations of not less than $50,000 nor more than $5 million and will be of varying maturities, with no maturity more than 270 days after the date of issue. None will be prepayable prior to maturity. The commercial paper notes will be sold directly to a dealer at a discount not in excess of the discount rate per annum prevailing at the time of issue for commercial paper of comparable quality and of the particular maturity. The dealer may reoffer the commercial paper at a discount rate of one-eighth of 1 percent per annum less than the discount rate then available to Monongahela. No commercial paper notes will be issued having a maturity of more than 90 days at an effective interest cost which exceeds the effective interest cost at which Monongahela could borrow from banks. The dealer will reoffer the commercial paper notes to not more than 200 of its customers identified and designated in a list (nonpublic) prepared in advance. It is

expected that the commercial paper notes will be held by the dealer's customers to maturity, but if the customers wish to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer them to others in its group of 200 customers.

Monongahela requests an exception from the competitive bidding requirements of Rule 50 for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5) thereof. Monongahela states that it is not practicable to invite competitive bids for commercial paper and that current rates for commercial paper of prime borrowers such as Monongahela are published daily in financial publications. Monongahela also requests authority to file certificates under Rule 24 with respect to the issue and sale of commercial paper hereafter consummated pursuant to this application on a quarterly basis.

The application states that fees and expenses related to the proposed transactions are estimated not to exceed $400 and that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 4, 1971, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-13830 Filed 9-20-71;8:45 am]

[812-2978]

PAUL REVERE LIFE INSURANCE CO. AND PAUL REVERE INVESTORS INC.

Notice of Filing of Application for Order

SEPTEMBER 15, 1971.

Notice is hereby given that the Paul Revere Life Insurance Co. (Paul Revere Life), 18 Chestnut Street, Worcester, MA, and Paul Revere Investors Inc. (the "Fund"), Paul Revere Investors Inc., 18 Chestnut Street, Worcester, MA, a registered closed end nondiversified management investment company (collectively "Applicants"), have filed an application pursuant to section 17(d) of the Investment Company Act of 1940 (Act) and Rule 17d-1 thereunder for an order permitting a joint arrangement whereby Paul Revere Life would invest concurrently in each issue of securities purchased by the Fund at direct placement. All interested persons are referred to the application on file with the Commission for a full statement of the representations therein which are summarized below.

The Fund is designed to acquire direct placement investments of the kind currently being acquired for the general account of Paul Revere Life. The Paul Revere Equity Management Co. (Equity Management), a wholly owned subsidiary of Paul Revere Life is employed as investment adviser to the Fund. The Fund's investment objective is to generate increasing dollar amounts of income for distribution to its shareholders. The principal investments of the Fund will be long-term obligations and occasionally preferred stocks, where possible with equity features, purchased directly from the issuers. The equity features associated with these investments will ordinarily be shares of common stock of the issuer or an affiliate of the issuer, warrants or rights which are exercisable for such shares or the right to convert the debt securities into such shares. Pursuant to the proposed arrangement, Paul Revere Life will invest concurrently in each issue purchased by the Fund at direct placement in an amount equal to the amount invested in such issue by the Fund and it will exercise warrants, conversion privileges and other rights at the same time and in the same amount.

Rule 17d-1 adopted by the Commission under section 17(d) of the Act provides that "no affiliated person of * * * any registered investment company * * *, acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement or profit sharing plan in which any such registered company * * * is a participant, and which is entered into, adopted or modified subsequent to the effective date of this rule, unless an application regarding such joint enterprise, arrangement or profit sharing plan has been filed with the Commission and has been granted by an order entered * * * prior to such adoption or modification." It is also provided that in passing upon such applications, the Commission will consider whether the participation of such registered or controlled company in such joint enterprise, joint arrangement or profit sharing plan on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

It is represented that Paul Revere Life has a nationally recognized position as a source of capital funds and as a purchaser of investment securities to be issued at private placement and that, as a result, Paul Revere Life attracts issuers who are located in all parts of the country and who are engaged in a wide variety of enterprises. It is also represented that such investment opportunities would be made available to the Fund by reason of its sponsorship by Paul Revere Equity Management Co. and Paul Revere Life's paticipation with it in new investments.

Applicants request an order that would permit the proposed arrangement subject to the following conditions:

(1) Each investment will be made by Paul Revere Life and the Fund at the same unit price in securities of the same class (except that Paul Revere Life's investment may include nonvoting securities which are, except for voting rights, identical with those purchased by the Fund).

(2) Unless otherwise permitted by order of the Commission, Paul Revere Life will invest an amount equal to the amount invested in the issue by the Fund and Paul Revere Life and the Fund will exercise warrants, conversion privileges, and other rights at the same time and in the same amount.

