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Chapter I—Federal Power Commission

[Docket No. R-411; Order No. 441]

UNIFORM SYSTEMS OF ACCOUNTS AND ANNUAL REPORT FORM FOR NATURAL GAS COMPANIES

NOVEMBER 10, 1971.

Accounting and rate treatment of advance payments to suppliers for exploration and lease acquisition of gas-producing properties.

On January 8, 1971, the Commission issued a notice of proposed rule making in this proceeding (36 F.R. 377, January 12, 1971) proposing to amend its regulations under the Natural Gas Act so as to provide for accounting and rate treatment of advance payments made to suppliers by pipelines for gas to be delivered at a future date.

The object of that notice was to afford all parties further opportunity to comment on (1) account 166, including a proposed modification thereof, and (2) the establishment of a separate account 167 treating advances for exploration and lease acquisition costs.

Comments were invited from interested persons[1] to be submitted in writing by February 16, 1971, with responses thereto to be filed not later than March 16, 1971. All comments, petitions, and answers previously filed in rule making proceedings regarding Docket No. R-380 were also to be considered as part of the record in Docket No. R-411.

The notice of rule making advises that proposed changes were being considered involving the following major subjects and issues:

(1) The effect of the receipt of a working interest by a company or a company's affiliated producer as a result of advance payments upon the propriety of the inclusion of such payments in rate base, or whether these interests should be included in production accounts;

(2) The effect of receipt by the pipeline of an economic interest, other than a working interest, in return for advance payments upon the inclusion of such advances in the rate base, and whether any realization therefrom should be applied to the appropriate revenue account to reduce the cost of service.

(3) The determination as to the rate treatment of advance payments made to affiliate and independent producers for exploration and lease acquisition.

The above-stated subjects and issues are stated in the text of the notice and are embodied within two proposed alternative methods for treating advance payments. These alternative methods are:

A. To repromulgate account 166 as stated in Order No. 410-A issued on January 8, 1971.

B. To add a new account 167, Advance Payments for Gas and modify account 166 to apply only to advances for gas development and production; and to preclude the inclusion in either account 166 or 167 of advances where a pipeline or a pipeline affiliate obtains a working interest in producing properties as a result thereof. Advance payments included in account 166 would be included in the rate base.

Changes to be effected in the Uniform System of Accounts and FPC Form 2 are to provide uniform accounting harmonious with the rate treatment adopted.

Upon consideration of the comments, the Commission concludes that alternative method B should be adopted, but with the changes hereinafter detailed, and for the limited term ending December 31, 1972.

In our area rate opinions for Southern Louisiana and Texas Gulf Coast (Opinions 598 and 595), we recognize that it is the function of a just and reasonable rate for independent producers to elicit requisite gas supply, and that costs, in economic terms, reflects the required level of capital formation to elicit that level. In other words, the just and reasonable area rate in these recent opinions did not consider "non-cost" items. Having acknowledged, as we do, that provisions for special rate treatment of advance payments by pipelines have been justified in the past on the basis of providing additional incentives in this experimental undertaking, we nevertheless seek to avoid separate, nonprice incentives as much as possible.

A critical shortage of gas exists in the United States; capital formation for gas development is difficult. The objectives of providing capital to accelerate the addition of new gas supplies supports our continuation for the limited period of the rate treatment of advance payments provided herein. We recognize that the just and reasonable area rates for independent producers will hopefully alleviate this gas supply shortage over the long run; however, for the immediate term (namely through 1972), our advance payments policy has been designed to increase directly the funds available for the necessary exploration and developmental effort. It is our intention that rate-base treatments for advances included in account 166 be terminated for advances resulting from contracts executed after December 31, 1972, unless otherwise ordered.

All advances made under contracts executed prior to the issuance of this order shall receive rate treatment in accordance with the provisions of Orders Nos. 410 and 410-A in Docket No. R-380. Advances made under contracts executed on or after the date of issuance of this order shall be treated as ordered herein. For rate purposes advance payments to pipeline affiliated producers shall be treated the same as advances to independent producers.

No advance may be included in account 166 unless such advance is to be repaid in full by either delivery of natural gas or other consideration. Such repayment shall be completed within 5 years, or as otherwise authorized by the Commission, from the date gas deliveries commence or the date it is determined that recovery will be in other than gas.

Advances may be recorded in account 166 and shall be included in rate base where such payments are reasonable, necessary, and appropriate in order to contract for gas supplies by agreement executed not later than December 31, 1972.

Although we are providing account 167 for all other advance payments for gas, including exploration and lease acquisition, rate-base treatment shall not be accorded any such advance after the effective date of this order. Account 167, to be known as Other Advance Payments for Gas, is provided for accounting purposes only, and is expanded to include all advance payments disqualified by option or regulation from rate-base treatment. Our review of the various comments and available data has persuaded us that advances for exploration and lease acquisition have not shown to be an effective vehicle for stimulating the widespread participation in natural gas production for which their encouragement was intended. Moreover, there is some indication that the availability of advances for such purposes by creating competition among pipelines to make such advances may be having the effect of increasing the amounts expended on lease acquisition without a proportionate improvement in gas supply.

Where a working interest is obtained by a pipeline or a pipeline affiliate as a result of a related advance payment, we have determined that such a payment should be included in the applicable production account and not be accorded rate-base treatment. This determination is in accord with our statement of policy in Opinion No. 568 issued October 7, 1969, in Docket No. RP66-24, where pipeline

[1] R-411 was published in the FEDERAL REGISTER of January 12, 1971 (36 F.R. 377) and extensions of time were published February 19, 1971 (36 F.R. 3202) and March 19, 1971 (36 F.R. 4551). Responses were due March 25, 1971, and comments on responses due April 22, 1971. The respondents are listed in Appendix A, which is filed as part of the original document.

producers were to be treated on a parity with independent producers so as to encourage intensified exploration by the pipeline producers.

For purposes of clarification, we define "working interest" as embodying operating rights and/or the right to share in production or revenues from the producing venture, so that its receipt of production or revenues will increase as the production or revenues from the producing venture increase, without any termination of such right to receive production or revenues after the return of the amount of any related advance payment.

Economic interests other than working interests received as a result of making advance payments, where the related advance payments have been accorded rate-base treatment and are properly included in account 166, shall have any realization therefrom included in the required account so as to reduce the cost of service, all as indicated in account 166. This determination results from our finding that while it is equitable for the companies to earn on advance payments necessary to contracts for gas supplies, it would, however, be inequitable to deny any excess benefit from such advances to the companies' customers through reduction of the cost of service.

Consistent with the amendments to § 154.63 of the regulations under the Natural Gas Act adopted herein, the Commission plans to consider those amounts recorded in account 166, Advance Payments for Gas, as rate-base items, where found reasonable and appropriate.

The Commission finds: (1) The notice and opportunity to participate in this proceeding with respect to the matters presently before this Commission through the submission, in writing, of data, views, comments and suggestions in the manner as described above are consistent and in accordance with all procedural requirements therefor as prescribed in section 553 of Title 5 of the United States Code.

(2) The amendments of the Commission's Uniform System of Accounts, regulations under the Natural Gas Act and Annual Report Form No. 2 schedules herein prescribed are necessary and appropriate for the administration of the Natural Gas Act.

(3) Since the revised schedules of FPC Form No. 2 are being prescribed for the reporting year 1971, good cause exists for making the amendments adopted herein effective immediately.

(4) The changes prescribed herein which were not included in the notice in this proceeding are of a minor nature, and further notice thereof is therefore unnecessary.

The Commission acting pursuant to the authority granted by the Natural Gas Act, as amended, particularly by sections 4, 5, 7, 15, and 16 (52 Stat. 822, 823, 824, 825, 829, and 830 (1938); 56 Stat. 83, 84 (1942); 61 Stat. 459 (1947); 76 Stat. 72 (1962); 15 U.S.C. 717c, 717d, 717f, 717n, and 717o), orders:

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES

(A) The Commission's Uniform System of Accounts for Class A and Class B Natural Gas Companies prescribed by Part 201, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. In the Chart of Balance Sheet Accounts, amend the title of account "166, Advance Payments for Gas," and add a new account "167, Other Advance Payments for Gas." As so amended, the chart of accounts will read:

Balance Sheet Accounts

(Chart of Accounts)

* * * * *

ASSETS AND OTHER DEBITS

* * * * *

3. CURRENT AND ACCRUED ASSETS

* * * * *

166 Advance payments for gas development and production.

167 Other advance payments for gas.

* * * * *

2. In the Balance Sheet Accounts section, amend the title and text of account "166, Advance Payments for Gas," and add a new account "167, Other Advance Payments for Gas," to read as follows:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

* * * * *

3. CURRENT AND ACCRUED ASSETS

* * * * *

166 Advance payments for gas development and production.

A. This account shall include all advance payments made for gas (whether called "advance payments," "contribution," or otherwise) to others, including advances to affiliated or associated companies (where no working interest is obtained), for development or production of natural gas, when such advance payments are to be repaid in full by either delivery of gas or other consideration. Under each agreement with payee, such payments must be made prior to initial gas deliveries, or if the agreement provides for advances on a well-by-well basis, each incremental payment must be made prior to deliveries from an incremental well, or prior to Federal and/or State authorization, as appropriate. Noncurrent advance payments not to be repaid within a 2-year period shall be reclassified and transferred to account 124, Other Investments, for balance sheet purposes. This transfer is for reporting purposes only and has no effect on accounting or rate making. When a pipeline or an associated company obtains a working interest as a result of funds advanced to producers, such amounts shall be included in appropriate production accounts.

B. Outstanding advance payments shall be fully reduced within 5 years, or as otherwise authorized by the Commission, from the date gas deliveries commence or the date it is determined that recovery will be in other than gas. A sufficient portion of all gas taken should be credited to the related outstanding advance payment so as to eliminate the advance within the 5-year period or as otherwise authorized by the Commission upon request by the pipeline company. The reduction of the outstanding advance payment should not be dependent on a buyer purchasing more than 100 percent of the minimum take or pay quantity provided in the contract.