(3) All securities which Paul Revere Life is prepared to purchase at direct placement and which would be consistent with the investment policies of the Fund will be shared equally by Paul Revere Life and the Fund unless—

(a) In the judgment of the board of directors of the Fund concurred in by a majority of those directors who are not "interested persons" (as defined in the Act) of Equity Management nor affiliated persons of Paul Revere Life, (i) 85 percent or more by value of the assets of the Fund are invested, in accordance with the investment policies of the Fund, in long-term obligations or preferred stocks purchased directly from the issuers or in equities acquired either in connection with such purchases or as a result of the exercise of rights or other options so acquired, (ii) there is insufficient cash to make the investment, and (iii) the sale of portfolio securities of the fund to provide such cash is inadvisable.

(b) The purchase by the Fund would be inconsistent with provisions of any

Commission order granted on this application or otherwise and then in effect, or

(c) The Commission by order otherwise permits.

(4) Neither Paul Revere Life nor the Fund, unless otherwise permitted by order of the Commission, will have any prior interest in the issuer, in any affiliated person of the issuer, or in securities issued by such issuer or affiliated person other than interests in all respects identical.

(5) Neither Paul Revere Life nor the Fund, unless otherwise permitted by order of the Commission, will acquire any further interest in the issuer or in any affiliated person of the issuer or in securities issued by such issuer or affiliated person other than interests in all respects identical.

(6) Neither Paul Revere Life nor the Fund will, unless otherwise permitted by order of the Commission, sell, exchange, or otherwise dispose of any interest in any security of a class held by Fund unless each makes such disposition at the same time, for the same unit consideration and in the same amount (each in the same proportion to the amount it holds if the amounts held by each are different).

(7) The expenses, if any, of the distribution of securities registered for sale under the Securities Act of 1933 and sold by Paul Revere Life and the Fund at the same time will be shared by Paul Revere Life and the Fund in proportion to the amount each is selling.

Applicants represent that the proposed arrangement, subject to the aforementioned conditions, is consistent with the provisions, policies, and purposes of the Act and will not be on a basis less advantageous to the Fund than that of the other participant.

Notice is further given that any interested person may, not later than September 29, 1971, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time later than said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.71-13831 Filed 9-20-71;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License Application 03/03-5066]

ALLIANCE ENTERPRISE CORP.

Notice of Application for License as Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Alliance Enterprise Corp. (applicant) with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1971)).

The officers and directors of the applicant are as follows:

Kenneth D. Hill, 785 Providence Road, Lansdowne, PA 19050, President, Treasurer and Director.

Robert A. Matteson, 610 Silverside Road, Wilmington, DE 19809, Secretary and Director.

Barbara C. Harris, 220 West Harvey Street, Philadelphia, PA 19144, Director.

William R. Klaus, South Devon Road, Devon, PA 19333, Director.

R. Anderson Pew, 916 Muirfield Road, Bryn Mawr, PA 19010, Director.

Harlan T. Snider, 701 Camp Woods Road, Villanova, PA 19085, Director.

The applicant, a Delaware corporation with its principal place of business located at 1616 Walnut Street, Philadelphia, PA 19103, will begin operations with $150,000 of paid-in capital, consisting of 100 shares of common stock. All of the issued and outstanding stock will be owned by Sun Oil Co., with a place of business located at 1608 Walnut Street, Philadelphia, PA 19103.

Applicant will not concentrate its investments in any particular industry. According to the company's stated investment policy, its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating the acquisition, or maintenance of ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Any interested person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed MESBIC. Any such communication should be addressed to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Philadelphia, Pa.

Dated: September 10, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-13845 Filed 9-20-71;8:47 am]

[Declaration of Disaster Loan Area 848; Class A]

TEXAS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of September 1971, because of the effects of certain disasters, damage resulted to residences and business property located in the State of Texas;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the offices below indicated from persons or firms whose property, situated in all areas affected by hurricane Fern in the aforesaid State, suffered damage or destruction resulting from heavy rains and floods beginning on September 10, 1971 and continuing.

OFFICES

Small Business Administration District Office, 219 East Jackson Street, Harlingen, TX 78550.

Small Business Administration Branch Office, 701 North Upper Broadway, Corpus Christi, TX 78401.

Small Business Administration District Office, 808 Travis Street, Houston, TX 77002.

Small Business Administration District Office, 301 Broadway, San Antonio TX 78205.

2. Temporary offices will be established at such areas as are necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will

not be accepted subsequent to March 31, 1972.

Dated: September 13, 1971.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.71-13844 Filed 9-20-71;8:47 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

SEPTEMBER 14, 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 9115 Sub 59, O.N.C. Motor Freight System, now assigned October 4, 1971, at Seattle, is canceled and application dismissed.

W-497 Sub 7, United States Lines, Inc., now assigned September 27, 1971, at Washington, D.C., postponed indefinitely.