C. Where recovery is by gas, recovered advance payments shall be credited to this account and charged to the appropriate gas purchase account.

D. Whenever as a result of an advance included in this account, a pipeline receives any amount in excess of a full recovery of the advance, such amount must be credited to account 813, Other Gas Supply Expenses. If the income or return is received in other than money, it shall be included at the market value of the assets received.

E. If the recipient of an advance payment is unable to repay it in full, in gas or other assets, the unpaid or nonrecoverable portion must be credited to this account at the time such amount is recognized as nonrecoverable. Nonrecoverable advance payments significant in amount must be eliminated within 5 years from the date of determination as nonrecoverable by either a charge to account 435, Extraordinary Deductions, or when authorized by the Commission, by a transfer to account 186, Miscellaneous Deferred Debits, and amortization to account 813, Other Gas Supply Expenses. Nonrecoverable advance payments insignificant in amount should be charged directly to account 813 in the year recognized as nonrecoverable.

F. No transfers shall be made from this account to any other accounts, unless otherwise provided herein, except as authorized by the Commission upon request by the pipeline company.

G. Three copies of any agreement concerning advance payments will be filed with the Secretary within 30 days of the initial related entry in account 166.

NOTE A: This account may include advance payments for exploration (including lease acquisition costs), made according to the provisions of Orders Nos. 410 and 410-A, for which a formal contractual commitment was made prior to the date of Order No. —.

NOTE B: This account shall not include advance payments expended for delay rentals, nonproductive well drilling, abandoned leases, or other exploration, where such payments are related to exploration and lease acquisition, except in accordance with note A to this account.

NOTE C: To keep the Commission informed when an advance is nonrecoverable by any means the company must submit the full details involved as soon as such fact becomes known.

167 Other advance payments for gas.

This account shall include all advance payments made for gas, for exploration

(including lease acquisition costs), development, or production of natural gas, not properly includible in account 166, exclusive of amounts advanced where a working interest is obtained.

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

(B) The schedule pages 110, entitled Comparative Balance Sheet—Statement A, and 210-B, entitled Advance Payments for Gas Prior to Initial Deliveries or Commission Certification (accounts 124 and 166), in FPC Form No. 2, Annual Report for Natural Gas Companies (class A and class B) prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations is amended as set out in Appendix B hereto.[2]

PART 154—RATE SCHEDULES AND TARIFFS

(C) Statement E—Working Capital, in paragraph (f) Description of statements, of § 154.63 in Part 154, Rate Schedules and Tariffs, Subchapter E—Regulations Under the Natural Gas Act, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows: Item (b) in the first sentence of the second paragraph of Statement E is amended by adding immediately following the word "suppliers" the words "in Account 166." As amended, this portion of Statement E will read as follows:

§ 154.63 Changes in a tariff, executed service agreement or part thereof.

* * * * *

(f) *Description of statements.* * * *

* * * * *

Statement E—Working Capital. * * * The components of working capital may include * * * (b) an allowance for the average of 13 monthly balances of materials and supplies, prepayments, the unrecovered portion of advance payments to suppliers in account 166 made under contracts executed prior to January 1, 1973, and gas for current delivery from underground storage. * * *

* * * * *

(D) This order is effective immediately upon issuance.

(E) The Secretary of the Commission shall cause prompt publication of this order.

By the Commission.

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

[FR Doc.71-16701 Filed 11-17-71;8:45 am]

[2] Filed as part of the original document.

[Docket No. R-403; Order 440]

UNIFORM SYSTEMS OF ACCOUNTS AND ANNUAL REPORT FORM FOR NATURAL GAS COMPANIES

NOVEMBER 5, 1971.

Revisions in Uniform Systems of Accounts for Natural Gas Companies (classes A, B, C, and D) and annual report Form No. 2 to adopt full-cost accounting for exploration and development costs incurred by pipeline companies on natural gas leases acquired on or after October 7, 1969.

On October 5, 1970, the Commission issued a notice of proposed rule making in this proceeding (35 F.R. 15939, October 9, 1970) proposing to amend its uniform systems of accounts for classes A, B, C, and D Natural Gas Companies to adopt full-cost accounting for exploration and development costs on natural gas leases acquired on or after October 7, 1969, and to amend FPC Form No. 2, Annual Report for Natural Gas Companies (classes A and B) consistent with the amendments to the Uniform System of Accounts.

Comments were invited from interested parties to be submitted by November 19, 1970. Subsequently, the time for filing comments was extended to April 30, 1971 (35 F.R. 17431, November 13, 1970). On May 19, 1971, the final date for submitting responses to comments was extended from May 20, 1971 to May 28, 1971 (35 F.R. 19124, December 17, 1970; 36 F.R. 9570, May 26, 1971).

In "Opinion No. 568, Pipeline Production Area Rate Proceeding (Phase I)," issued October 7, 1969 (42 FPC 738; 34 F.R. 17803, November 5, 1969), and Opinion No. 568-A, issued December 5, 1969 (42 FPC 1089), the Commission concluded that the applicable area rate determined for gas produced by independent producers should also be applied to natural gas produced by pipelines and pipeline affiliates from leases acquired on or after October 7, 1969. On January 16, 1970, Arthur Andersen & Co., certified public accountants, petitioned the Commission to amend the Uniform Systems of Accounts to provide "full-cost accounting" for all exploration and development expenditures incurred on leases acquired on or after October 7, 1969 (Docket No. RP70-23). In the petition, the petitioner stated that it believed full-cost accounting, which capitalizes all exploration and development costs with provision for future write-off against revenues from producing wells, was superior to the current expensing of nonproductive well drilling costs, costs of abandoned leases and other similar costs, as required by the Uniform Systems of Accounts for Natural Gas Companies. The petitioner alleged that the existing accounting would act as a deterrent to pipelines to conduct aggressive exploration programs because a substantial portion of the capital costs associated with the discovery of the new gas reserves will have to be charged to expense currently with no offsetting revenues.

In the notice of proposed rule making, the Commission stated it was aware that full-cost accounting was controversial and requested comments and views on the merits of such accounting as well as comments on the specific changes proposed to the Uniform System of Accounts and Annual Report Form No. 2. Comments were also requested on whether the accounting would have a bearing on exploration for new gas reserves.

In response to the notice of rule making, the Commission received comments from 29 respondents.[1] Four respondents submitted responses to the comments.[2]

The responses to the rule making showed the sharp division between advocates and opponents of full-cost accounting with the responses nearly evenly split between those favoring and those opposing the adoption of full-cost accounting by the Commission. Several of the respondents favored full-cost accounting only if prescribed as optional accounting and some respondents stated

[1] Arthur Andersen & Co., Elmer Fox & Co., Arthur Young & Co., American Gas Association, Inc., INGAA, Columbia Gas System Service Corp., Consolidated Gas Supply Corp., Consumers Power Co., Natural Gas Pipeline Co. of America, Northern Natural Gas Co., Pennzoil United, Inc., Philadelphia Gas Works, Division of UGI Corp., Public Service Electric and Gas Co., South Texas Natural Gas Gathering Co., Tennessee Gas Pipeline Co., a Division of TENNECO, Inc., Texas Eastern Transmission Corp., Amoco Production Co., Gulf Oil Corp., et al., Humble Oil & Refining Co., Mobil Oil Corp., Phillips Petroleum Co., Shell Oil Co., Robert E. Field, James M. Forgotson, John A. Pederson, American Institute of Certified Public Accountants, First Manhattan Co., People of the State of California and the Public Utilities Commission of the State of California, Public Service Commission of the State of New York.

[2] Arthur Andersen & Co., Associated Gas Distributors (representing 54 companies), Continental Oil Co., United Gas Pipe Line Co.

that they preferred that full-cost accounting be prescribed as optional accounting. There was similar disagreement between the respondents on whether the adoption of full-cost accounting would have a bearing on decisions to invest in the search for natural gas.

Opponents of full-cost accounting argue that the accounting:

1. Results in a mismatching of revenues and expenses when nonproductive costs are matched against future revenues because there is no direct relationship between capitalized expenditures associated with one mineral deposit in a particular geographic area and revenues from mineral deposits in other geographic areas.

2. Hides losses and creates dubious assets.

3. Obscures meaningful information on financial and operating results.

4. Results in abuses because of the use of varying cost centers[3] and uncertainty as to when to start amortization of the capitalized costs.

Proponents of full-cost accounting argue that:

1. The accounting results in a proper matching of revenues and expenses because all exploration and development costs should be associated with revenues from all reserves discovered.

2. All costs incurred in finding reserves relate to any reserves discovered.

3. Recoverable reserves support asset values.

4. Current expensing of exploration and development costs erroneously relieves future revenues of associated expenses.

5. Any potential abuses from full-cost accounting can be eliminated by adoption of consistent cost centers and rational amortization of the costs.

We believe that the arguments for full-cost accounting are persuasive. Companies engaged in exploration for and production of oil and gas must measure their performance by comparing their costs of finding oil and gas reserves with the value of oil and gas reserves discovered. The costs include costs incurred in nonproductive efforts as well as costs which result in productive wells. Their performance could be measured by areas, by continents, by total operations or on some other basis. We believe that accounting which would match unproductive along with productive costs with production revenues, would better show the results of operations and provide more meaningful financial and operating statements. Although both the concepts of current expensing of unsuccessful costs and full-cost accounting are used in the industry, we adopt full-cost accounting on a nationwide basis in the Uniform Systems of Accounts for Classes A, B, C, and D Natural Gas Companies. We believe that full-cost accounting is more consistent with the economics of exploration and development over a period of time than current expensing of costs.

The notice of proposed rule making proposed that the Commission's areas for setting area rates for natural gas sales be used as cost centers. A number of respondents suggested the use of nationwide cost centers. We believe that the association of nationwide total costs with nationwide revenues would better match expenses with revenues and provide more meaningful financial operating results. Consequently, we are prescribing a nationwide cost center (including the State of Alaska) for gathering and amortizing costs. We believe that the use of a nationwide cost center is more appropriate than the use of the field, province, geological basin, companywide, worldwide or some other division because nationwide meets our needs for regulatory purposes.

As a result of comments received and examination of the proposed accounting changes since issuance of the notice of proposed rule making, we are adopting certain modifications to the accounting as proposed. We are:

1. Deleting from this docket the proposed modifications to Account 283, Accumulated Deferred Income Taxes—Other. This Commission is currently considering income tax accounting under rule making No. R-424, and companies shall follow on a retroactive basis to October 7, 1969, the policies enunciated in the order finalizing that rule making.

2. Inserting a preface to the natural gas production plant accounts that provides that the amounts recorded in the accounts after October 6, 1969, shall not exceed the net realizable value of hydrocarbon reserves. In the event that the net book value of the amounts recorded in the production plant accounts should exceed the net realizable value of hydrocarbon reserves, the amounts shall be reduced; if appropriate, by amortization, over a period not to exceed 5 years.

3. Including delay rentals in the costs that may be capitalized under the full-cost concept.

4. Making certain editorial changes to the definitions and account texts.

We are directing the Commission staff to prepare a notice of proposed rule making with proposals to modify the Commission's Uniform System of Accounts for Natural Gas Companies (Classes A, B, C, and D) which would consider the feasibility of requiring that the determination of recoverable reserves on leases acquired after October 6, 1969, be done by qualified independent consultants and proposals to modify the Commission's Annual Report Form No. 2 for Natural Gas Companies (Classes A and B), which would consider, among other things, disclosure of the net realizable value of recoverable hydrocarbon reserves certified to periodically by independent consultants. In addition, we are directing our staff to explore in the notice of proposed rule making, the propriety of including an allowance for funds used during construction on costs related to leases acquired after October 6, 1969.

Since we are prescribing full-cost accounting retroactive to leases acquired after October 6, 1969, we are directing natural gas companies to restate their financial statements for the calendar years 1969, 1970, and 1971.

The Commission finds:

(1) The notice and opportunity to participate in this proceeding with respect to the matters presently before this Commission through the submission, in writing, of data, views, comments, and suggestions in the manner as described above are consistent and in accordance with all procedural requirements therefor as prescribed in section 553 of title 5 of the United States Code.

(2) The amendments to Parts 201, 204, and 205 of the Commission's Uniform Systems of Accounts for Natural Gas Companies and to Annual Report Form No. 2 prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations, are necessary and appropriate for the administration of the Natural Gas Act.

(3) Since the changes prescribed herein which were not included in the notice in this proceeding are of a minor nature, further notice is unnecessary.

(4) Good cause exists for making the amendments to the Uniform Systems of Accounts for Natural Gas Companies ordered herein, effective immediately and the revision to FPC Form No. 2, adopted herein, effective for the reporting year 1971.

(5) Because the accounting is being prescribed retroactively to leases acquired after October 6, 1969, good cause exists for requiring natural gas companies that have incurred costs on such leases to restate their financial statements for the years 1969, 1970, and 1971.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 8, 9, 10, and 16 thereof (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717h, 717i, 717o) orders:

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR NATURAL GAS COMPANIES

(A) The Commission's Uniform System of Accounts for Natural Gas Companies, Class A and Class B, in Part 201, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. In the Definitions section of Part 201, immediately following definition "11. B. Depreciation," add new definition "12. Development Costs" and renumber definition "12. Discount," as 13. Immediately following renumbered definition "13. Discount," add new definitions "14. Exploration Costs" and "15. Full-cost accounting for exploration and development costs," and renumber definitions 13 through 29 as 16 through 32. Immediately following renumbered definition "32. Service value," add a new definition "33. Unsuccessful exploration and development costs," and renumber definition "30. Utility," as definition 34. New definitions 12, 14, 15 and 33 read:

Definitions

* * * * *

12. "Development costs" when used with respect to hydrocarbons, include all

[3] The accounting areas into which exploration and development activities are divided for purposes of cost assignment and allocation.

costs incurred in the readying of hydrocarbon deposits for commercial production including developmental well drilling costs.

* * * * *

14. "Exploration costs" include all costs incurred in proving the existence of hydrocarbon deposits including geological, geophysical, lease acquisition (including delay rentals), administrative and general, and exploratory well drilling costs.

15. "Full-cost accounting for exploration and development costs" means the capitalization of all exploration and development costs incurred on or related to hydrocarbon leases, on properties in the contiguous 48 States and the State of Alaska, acquired after October 6, 1969.

* * * * *

33. "Unsuccessful exploration and development costs" are exploration and development costs related to efforts which do not directly result in the discovery of commercially recoverable hydrocarbon reserves.

* * * * *

2. In the text of Balance Sheet Accounts, amend account "105.1, Production Properties Held for Future Use" by adding a note. In account "107, Construction Work in Progress—Gas," designate the present note as "A," and add a new note designated as "B." In account "183.1, Preliminary Natural Gas Survey and Investigation Charges" revise paragraph "A." The amended portions of Balance Sheet accounts 105.1, 107 and 183.1, read:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

1. UTILITY PLANT

* * * * *

105.1 Production properties held for future use.

* * * * *

NOTE: Unsuccessful exploration and development costs incurred on leases acquired after October 6, 1969, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

* * * * *

107 Construction work in progress—Gas.

* * * * *

NOTE A: This account shall include certificate application fees paid to the Federal Power Commission as provided for in gas plant instruction 16.

NOTE B: Unsuccessful exploration and development costs incurred on leases acquired after October 6, 1969, shall be transferred to account 338, Unsuccessful Exploration and Development Costs.

* * * * *

4. DEFERRED DEBITS

* * * * *

183.1 Preliminary natural gas survey and investigation charges.

A. This account shall be charged with all expenditures for preliminary surveys, plans, investigations, etc. made for the purpose of determining the feasibility of acquiring land and land rights to provide a future supply of natural gas.

If such land or land rights are acquired, this account shall be credited and the appropriate gas plant account (see gas plant instruction 7–G) charged with the amount of the expenditures relating to such acquisition. If a project is abandoned involving a natural gas lease acquired before October 7, 1969, the expenditures related thereto shall be charged to account 798, Other Exploration. If a project is abandoned involving a lease acquired after October 6, 1969, the expenditures related thereto shall be charged to account 338, Unsuccessful Exploration and Development Costs.

* * * * *

3. In the chart of Gas Plant Accounts, add new account title "338, Unsuccessful Exploration and Development Costs," immediately following account title "337, Other Equipment." As revised, the chart of Gas Plant Accounts reads:

Gas Plant Accounts

(CHART OF ACCOUNTS)

* * * * *

2. PRODUCTION PLANT

* * * * *

B. NATURAL GAS PRODUCTION PLANT

B.1 *Natural Gas Production and Gathering Plant*

* * * * *

338 Unsuccessful exploration and development costs.

* * * * *

4. In the text of Gas Plant accounts, immediately following subheading "B.1. Natural Gas Production and Gathering Plant," add a new subheading "Special Instructions—Costs Related to Leases Acquired After October 6, 1969" and accompanying text. As amended, this portion of the Gas Plant accounts reads:

Gas Plant Accounts

* * * * *

2. PRODUCTION PLANT

* * * * *

B. NATURAL GAS PRODUCTION PLANT

B.1 *Natural Gas Production and Gathering Plant*

Special Instructions—Costs Related to Leases Acquired After October 6, 1969. The net book value of amounts recorded in the natural gas production accounts incurred on or related to leases acquired after October 6, 1969, shall, in general, not exceed the net realizable value (estimated selling price less estimated costs of extraction, completion and disposal) of recoverable hydrocarbon reserves discovered on such leases. After initiation of exploration and development on leases acquired after October 6, 1969, the utility must determine after a reasonable period of time whether the net realizable value of recoverable reserves on such leases will be sufficient to absorb the net book value of the amounts recorded in the accounts. If the net realizable value of recoverable reserves are not sufficient to absorb the net book value of amounts in the production accounts, the utility shall reduce the net book value of the amounts in the accounts to net realizable value of recoverable reserves. The reduction shall be done by first reducing the unamortized amounts recorded in account 338, Unsuccessful Exploration and Development Costs, by debiting account 404.1, Amortization and Depletion of Producing Land and Land Rights. Next, if the book value related to successful costs exceeds the net realizable value of the recoverable reserves, the production plant accounts shall be written down to such book value by appropriate charges and credits to the expense and valuation accounts. If the reduction required in the net book value of the amounts recorded in the accounts is significant in amount, the utility may amortize such amounts over a period of time not to exceed 5 years.

5. In the text of Gas Plant accounts, immediately following account "337, Other Equipment," add new account "338, Unsuccessful Exploration and Development Costs." New account 338 reads:

Gas Plant Accounts

* * * * *

2. PRODUCTION PLANT

* * * * *

B. NATURAL GAS PRODUCTION PLANT

B.1 *Natural Gas Production and Gathering Plant*

* * * * *

338 Unsuccessful exploration and development costs.

A. This account shall include unsuccessful exploration and development costs incurred on or related to hydrocarbon leases, on properties in the contiguous 48 States and the State of Alaska, acquired after October 6, 1969. It shall also include costs of a preliminary nature incurred in the search for natural gas in such areas after October 6, 1969.

B. The costs recorded in this account shall be amortized by debiting account 404.1, Amortization and Depletion of Producing Natural Gas Land and Land Rights, and crediting this account using the unit-of-production or other acceptable method of amortization as hydrocarbons are extracted from producing wells.

C. In general, the unamortized costs recorded in this account shall not exceed the net realizable value (estimated selling price less estimated costs of extraction, completion and disposal) of proven hydrocarbon reserves on leases acquired after October 6 1969. (See "Special Instructions—Costs Related to Leases Acquired After October 6, 1969," above.)