MC 32882 Sub 50, Mitchell Bros. Truck Lines, and MC 83539, Sub 282, C & H Transportation Co., Inc., now assigned September 27, 1971, at Seattle, Wash., has been postponed indefinitely.

MC 128273 Sub 87, Midwestern Express, Inc., now assigned Stepember 27, 1971, at Washington, D.C., postponed to November 15, 1971, same time and place.

MC 13651 Sub 15, Peoples Transfer, Inc., now assigned September 23, 1971, at Los Angeles, Calif., canceled and application dismissed.

MC 112304 Sub 46, Ace Doran Hauling & Rigging Co., now assigned October 8, 1971, at Louisville, Ky., has been postponed indefinitely.

MC 108449 Sub 323, Indianhead Truck Line, Inc., now assigned October 14, 1971, at St. Paul, Minn., has been postponed indefinitely.

MC 114045 Sub 339, Trans-Cold Express, Inc., now assigned October 4, 1971, at New York, application dismissed and hearing canceled.

Finance Docket No. 26630 Sub 1, Baltimore & Eastern Railroad Co. Abandonment between Queenstown and Denton, Caroline and Queen Annes Counties, Md., now assigned to September 27, 1971, at Denton, Md., is postponed to November 15, 1971, same time and place.

MC 107295 Sub 503, Pre-Fab Transit Co., assigned November 15, 1971, in Room 4, State Office Building, 65 South Front Street, Columbus, OH.

MC 112184 Sub 33, The Manfredi Motor Transportation Co., assigned November 19, 1971, in Room 107, State Office Building, 65 South Front Street, Columbus, OH.

MC 116763 Sub 165, Carl Subler Trucking, Inc., assigned November 16, 1971, in Room 4, State Office Building, 65 South Front Street, Columbus, OH.

MC 119789 Sub 60, Caravan Refrigerated Cargo, Inc., assigned November 12, 1971, in Room 4, State Office Building, 65 South Front Street, Columbus, OH.

MC 133523 Sub 4, Eugene Stone Trucking, Inc., assigned November 10, 1971, in Room 4, State Office Building, 65 South Front Street, Columbus, OH.

MC 135232, Crown Metal & Salvage Co., assigned November 18, 1971, in Room 4, State Office Building, 65 South Front Street, Columbus, OH.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-13862 Filed 9-20-71;8:48 am]

ASSIGNMENT OF HEARINGS

SEPTEMBER 16, 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.

Investigation and Suspension Docket No. 8637, Mechanical Protective Service of Perishables—Nationwide, continued to San Francisco, Calif., on October 4, 1971, in Room 503, 555 Battery Street, and on October 11, 1971, in Room 13216-B Federal Building, 450 Golden Gate Avenue.

MC 93944 Sub 9, Danella Bros, Inc., and MC 123502 Sub 34, Free State Truck Service, Inc., assigned November 8, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 110988 Sub 263, Schneider Tank Lines, Inc., now assigned September 29, 1971, at Louisville, Ky., is canceled and application dismissed.

MC 134958, Hams Express, Inc., assigned November 15, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11063, Sharpe Motor Lines, Inc.—Purchase (portion)—Tallant Transfer, Inc., assigned November 8, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 30844 Sub 355, Kroblin Refrigerated Xpress, Inc., assigned October 18, 1971, in Room 107 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH.

MC 127099 Sub 13, Robert Neff & Sons, Inc., assigned October 19, 1971, in Room 107 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH.

MC 133133 Sub 2, Fuller Motor Delivery Co., assigned October 20, 1971, in Room 107 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH.

MC-C-7254, Jones Transfer Co., Investigation and Revocation of Certificate, now assigned November 1, 1971, at Lansing, Mich., in Room 360, Seven Story State Office Building.

MC 14552 Sub 39, J. V. McNicholas Transfer Co., assigned October 21, 1971, in Room 107 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH.

MC 47126 Sub 5, Suburban Transit, Inc., now assigned October 18, 1971, at Cleveland, Ohio, is canceled and transferred to modified procedure.

MC-F-11175, Long Island Delivery Co., Inc., assigned October 21, 1971, in Courtroom "A", Court of Claims, 26 Federal Plaza, New York, N.Y.

MC 107295 Sub 497, Pre-Fab Transit Co., assigned October 18, 1971, in Courtroom "A", Court of Claims, 26 Federal Plaza, New York, N.Y.

MC 135379 Sub 2, Eastern Transport, Inc., assigned October 19, 1971, in Courtroom "A", Court of Claims, 26 Federal Plaza, New York, N.Y.

MC 135447, Dilido Transportation Co., Inc., assigned October 20, 1971, in Courtroom "A", Court of Claims, 26 Federal Plaza, New York, N.Y.

MC-C 7406, Red Line Express, Inc.—Investigation and Revocation of Certificates, now assigned October 26, 1971, at Columbus, Ohio in Room 228, Federal Building, and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH.