* * * * *

6. In the text of Operation and Maintenance Expense Accounts, revise Exploration and Development Expense Accounts "795, Delay Rentals," "796, Nonproductive Well Drilling," "797, Abandoned Leases," and "798, Other Exploration." As revised, accounts 795, 796, 797, and 798 read:

Operation and Maintenance Expense Accounts

1. PRODUCTION EXPENSES

* * * * *

C. EXPLORATION AND DEVELOPMENT EXPENSES

795 Delay rentals.

A. This account shall be charged with the amount of rents paid periodically on

natural gas lands acquired by lease before October 7, 1969, in order to hold natural gas land and land rights for the purpose of obtaining a supply of gas in the future.

B. Include also in this account, the cost of obtaining natural gas leases for a period of 1 year or less when such leases were acquired before October 7, 1969.

C. Records supporting this account shall be so kept that the utility can furnish complete details of the charges made for each natural gas leasehold (See note to gas plant instruction 7G).

NOTE: Rents paid periodically on natural gas lands acquired by lease after October 6, 1969, shall be charged to account 105.1, Production Properties Held for Future Use.

796 Nonproductive well drilling.

This account shall include the net cost of drilling wells on natural gas leases acquired before October 7, 1969, which prove to be nonproductive.

NOTE A: Records in support of the charges to this account shall conform, as appropriate, to Note B of General Instruction 12, Records for Each Plant.

NOTE B: The net cost of drilling wells on natural gas leases acquired after October 6, 1969, which prove to be nonproductive, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

797 Abandoned leases.

A. This account shall be charged with amounts credited to account 113.1, Accumulated Provision for Abandonment of Leases, to cover the probable loss on abandonment of natural gas leases acquired before October 7, 1969, included in account 105, Gas Plant Held for Future Use, which have never been productive.

B. When natural gas leaseholds which were acquired before October 7, 1969, and which have never been productive are abandoned, and the amounts provided in account 113.1, Accumulated Provision for Abandonment of Leases, are not sufficient to cover the cost thereof, the deficiency shall be charged to this account unless otherwise authorized or directed by the Commission. (See account 182.)

NOTE: Losses on abandonment of natural gas leases acquired after October 6, 1969, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

798 Other exploration.

This account shall be charged with the cost of abandoned projects involving natural gas leases acquired before October 7, 1969, on which preliminary expenditures were made for the purpose of determining the feasibility of acquiring acreage to provide a future supply of natural gas (see account 183.1, Preliminary Natural Gas Survey and Investigation Charges).

NOTE: Preliminary expenditures on abandoned projects involving natural gas leases acquired after October 6, 1969, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

* * * * *

PART 204—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS C NATURAL GAS COMPANIES

(B) The Uniform System of Accounts for Class C Natural Gas Companies, in Part 204, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. In the text of Balance Sheet accounts, amend account "105, Gas Plant Held for Future Use" by adding a new note "C." In account "107, Construction Work in Progress—Gas" designate the present note as "A," and add new note designated "B." In Account "183, Other Deferred Debits," revise subparagraph "A(2)." The amended portions of these Balance Sheet accounts read:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

1. UTILITY PLANT

* * * * *

105 Gas plant held for future use.

* * * * *

NOTE C: The loss on abandonment of natural gas leases acquired after October 6, 1969, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

* * * * *

107 Construction work in progress—Gas.

NOTE A: This account shall include certificate application fees paid to the Federal Power Commission as provided for in gas plant instruction 14.

NOTE B: Unsuccessful exploration and development costs incurred on leases acquired after October 6, 1969, shall be transferred to account 338, Unsuccessful Exploration and Development Costs.

* * * * *

4. DEFERRED DEBITS

* * * * *

183 Other deferred debits.

A. This account shall include the following classes of items:

* * * * *

(2) Expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of acquiring land and land rights to provide a future supply of natural gas. If such land or land rights are acquired, this account shall be credited and the appropriate gas plant account (see gas plant instruction 6G) charged with the amount of expenditures related to such acquisition. Such preliminary survey and investigation charges transferred to gas plant shall not exceed the expenditures which may reasonably be determined to contribute directly and immediately and without duplication to gas plant. If a project is abandoned involving a natural gas lease acquired before October 7, 1969, the expenditures related thereto shall be charged to account 723, Other Exploration. If a project is abandoned involving a lease acquired after October 6, 1969, the expenditures related thereto shall be charged to account 338, Unsuccessful Exploration and Development Costs.

* * * * *

2. In the Chart of Gas Plant Accounts, add new account title "338, Unsuccessful Exploration and Development Costs," immediately following account title "337, Other Equipment." As revised, the Chart of Gas Plant Accounts reads:

Gas Plant Accounts

(Chart of Accounts)

* * * * *

2. PRODUCTION PLANT

* * * * *

B. NATURAL GAS PRODUCTION PLANT

B.1 NATURAL GAS PRODUCTION AND GATHERING PLANT

* * * * *

338 Unsuccessful exploration and development costs.

* * * * *

3. In the text of the Gas Plant accounts, immediately following subheading "B.1 Natural Gas Production and Gathering Plant," add a new subheading "Special Instructions—Costs Related to Leases Acquired After October 6, 1969," and accompanying text. As amended, this portion of the Gas Plant Accounts reads:

Gas Plant Accounts

* * * * *

2. PRODUCTION PLANT

* * * * *

B. NATURAL GAS PRODUCTION PLANT

B.1 NATURAL GAS PRODUCTION AND GATHERING PLANT

Special Instructions—Costs Related to Leases Acquired After October 6, 1969. The net book value of amounts recorded in the natural gas production accounts incurred on or related to leases acquired after October 6, 1969, shall, in general, not exceed the net realizable value (estimated selling price less estimated costs of extraction, completion and disposal) of recoverable hydrocarbon reserves discovered on such leases. After initiation of exploration and development on leases acquired after October 6, 1969, the utility must determine after a reasonable period of time whether the net realizable value of recoverable reserves on such leases will be sufficient to absorb the net book value of the amounts recorded in the accounts. If the net realizable value of recoverable reserves are not sufficient to absorb the net book value of amounts in the production accounts, the utility shall reduce the net book value of the amounts in the accounts to net realizable value of recoverable reserves. The reduction shall be done by first reducing the unamortized amounts recorded in account 338, Unsuccessful Exploration and Development Costs, by debiting account 404.1, Amortization and Depletion of Producing Land and Land Rights. Next, if the book value related to successful costs exceeds the net realizable value of the recoverable reserves, the production plant accounts shall be written down to such book value by appropriate charges and credits to the expense and valuation accounts. If the reduction required in the net book value of the amounts recorded in the accounts is significant in amount, the utility may amortize

such amounts over a period of time not to exceed 5 years.

4. In the text of Gas Plant accounts, immediately following account "337, Other Equipment," add new account "338, Unsuccessful Exploration and Development Costs." New account 338 reads:

Gas Plant Accounts

* * * * *

2. PRODUCTION PLANT

* * * * *

B. NATURAL GAS PRODUCTION PLANT

B.1 NATURAL GAS PRODUCTION AND GATHERING PLANT

* * * * *

338 Unsuccessful Exploration and Development Costs.

A. This account shall include unsuccessful exploration and development costs incurred on or related to hydrocarbon leases, on properties in the contiguous 48 States and the State of Alaska, acquired after October 6, 1969. It shall also include costs of a preliminary nature incurred in the search for natural gas in such areas after October 6, 1969.

B. The costs recorded in this account shall be amortized by debiting account 404.1, Amortization and Depletion of Producing Natural Gas Land and Land Rights, and crediting this account using the unit-of-production or other acceptable method of amortization as hydrocarbons are extracted from producing wells.

C. In general, the unamortized costs recorded in this account shall not exceed the net realizable value (estimated selling price less estimated costs of extraction, completion and disposal) of proven hydrocarbon reserves on leases acquired after October 6, 1969. (See "Special Instructions—Costs Related to Leases Acquired After October 6, 1969," above.)

* * * * *

5. In the text of Operation and Maintenance Expenses Accounts, revise Exploration and Development Expense accounts "720, Delay Rentals," "721, Nonproductive Well Drilling," "722, Abandoned Leases," and "723, Other Exploration." As revised, accounts 720, 721, 722 and 723 read:

Operation and Maintenance Expense Accounts

* * * * *

3. EXPLORATION AND DEVELOPMENT EXPENSES

* * * * *

720 Delay rentals.

A. This account shall be charged with the amount of rents paid periodically on natural gas lands acquired by lease before October 7, 1969, in order to hold natural gas land and land rights for the purpose of obtaining a supply of gas in the future.

B. Include also in this account the cost of obtaining natural gas leases for a period of 1 year or less when such leases were acquired before October 7, 1969.

C. Records supporting this account shall be so kept that the utility can furnish complete details of the charges made for each natural gas leasehold (see note to gas plant instruction 6G).

NOTE: Rents paid periodically on natural gas lands acquired by lease after October 6, 1969, shall be charged to account 105, Gas Plant Held for Future Use.

721 Nonproductive well drilling.

This account shall include the net cost of drilling wells on natural gas leases acquired before October 7, 1969, which prove to be nonproductive.

NOTE A: Records in support of the charges to this account shall conform, as appropriate, to General Instruction 14, Gas Well Records.

NOTE B: The net cost of drilling wells on natural gas leases acquired after October 6, 1969, which prove to be nonproductive, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

722 Abandoned leases.

This account shall be charged with losses on abandonment of natural gas leases acquired before October 7, 1969, included in account 105, Gas Plant Held for Future Use, which have never been productive, unless otherwise authorized by the Commission. (See account 182.) Losses on abandonment of natural gas leases acquired after October 6, 1969, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

723 Other exploration.

This account shall be charged with the cost of abandoned projects involving natural gas leases acquired before October 7, 1969, on which preliminary expenditures were made for the purpose of determining the feasibility of acquiring acreage to provide a future supply of natural gas (see account 183, Other Deferred Debits).

NOTE: Preliminary expenditures on abandoned projects involving natural gas leases acquired after October 6, 1969, shall be charged to account 338, Unsuccessful Exploration and Development Costs.

* * * * *

PART 205—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS D NATURAL GAS COMPANIES

(C) The Uniform System of Accounts for Class D Natural Gas Companies, in Part 205, Chapter I, Title 18 of the Code of Federal Regulations is amended as follows:

1. In the text of Balance Sheet Accounts, revise subparagraph "A(2)" of account "183, Other Deferred Debits." This portion of account 183 reads:

Balance Sheet Accounts

ASSETS AND OTHER DEBITS

* * * * *

4. DEFERRED DEBITS

* * * * *

183 Other deferred debits.

A. This account shall include the following classes of items:

* * * * *

(2) Expenditures for preliminary surveys, plans, investigations, etc., made for the purpose of determining the feasibility of acquiring land and land rights to provide a future supply of natural gas. If such land and land rights are acquired, this account shall be credited and the appropriate gas plant account (see gas plant instruction 3) charged with the amount of expenditures related to such acquisition. Such preliminary survey and investigation charges transferred to gas plant shall not exceed the expenditures which may reasonably be determined to contribute directly and immediately without duplication to gas plant. If a project is abandoned involving a natural gas lease acquired before October 7, 1969, the expenditures related thereto shall be charged to account 723, Other Exploration. If a project is abandoned involving a lease acquired after October 6, 1969, the expenditures related thereto shall be charged to account 327, Unsuccessful Exploration and Development Costs.

* * * * *

2. In the chart of Gas Plant accounts, add new account title "327, Unsuccessful Exploration and Development Costs," immediately following account title "326, Other Production Equipment." As revised, the chart of Gas Plant accounts reads:

Gas Plant Accounts

(Chart of Accounts)

* * * * *

3. NATURAL GAS PRODUCTION AND GATHERING

* * * * *

327 Unsuccessful exploration and development costs.

* * * * *

3. In the text of Gas Plant accounts, immediately following heading "3. Natural Gas Production and Gathering," add a new subheading "Special Instructions—Costs Related to Leases Acquired After October 6, 1969," with accompanying text. As amended, this portion of the Gas Plant accounts reads:

Gas Plant Accounts

* * * * *

3. NATURAL GAS PRODUCTION AND GATHERING

Special Instructions—Costs Related to Leases Acquired after October 6, 1969. The net book value of amounts recorded in the natural gas production accounts incurred on or related to leases acquired after October 6, 1969, shall, in general, not exceed the net realizable value (estimated selling price less estimated costs of extraction, completion and disposal) of recoverable hydrocarbon reserves discovered on such leases. After initiation of exploration and development on leases acquired after October 6, 1969, the utility must determine after a reasonable period of time whether the net realizable value of recoverable reserves on such leases will be sufficient to absorb the net book value of the amounts recorded in the accounts. If the net realizable value of recoverable reserves are not sufficient

to absorb the net book value of amounts in the production accounts, the utility shall reduce the net book value of the amounts in the accounts to net realizable value of recoverable reserves. The reduction shall be done by first reducing the unamortized amounts recorded in account 338, Unsuccessful Exploration and Development Costs, by debiting account 404.1, Amortization and Depletion of Producing Land and Land Rights. Next, if the book value related to successful costs exceeds the net realizable value of the recoverable reserves, the production plant accounts shall be written down to such book value by appropriate charges and credits to the expense and valuation accounts. If the reduction required in the net book value of the amounts recorded in the accounts is significant in amount, the utility may amortize such amounts over a period of time not to exceed 5 years.

4. In the text of Gas Plant accounts, immediately following account "326, Other Production Equipment," add new account "327, Unsuccessful Exploration and Development Costs." New account 327 reads:

Gas Plant Accounts

* * * * *

3. NATURAL GAS PRODUCTION AND GATHERING

* * * * *

327 Unsuccessful exploration and development costs.

A. This account shall include unsuccessful exploration and development costs incurred on or related to hydrocarbon leases, on properties in the contiguous 48 States and the State of Alaska, acquired after October 6, 1969. It shall also include costs of a preliminary nature incurred in the search for natural gas in such areas after October 6, 1969.

B. The costs recorded in this account shall be amortized by debiting account 404.1, Amortization and Depletion of Producing Natural Gas Land and Land Rights, and crediting this account using the unit-of-production or other acceptable method of amortization as hydrocarbons are extracted from producing wells.

C. In general, the unamortized costs recorded in this account shall not exceed the net realizable value (estimated selling price less estimated costs of extraction, completion and disposal) of proven hydrocarbon reserves on leases acquired after October 6, 1969. (See "Special Instructions—Costs Related to Leases Acquired After October 6, 1969," above.)

* * * * *

5. In the text of Gas Plant accounts, amend account "394, Gas Plant Held for Future Use," by adding note "C." Amend account "395, Construction Work in Progress—Gas" by adding a note following the account text. The amended portions of accounts 394 and 395 read:

Gas Plant Accounts

* * * * *

6. OTHER GAS PLANT

* * * * *

394 Gas plant held for future use.

* * * * *

NOTE C: The loss on abandonment of natural gas leases acquired after October 6, 1969, shall be charged to account 337, Unsuccessful Exploration and Development Costs.

* * * * *

395 Construction work in progress—Gas.

* * * * *

NOTE: Unsuccessful exploration and development costs incurred on leases acquired after October 6, 1969, shall be transferred to account 327, Unsuccessful Exploration and Development Costs.

6. In the text of Operation and Maintenance Expense accounts, revise accounts "720, Delay Rentals," "721, Nonproductive Well Drilling," "722, Abandoned Leases," and "723, Other Exploration." As so revised, these accounts read:

Operation and Maintenance Expense Accounts

* * * * *

2. NATURAL GAS PRODUCTION AND GATHERING

* * * * *

720 Delay rentals.

A. This account shall be charged with the amount of rents paid periodically on natural gas lands acquired by lease before October 7, 1969, in order to hold natural gas land and land rights for the purpose of obtaining a supply of gas in the future.

B. Include also in this account the cost of obtaining natural gas leases for a period of 1 year or less when such leases were acquired before October 7, 1969.

C. Records supporting this account shall be so kept that the utility can furnish complete details of the charges made for each natural gas leasehold (see note to paragraph D of gas plant instruction 3).

NOTE: Rents paid periodically on natural gas lands acquired by lease after October 6, 1969, shall be charged to account 105, Gas Plant Held for Future Use.

721 Nonproductive well drilling.

This account shall include the net cost of drilling wells on leases acquired before October 7, 1969, which prove to be nonproductive.

NOTE A: Records in support of the charges to this account shall conform, as appropriate, to note of general instruction 7, Gas Well Records.

NOTE B: The net cost of drilling wells on leases acquired after October 6, 1969, which prove to be unproductive shall be charged to account 327, Unsuccessful Exploration and Development Costs.

722 Abandoned leases.

This account shall be charged with losses on abandonment of natural gas leases acquired before October 7, 1969, included in account 394, Gas Plant Held for Future Use, which have never been productive, unless otherwise authorized by the Commission. Losses on abandonment of natural gas leases acquired after October 6, 1969, shall be charged to account 327, Unsuccessful Exploration and Development Costs.

723 Other exploration.

This account shall be charged with the cost of abandoned projects involving natural gas leases acquired before October 7, 1969, on which preliminary expenditures were made for the purpose of determining the feasibility of acquiring acreage to provide a future supply of natural gas. (See account 183, Other Deferred Debits.)

NOTE: Preliminary expenditures on abandoned projects involving natural gas leases acquired after October 6, 1969, shall be charged to account 327, Unsuccessful Exploration and Development Costs.

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

(D) Effective for the reporting year 1971, the Gas Plant in Service Schedule (schedule page 501) of FPC Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B) prescribed by § 260.1, Chapter I, Title 18 of the Code of Federal Regulations, is revised as set out in Attachment A[4] by adding "Account 338, Unsuccessful exploration and development costs," immediately following item 24.

(E) Natural gas companies that have incurred costs on leases acquired after October 6, 1969, shall restate the appropriate financial statements and schedules in their Annual Report to the Commission and financial statements in their Annual Report to Stockholders for the years 1969, 1970 and 1971.

(F) This order shall be effective upon issuance.

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

By the Commission.

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

[FR Doc.71-16702 Filed 11-17-71;8:45 am]

Title 32—NATIONAL DEFENSE

Chapter VI—Department of the Navy

PART 725—DISPOSITION OF CASES INVOLVING PHYSICAL DISABILITY

Part 725 of Title 32 is revised to read as follows:

Subpart A—Background, Purpose and Policy

Sec.
725.101 Background.
725.102 Purpose.
725.103 Policy.

Subpart B—Explanation of Terms

725.201 Abbreviations.
725.202 Accepted Medical Principles.
725.203 Active Duty.
725.204 Active Duty for a period of more than 30 days.
725.205 Active Service.
725.206 Aggravation by service.
725.207 Areas of responsibility.
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AUTHORITY: The provisions of this Part 725 issued under 5 U.S.C. 301, 10 U.S.C. 1216, 5031. Interpret or apply 5 U.S.C. 500, 8301, 10 U.S.C. 266, 270, 1004, 1163, 1201–1215, 1217–1219, 1221, 1372, 1373, 1554, 6011, 6148, 6331, 6485, 26 U.S.C. 104, 37 U.S.C. 601–604, 38 U.S.C. 722.

Subpart A—Background, Purpose and Policy

§ 725.101 Background.

(a) At the beginning of the Civil War, it became evident that both the Army and the Navy would be seriously handicapped by the lack of statutory authority to retire military personnel, who, because of advanced age, disease, or infirmity, were unfit to exercise command in the field or at sea. In 1861, the Congress approved an "Act for the Better Organization of the Military Establishment" (12 Stat. 287–291). This law provided that when an officer had become incapable of performing the duties of his office, either he would be retired from active duty, or be wholly retired by the President. The purpose of this enactment and of subsequent disability retirement legislation was to give the military forces of the Nation a vital and fit membership and to establish an equitable system of retirement and compensation for those eligible members whose military careers must be terminated by reason of illness or injury.