MC 111812 Sub 421, Midwest Coast Transport, Inc., assigned October 20, 1971, in Room 140, 601 East 12th Street, Kansas City, MO.

MC 114239 Sub 26, Farris Truck Line, assigned October 19, 1971, in Room 140, 601 East 12th Street, Kansas City, MO.

MC 114457 Sub 107, Dart Transit Co., assigned October 22, 1971, in Room 148A, 601 East 12th Street, Kansas City, MO.

MC 119493 Sub 67, Monkem Co., Inc., assigned October 21, 1971, in Room 149, 601 East 12th Street, Kansas City, MO.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-13863 Filed 9-20-71;8:48 am]

[Sec. 5a Application No. 45, Amdt. No. 7]

NIAGARA FRONTIER TARIFF BUREAU, INC.

Application for Approval of Amendments to Agreement

AUGUST 31, 1971.

The Commission is in receipt of a supplemental application in the above-entitled proceeding for approval of revised amendments to the agreement therein approved.

Filed June 14, 1971, in lieu of application filed October 17, 1968. By: Robert G. Gawley, Post Office Box 184, Buffalo, NY 14221.

The amendments involve: Changes in the agreement so as to (1) establish separate procedures jointly with members of Southern Motor Carriers Conference for the joint consideration, initiation, or establishment of interterritorial rates and related matters between Southern territory and the Province of Quebec, Canada; (2) provide separate procedures in connection with processing section 22 quotations on government traffic; (3) specifically provide for public notice of independent action proposals to comply with Ex Parte No. 253, 332 I.C.C. 22; and (4) make other incidental changes made necessary by the foregoing changes.

The supplemental application may be inspected at the office of the Commission in Washington, D.C.

Any person desiring to protest and participate in this proceeding shall notify

the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigation and determine the matters involved without public hearing.

By the Commission.

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

[FR Doc.71-13859 Filed 9-20-71;8:48 am]

[Section 5a, Application No. 46; Amdt. 7]

SOUTHERN MOTOR CARRIERS RATE CONFERENCE

Application for Approval of Amendments to Agreement

SEPTEMBER 1, 1971.

The Commission is in receipt of a supplemental application in the above-entitled proceeding for approval of revised amendments to the agreement therein approved.

Filed May 7, 1971, in lieu of application filed August 5, 1968. By: W. C. Brown, Jr., Post Office Box 7347, Station C, Atlanta, GA 30309.

The amendment involves: Changes in the bylaws and rate procedures of Southern Motor Carriers Rate Conference and in agreements with other publishing agents so as to (1) show administrative changes of W. C. Brown, Jr., as Agent and attorney in fact, and delete superfluous wording from various rate and tariff agreement forms, (2) require that all East-South tariff participating carriers, execute the governing rate and tariff agreement form; (3) specifically provide for prior approval by the Interstate Commerce Commission; of any change in the agreement bylaws and procedures; (4) eliminate the joint agency procedures with Southwestern Motor Freight Bureau, Inc., on South-Southwest Interterritorial ratemaking and absorb such activity pursuant to the rules of procedure governing conference ratemaking procedures; (5) establish jointly with Niagara Frontier Tariff Bureau, Inc., on behalf of their respective member carriers, the organization and procedures for the joint consideration of rates and related matters interterritorially between Southern territory and the Province of Quebec, Canada, (6) show the revised dues schedules for conference members and participation fees of nonmembers, and (7) make other incidental changes made necessary by the foregoing changes.

The supplemental application may be inspected at the Office of the Commission in Washington, D.C.

Any person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigation and determine the matters involved without public hearing.

By the Commission.

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

[FR Doc.71-13860 Filed 9-20-71;8:48 am]

[Section 5a, Application No. 2; Amdt. 19]

WESTERN RAILROAD TRAFFIC ASSOCIATION

Application for Approval of Amendments to Agreement

AUGUST 31, 1971.

The Commission is in receipt of an application in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed July 23, 1971. By: J. M. Souby, Jr., Western Railroad Traffic Association, 224 Union Station Building, Chicago, Ill. 60606.

The amendments involve: Modifications of Article XI governing the North Pacific Coast Freight Bureau so as to change the composition of the Executive Committee and quorum requirements thereto and of the Freight Traffic Committee caused by merger or control; provide specifically that membership on committees is conferred automatically on the receivers, trustees, successors, or assigns of remaining member lines; and eliminate the voting power in various committees of merged or controlled lines.

The application may be inspected at the Office of the Commission in Washington, D.C.

Any person desiring to protest and participate in this proceeding shall notify the Commission in writing within 20 days from the date of publication of this notice in the FEDERAL REGISTER. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigation and determine the matters involved without public hearing.

By the Commission.

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

[FR Doc.71-13861 Filed 9-20-71;8:48 am]

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