(b) Disability retirement pay and severance pay, provided by 10 U.S.C. ch. 61, are benefits provided for members, who, if otherwise qualified, become unfit to perform duty because of physical disability acquired or aggravated while on active duty or inactive duty training. Such benefits are not provided for members or former members of the armed

forces, who, after discharge or release from active duty or inactive duty training, may become unfit to perform their duties because of physical disability, even though the origin of the disability may be related to a period of active duty or inactive duty training. Individuals, who, during active duty, incur disabilities which do not preclude performance of full military duties, may be eligible for compensation under laws administered by the Veterans' Administration, even though they do not qualify for disability retirement or severance pay.

§ 725.102 Purpose.

The purpose of these regulations is to prescribe the administrative procedures and policies to be followed in implementing laws pertaining to discharge or retirement of members from the naval service because of physical disability.

§ 725.103 Policy.

(a) It is the policy of the Department of the Navy that laws pertaining to physical disability retirement or discharge be administered fairly, equitably, and with due regard for the interest of both the individual and the Government. Although these laws should be so administered as to protect the U.S. Government from assuming unwarranted responsibility for payment of disability and retirement benefits, reasonable doubt as to the entitlement of a member to such benefits will be resolved in favor of the individual.

(b) However, the fact that a member is determined to be unfit for duty while on active duty may not be sufficient to entitle him to disability retirement or severance pay. There must be a determination that this unfitness is due to a disability incurred or aggravated while entitled to receive basic pay. The fact that such member was accepted physically for active duty is not conclusive that the disability was incurred after such acceptance. It is one piece of evidence to be considered with all of the medical evidence. In addition to, and in conjunction with, all other pertinent medical evidence, due consideration and weight must be given to accepted medical principles, authenticated by medical authorities, in arriving at a final determination. It is not proper to exclude such accepted medical principles in making the aforesaid determination, even in cases where there is no other evidence that the disability existed prior to entrance upon active duty.

Subpart B—Explanation of Terms

§ 725.201 Abbreviations.

(a) ONDE-Office of Naval Disability Evaluation.

(b) PRC-Physical Review Council.

(c) PEB-Physical Evaluation Board.

(d) DES-Disability Evaluation System.

(e) DESC-Disability Evaluation System Counselor.

(f) NPDRB-Naval Physical Disability Review Board.

(g) EPTE-Existed Prior to Entry (Enlistment).

(h) VASRD-Veterans Administration Schedule for Rating Disabilities.

§ 725.202 Accepted medical principles.

(a) These principles are fundamental deductions, consistent with medical facts, and based upon the observation of a large number of cases. To constitute accepted medical principles, the deductions must be so reasonable and logical as to create a virtual certainty that they are correct.

(b) In accordance with these principles existence of a disease or injury prior to entrance into service may be presumed, and no further additional confirmation is needed. For example, notation or discovery during service of residual conditions such as scars, fibrosis of the lungs, atrophy following disease of the central or peripheral nervous system, healed fractures, absent, displaced, or resected parts or organs, supernumerary parts, or congenital malformations with no evidence of the pertinent antecedent active disease or injury during service, can be considered as established facts which are so convincing as to impel the conclusion that the residual condition existed prior to entrance into active service in the absence of further proof. Similarly, manifestation of lesions or symptoms of chronic disease from date of enlistment, or so close to that date that the disease could not have originated in so short a period, impels the conclusion that the disease existed prior to entrance into active service in the absence of further proof.

§ 725.203 Active duty.

Full-time duty in the active military service of the United States. It includes duty on the active list, full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. 10 U.S.C. section 101(22).

§ 725.204 Active duty for a period of more than 30 days.

Active duty under a call or order that does not specify a period of 30 days or less. 10 U.S.C. section 101(23).

§ 725.205 Active service.

Service on active duty. 10 U.S.C. section 101(24). For the purposes of determinations under 10 U.S.C. ch. 61, periods of active service shall be computed under 10 U.S.C. section 1208.

§ 725.206 Aggravation by service.

(a) Disease or injury noted prior to service, which clearly had its inception prior to service, will be considered to have been aggravated, when such disability underwent an increase in severity during the service, unless such increase in severity is clearly shown to have been due to the natural progress of the disease (see § 725.231).

(b) In the case of members with more than 3 years of continuous active duty, any increase in the severity of a preexisting disease or injury will be considered as service aggravation, provided that such increase in severity was not due to the member's intentional misconduct or willful neglect or was not incurred during a period of unauthorized absence.

(c) The usual effects of medical and surgical treatment in service, having the effect of ameliorating disease or other condition incurred before entry into service, including postoperative scars and absent or poorly functioning parts or organs, do not constitute aggravation, unless the treatment was required to relieve disability which had been aggravated by service.

§ 725.207 Areas of responsibility.

As used in this Manual, the terms "area of responsibility" and "technical speciality," unless otherwise defined, shall be construed to refer to the duties and responsbilities of the cognizant bureau, office, or headquarters, as set forth in Navy Regulations.

§ 725.208 Convalescent ratings.

Under certain diagnostic codes, the Veterans Administration Schedule for Rating Disabilities provides for convalescent ratings to be awarded for specified periods of time without regard to the actual degree of impairment of function. Such ratings do not apply to the military departments since the purpose of convalescent ratings is accomplished by other means under disability laws. Convalescence will ordinarily have been completed by the time optimum hospital improvement (for disposition purposes) has been attained. The ratings for observation periods, as distinguished from convalescence, such as those "for one year" following treatment for malignant neoplasm, is not affected by this paragraph.

§ 725.209 DESC.

Experienced, mature officer, senior enlisted member (E-7 or above), or civilian employee at the hospital level, designated to perform the duties of counseling members who are undergoing physical disability evaluation, providing them with authoritative and timely answers to their questions and aiding them in understanding their rights and entitlements. The DESC must be fully informed as to the working of the Disability Evaluation System, rights of party, monetary considerations, and privileges.

§ 725.210 Grade.

A step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation. 10 U.S.C. section 101(18).

§ 725.211 Impairment, functional.

Any lessening or weakening of the capacity of the body or any of its parts to perform that which is considered by accepted medical principles to be the normal activity in the bodily economy.

§ 725.212 Impairment, latent, functional.

Impairment which is not manifested by current signs and/or symptoms, but which is of such a nature and there is

reasonable certainty, according to accepted medical principles, that signs and/or symptoms will appear within a reasonable period of time.

§ 725.213 Impairment, manifest, functional.

That which is evidenced by signs and/or symptoms.

§ 725.214 Inactive duty training.

(a) Duty prescribed for Reserves by the Secretary concerned under 37 U.S.C. section 206 and any other provisions of law; or

(b) Special additional duties authorized for Reserves by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned. It includes those duties when performed by Reserves in their status as members of the National Guard. 10 U.S.C. section 101 (31).

(c) Inactive duty training does not include work or study performed in connection with correspondence courses.

§ 725.215 Inception of disease or injury.

(a) Determinations concerning the inception of disease or injury, not noted upon entry, should not be based on medical judgment alone, as distinguished from accepted medical principles, or on history alone, without regard to clinical factors pertinent to the basic character, origin, and development of such disease or injury. This determination should be based on a thorough analysis of the entire evidentiary showing in the individual case and a careful correlation of all material facts, with due regard to accepted medical principles pertaining to the history, manifestations, clinical course, and character of such disease or injury. History conforming to accepted medical principles pertaining to such disease or injury should be given due consideration, in conjunction with basic clinical data concerning the manifestation, development, and nature of such disease or injury, and accorded probative value consistent with accepted medical principles in relation to other competent evidence in each case. All material evidence relating to the incurrence, symptoms, and course of the disease or injury, including official and other records made prior to and during service, together with all other evidence concerning the inception, development, and manifestations of such disease or injury, should be taken into full account.

(b) Conditions of infectious origin are to be considered with regard to the circumstances of infection and the incubation period. Manifestations of disease within less than the minimum incubation period after entry into active service will be accepted as proof of inception prior to service.

(c) In neuropsychiatric conditions, situational reactions characteristic of a life pattern, indicating psychopathic personality, chronic psychoneurosis of long standing, or other neuropsychiatric symptoms shown to have existed prior to service, with manifestations during service, which are the basis of the diagnosis in service, may be considered in determining whether preexisting neuropsychiatric conditions exist. When the conclusion that the mental disorder of a psychotic member existed prior to service is based upon a past history of aberrant behavior related by the member, it is essential that the record show that the member had the capacity to recollect and narrate in a trustworthy manner and that the past history is reliable, rather than a manifestation of his illness. When the ability of the member to recollect and narrate in a trustworthy manner is in doubt, there must be corroborative evidence.

§ 725.216 Incurred while entitled to receive basic pay.

(a) "Incurred" refers to the date or time when a disease or injury is contracted or suffered, as distinguished from a later date, when it is determined that, because of such disease or injury, a member has become unfit to perform his duties. Physical disability due to natural progression of disease or injury is "incurred" at the time the disease or injury causing the disability is contracted. Increase in physical disability during service in excess of that due to natural progression of the disease or injury is due to aggravation by service and, as such, is "incurred" when the disease or injury is aggravated (see § 725.206).

(b) "While entitled to receive basic pay" encompasses all types of duty which entitled the member concerned to receive active duty pay (as well as any duty without pay, which may be counted the same as like duty with pay). This definition shall not be construed to entitle any member not on active duty, who, at the time of his separation from active duty, was considered physically fit for duty, to benefits under 10 U.S.C. ch. 61, because of an increase in disability occurring while the party is not entitled to receive basic pay.

§ 725.217 Legal representative.

A trustee, guardian, or committee, appointed by competent authority for a mentally incompetent member. In cases where a legal representative has not been so appointed, the "legal representative," as used in this Manual, shall be the person who, by reason of his or her relationship to the member, is most likely to act in the best interests of a mentally incompetent member. Normally this will be the member's next of kin or other relative specified by law or regulation. In cases of doubt, such as when the member's wife is separated from the member, advice as to who is to be treated as the member's legal representative for the purposes of proceedings under this Manual (until a trustee, guardian, or committee has been formally designated) will be requested from the Judge Advocate General (Director, Fiduciary Affairs Division).

§ 725.218 Line of duty.

(a) General rule. Disease or injury incurred by naval personnel while in active service will be considered to have been incurred "in line of duty" except when incurred under one or more of the following circumstances:

(1) As the result of the person's misconduct,

(2) While avoiding duty by deserting the service,

(3) While absent without leave and such absence materially interfered with the performance of required military duties (see § 725.241),

(4) While confined under sentence of a court-martial which included an unremitted dishonorable discharge, or

(5) While confined under sentence of a civil court following conviction for an offense which is defined as a felony by the law of the jurisdiction where convicted.

(b) "Active service" as used in this paragraph includes full-time duty in the naval service, extended active duty, active duty for training, leave or liberty from any of the foregoing, and inactive duty training.

(c) Presumption. It is presumed that a disease or injury suffered by a member of the naval service was incurred in line of duty. Clear and convincing evidence is required to overcome this presumption.

§ 725.219 Maximum hospital benefits.

That point during hospitalization when a patient's progress appears to have stabilized and it can be anticipated that additional hospitalization will not contribute to any further substantial recovery. A patient who can be expected to continue to improve over a long period of time without specific therapy or medical supervision, or with only a moderate amount of treatment on an outpatient basis, may be considered as having attained maximum hospital benefits.

§ 725.220 Member.

Unless otherwise defined, a "member" includes a commissioned officer, commissioned warrant officer, warrant officer, aviation cadet, or enlisted person, including a retired person of the naval service. The words "retired person" include members of the Fleet Reserve and Fleet Marine Corps Reserve who are in receipt of retainer pay. Midshipmen of the Navy are not members. The term "member" is also used interchangeably with the term "party" to denote the individual whose case is being considered.

§ 725.221 Member, enlisted.

A person serving in an enlisted grade. 10 U.S.C. section 5001(a)(4).

§ 725.222 Mental incompetency.

For the purposes of this Manual, the term "mental incompetency" is used to designate the condition or legal status of a party who is unable or unfitted to manage his own affairs because of a mental disorder (see 37 U.S.C. ch. 11 and JAG Manual, ch. 15). Determinations of

mental competence are made by a medical board under Chapter 3 of this Manual.

§ 725.223 Misconduct.

(a) *Intentional misconduct or willful neglect.* "Intentional misconduct" and "willful neglect," as used in 10 U.S.C. ch. 61, are descriptive of "misconduct" as defined herein.

(b) *Generally misconduct is wrongful conduct.* Simple or ordinary negligence or carelessness, standing alone, does not constitute misconduct. To support an opinion of misconduct it must be established by clear and convincing evidence that the disease or injury was either intentionally incurred or was the proximate result of such gross negligence as to demonstrate a reckless disregard of the consequences. If a resulting disease or injury is such that it could have been reasonably foreseen from the course of conduct, it is said to be a "proximate result."

(c) *Presumption.* It is presumed that disease or injury suffered by a member of the naval service is not the result of his own misconduct. Clear and convincing evidence is required to overcome this presumption.

(d) *Examples.* If an individual intentionally wounds himself with a firearm, the injury is due to his own misconduct. If an individual handles a firearm in a grossly negligent manner and thereby wounds himself, that too would be an injury due to his own misconduct because a wound is a reasonably foreseeable result of the grossly negligent handling of firearms. If, on the other hand, an individual was standing on a sidewalk and, while handling a firearm in a grossly negligent manner, was struck by an automobile which had gone out of control, the injuries would not be due to his own misconduct because they would not have been a reasonably foreseeable result (proximate result) of the wrongful conduct in which the individual was engaged. If this latter example, the injuries are said to be the result of an independent intervening cause. The fact that the conduct violates a law, regulation, or order, or the fact that the conduct is engaged in while the individual is intoxicated does not, of itself, constitute a basis for a determination of misconduct. Such circumstances should, however, be considered along with all other facts and circumstances in determining whether the conduct of the individual was grossly negligent and whether the disease or injury was reasonably foreseeable as a probable result of such conduct.

(e) *Medical and dental treatment*—(1) *Refusal of treatment.* If a member unreasonably refuses to submit to medical, surgical, or dental treatment, any disability that proximately results from such refusal shall be deemed to have been incurred as the result of the member's own misconduct. Refer to the ManMed, art. 18–12(2)(c).

(2) *Venereal disease.* Any disability resulting from venereal disease shall not support a misconduct finding if the member has complied with regulations requiring him to report and receive treatment for such disease. Refer to the ManMed, art. 22–18.

(f) *Intoxication and drug abuse*—(1) *Intoxication.* An injury incurred as the proximate result of prior and specific voluntary intoxication is incurred as the result of misconduct. In order for intoxication alone to be the basis for a determination of misconduct respecting a related injury, there must be clear showing that the member's physical or mental faculties were impaired due to intoxication at the time of the injury, the extent of the impairment, and that the impairment was a proximate cause of the injury. Intoxication (impairment) may be produced by alcohol, a drug, or inhalation of fumes, gas, or vapor (see Article 1270, U.S. Navy Regulations).

(2) *Alcohol and drug-induced disease.* Inability to perform duty resulting from disease which is directly attributable to a specific, prior, proximate, and related intemperate use of alcoholic liquor or habit-forming drugs is the result of misconduct. Habituation may or may not be associated with a specific inability to perform duty which is directly due to the specific and proximate use of alcohol or drugs (see Article 1270, U.S. Navy Regulations).

(g) *Mental responsibility*—(1) *General rule.* A member may not be held responsible for his acts and their foreseeable consequences if, as the result of mental defect, disease or derangement, he was unable to comprehend the nature of such acts or to control his actions. Additionally, a member may not be held responsible for his acts or their foreseeable consequences if, as the result of a mental condition not amounting to a defect, disease or derangement and not itself the result of prior misconduct, he was unable to comprehend the nature of such acts and to control his actions. Thus, an injury which was the proximate result of acts performed while the member injured was suffering impairment of his mental faculties as the result of voluntary ingestion of a hallucinogenic drug would be deemed to have been incurred as a result of the member's own misconduct. Certain properties of such drugs are notorious and their use is prohibited by Article 1270, U.S. Navy Regulations; hence the impairment would support a finding of misconduct.

(2) *Presumption.* In the absence of evidence to the contrary, there is a presumption that all persons are mentally responsible for their acts. This presumption makes it unnecessary in the majority of cases that an administrative fact-finding body seek evidence that a member was mentally responsible at a certain time unless credible evidence is developed or discovered tending to indicate that he was not mentally responsible at that time. Such evidence may consist of circumstances attending certain acts, evidence of previous abnormal, irrational or aberrant behavior, expert opinion evidence of mental illness, and other evidence directly or indirectly tending to indicate lack of mental responsibility. Clear and convincing evidence is required to overcome this presumption.

(3) *Suicide attempts.* In view of the strong human instinct for self-preservation, a bona fide suicide attempt, as distinguished from other acts of intentional self-injury, is considered to create a strong inference of lack of mental responsibility. In cases of bona fide suicide attempts, therefore, further evidence must be sought on the question of mental responsibility, including, where warranted, expert psychiatric evaluation. If there is no reasonable and adequate motive for suicide supplied by the evidence, the suicide attempt will be sufficient to rebut the presumption of mental responsibility and the determination of whether the attempt was misconduct must then necessarily rest on the evidence.

(4) *Intentional self-inflicted injury.* An intentional self-inflicted injury not prompted by a serious suicidal intent is at most a suicidal gesture and such injury, unless lack of mental responsibility is otherwise shown, is deemed to be incurred as the result of the member's own misconduct.

§ 725.224 Officer.

A member of the naval service in a commissioned or warrant officer grade. 10 U.S.C. section 5001(a)(5).

§ 725.225 Officer, commissioned.

A member of the naval service serving in a grade of above warrant officer, W-1. 10 U.S.C. section 5001(a)(6).

§ 725.226 Officer, warrant.

A member of the naval service serving in a warrant officer grade. 10 U.S.C. section 5001(a)(7).

§ 725.227 Optimum hospital improvement.

The point during hospitalization when the patient's medical fitness for further active service can be determined, and it is considered probable that further treatment for a reasonable period in a military hospital will not result in material change in the patient's condition which would alter his ultimate type of disposition or amount of separation benefits.

§ 725.228 Physical disability.

Any manifest or latent impairment of function due to disease or injury, regardless of the degree, which reduces or precludes an individual's actual or presumed ability to engage in gainful or normal activity. The term "physical disability" includes mental disease, but not such inherent defects as behavior disorders, personality disorders, and primary mental deficiency, although they may make a member unfit for military duty.

§ 725.229 Physical disability, unfit because of.

(a) A member is "unfit because of physical disability" when he is unable, because of disease or injury, to perform the duties of his office, grade, rank, or rating in such a manner as to reasonably fulfill the purpose of his employment on active duty.

(b) The mere presence of physical disability does not, in itself, require a finding of unfitness. In each case considered, it is necessary to correlate the nature and degree of functional impairment produced by physical disability with the requirements of the duties to which the member may reasonably expect to be assigned by virtue of his office, grade, rank, or rating (excluding special hazardous duty, such as duty involving flying, etc., but giving due consideration to the requirements of other potential sea or combat assignments).

(c) A member who has either a manifest or latent impairment which is likely to render him unfit because of physical disability in the near future will be considered to be unfit for duty, even though he may be physically capable of performing all of his duties at the moment. Conversely, a member convalescing from an illness or an injury, and who is likely to recover to a degree which would permit him to perform all of his duties in the near future, will be considered to be fit for duty.

(d) In determining whether a member is unfit because of physical disability, consideration will be given only to evidence which is relevant to the issues set forth in paragraphs (a), (b), and (c) of this section. Specifically, it is that which relates to either the nature and degree of functional impairment currently suffered because of physical disability; the requirements of the duties to which the member might reasonably expect to be assigned; the physical ability of the member to perform the requirements of the duties to which he may be assigned; or the weight to be accorded to other evidence related to the foregoing issues. Among the factors which shall not be considered and which have no bearing on this determination are the following: The ability or inability of the member to meet physical standards for hazardous duty, or enlistment, or appointment, or transfer to a different component within the naval service, or for transfer to a different category within the naval service; the need of the service for special skills possessed by the member; the fact that disciplinary action (civil or military) is pending against the member; or the fact that the active service of the member may soon be terminated for reasons other than physical disability.

§ 725.230 **Physical disability, permanent nature of.**

(a) A disability will be considered as permanent, if, based upon accepted medical principles, the defect has stabilized to the extent that the compensable percentage rating will, with reasonable expectation, remain unchanged during the ensuing 5-year statutory period; or if the compensable percentage rating is 80 percent or more and there is reasonable expectation that it will not reduce below 80 percent during the 5-year statutory period.

(b) A disability will be considered as "may be permanent" if, based upon accepted medical principles, the defect is of such a nature that accurate assessment cannot be made of its permanent degree of severity or percentage rating.

§ 725.231 **Presumptions.**

A presumption (an inference of the truth of any proposition or fact) is reached through a process of reasoning wherein one looks to probabilities rather than certainties. It is a rule of law, which when assumed, constitutes prima facie evidence as to the issue involved. In the absence of evidence to the contrary the presumption will be accepted as a fact. When weighed with evidence and circumstances to the contrary, the presumption will be given its logical probative value. A preponderance of the evidence is required to overcome presumptions except when otherwise provided in this Manual. For example, §§ 725.218 and 725.223 require clear and convicing evidence to rebut certain presumptions, and if, after consideration of all available evidence, a reasonable doubt exists concerning the incurrence, aggravation, or extent of a member's condition, that doubt will be resolved in favor of the member. A preponderance of the evidence exists where there is a superiority in the weight of the evidence, not necessarily in quantity but in effect.

(a) Every person employed in active service shall be presumed to have been in sound condition when examined, accepted, and enrolled for service, except as to physical disabilities noted at time of the examination, acceptance, and enrollment, or where medical evidence or principles demonstrate that the disease or injury existed prior to acceptance and enrollment. Only those physical disabilities recorded at the time of the examination are to be considered as noted. A mere history of the preservice existence of a physical disability, recorded at the time of the examination for acceptance, does not constitute a notation, but will be considered, together with all other material evidence, in determinations as to the incurrence of such physical disability.

(b) It is further presumed that any additional disability resulting from the preexisting injury or disease was caused by military service aggravation. Only specific findings of "natural progress" of the preexisting injury or disease based upon well-established medical principles, as distinguished from medical opinion alone, are sufficient to overcome the presumption of military service aggravation.

(c) Acute infections, such as pneumonia, active rheumatic fever (even though recurrent), acute pleurisy, acute ear disease; and sudden developments, like hemoptysis, lung collapse, perforating ulcer, decompensating heart disease, coronary occlusion, thrombosis, or cerebral hemorrhage, occurring while in military service, will be presumed as incurred in line of duty or service-aggravated unless there was no permanent increase in disability resulting therefrom during active military service.

§ 725.232 **Proximate result.**

A disease or injury, or aggravation thereof, resulting in physical disability, which, after consideration of all the facts and circumstances of a particular case, may reasonably be regarded as arising out of service or may reasonably be assumed to be the effect of service, will be considered the proximate result of the performance of active duty or inactive duty training, as the case may be.

§ 725.233 **Pyramiding.**

Pyramiding is the term used to describe the application of more than one rating to any area or system of the body when the total functional impairment of that area or system is adequately reflected under a single appropriate code. Disability from injuries to the muscles, nerves, and joints of an extremity may overlap to a great extent and special rules for their evaluation are included in appropriate sections of the VASRD. Related diagnoses should be merged for rating purposes when the VASRD provides a single code covering all their manifestations. This prevents pyramiding and reduces the chance of overrating. For example, disability from fracture of a tibia with malunion, limitation of dorsiflexion, eversion, inversion, and traumatic arthritis of the ankle would be evaluated under one VA Code 5262, in accordance with the effect upon ankle function, with no separate evaluation for limitation of motion or traumatic arthritis.

§ 725.234 **Rank.**

The order of precedence among members of the armed forces. 10 U.S.C. section 101(19)

§ 725.235 **Rating.**

The name (such as Boatswain's Mate) prescribed for enlisted members of the naval service in an occupational field. 10 U.S.C. section 101(20)

§ 725.236 **Reasonable doubt.**

By "reasonable doubt," is meant a doubt which exists because of the fact that the evidence does not satisfactorily prove or disprove the claim, yet there does exist a substantial doubt, not specious, and one within the range of probability, as distinguished from pure speculation or remote possibility.

§ 725.237 **Recommendations considered substantially detrimental.**

Recommendations, if approved, which would have any of the following consequences, shall be considered as substantially or materially detrimental to interests of the member:

(a) Would retire the member permanently for physical disability in lieu of being placed on the TDRL;

(b) Would separate the member for physical disability, with or without severance pay, in lieu of temporary or permanent retirement for physical disability;

(c) Would separate the member for physical disability without severance pay, in lieu of separation for physical disability with severance pay;

(d) Would decrease (below 80 percent) the percentage of disability at which the member will be temporarily

or permanently retired for physical disability;

(e) Would change a recommendation of "fit for duty" or its equivalent under §§ 725.519–725.525 to a recommendation of "unfit for duty" or its equivalent under §§ 725.519–725.525, unless member or his counsel specifically requested a finding of "unfit for duty";

(f) Would change a recommendation of "unfit for duty" or its equivalent under §§ 725.519–725.525 to a recommendation of "fit for duty" or its equivalent under §§ 725.519–725.525, unless member or his counsel specifically requested a finding of "fit for duty";

(g) Would retire the member temporarily in lieu of permanently;

(h) Would add an EPTE rating or revise an assigned EPTE rating which may affect ultimate benefits;

(i) Would add a diagnosis of a psychiatric nature not mentioned in the medical board report referring member's case to a physical evaluation board.

§ 725.238 Reserve component.

Either the U.S. Naval Reserve or the U.S. Marine Corps Reserve.

§ 725.239 Secretary.

Unless otherwise qualified, refers to the Secretary of the Navy. 10 U.S.C. section 101(8)

§ 725.240 Total disability ratings.

Total disability will be considered to exist when the member's impairment is sufficient to render its impossible for the average person to follow a substantially gainful occupation. Accordingly, in cases in which the VASRD does not provide a 100 percent rating, under the appropriate (or analogous) VA Code, a member may be assigned a disability rating of 100 percent, if his impairment is sufficient to render it impossible for him to follow a substantially gainful occupation.

§ 725.241 Unauthorized absence.

Any absence from duty without authority, such as contemplated under articles 85, 86, and 87 of the Uniform Code of Military Justice (10 U.S.C. ch. 47) or such as was contemplated by the provisions of the Articles for the Government of the Navy, which were in effect prior to 1951. When a disability is incurred at any time during a period of unauthorized absence, regardless of whether the absence interferred with the members' military duties, the member is excluded from receiving benefits under 10 U.S.C. ch. 61.

Subpart C—Medical Boards

§ 725.300 Full instructions concerning Medical Boards.

Chapter 18, section III, Manual of the Medical Department, U.S. Navy, contains full instructions concerning the Medical Boards. The sections in this subpart contain information applicable to Medical Boards as they pertain to the Disability Evaluation System.

§ 725.301 Convening authority.

(a) A medical board may be ordered by the commander of a fleet, force, squadron, or flotilla, by commanding generals of Fleet Marine Force units, or by the commandant, commander, or commanding officer of a shore (field) activity of the Department of the Navy, upon any person of the naval service under his command, on the recommendation of the medical officer of the command to which such person is attached. A medical board may also be ordered by the Chief of Naval Personnel, the Commandant of the Marine Corps, and the Chief, Bureau of Medicine and Surgery.

(b) Individual cases shall be referred to the board, in such manner as the convening authority directs. No member serving on the active list shall be referred to a medical board until he has been admitted to the sicklist.

§ 725.302 Composition.

A medical board, whenever practicable, shall consist of three medical officers of the Navy; otherwise, the board may consist, in whole or in part, of medical officers of the Army, Navy, Air Force, or of the Public Health Service. In exceptional cases, as determined by the convening authority, medical boards may consist of a lesser number of medical officers. When the board is reporting upon conditions which normally fall under the professional jurisdiction of the dental department, the membership of the board shall include a dental officer, when one is available.

§ 725.303 Purpose.

(a) A medical board is constituted to report upon the present state of health of any member of the naval service, and it serves as an administrative board by which the Department of the Navy obtains a considered clinical opinion regarding the physical fitness of naval personnel. There are no specific statutes or administrative holdings prescribing the procedure to be followed by medical boards. Hence, meetings and proceedings may be conducted informally, and it is not required that the information upon which the findings of the board are based meet standards of admissibility as evidence in a judicial proceeding. However, since information contained in medical board reports may play an important role in determining the rights of an individual to certain benefits (such as pensions, compensation, promotion, retirement, income tax exemption, death gratuity, and civil service preference), it is essential to include in the report all available information, with adequate documentation concerning the origin, nature, conduct status, and aggravation-by-service of any condition reported upon.

(b) The medical board shall refer cases to a PEB, whenever a member's fitness for continued active duty is in question. Where it is obvious from the admitting diagnosis that the member is not likely to return to duty, his case shall be referred to a medical board immediately, with a recommendation for PEB appearance, even though optimum hospital improvement has not been achieved. Other required administrative processing, such as requests for a Veterans Administration bed designation, shall be accomplished in an expeditious manner.

§ 725.304 Board procedure.

(a) The board shall meet to consider and report upon the case of a member who is referred to it by competent authority. It shall require and examine such records in the case as are necessary to formulate a considered conclusion regarding the individual's present state of health and the recommendations required. It shall conduct such examination of the member as is considered necessary, and the member shall appear before the board in person, provided he is physically and mentally able to appear and provided it is considered by competent medical authority than such appearance will not adversely affect his health.

(b) Unless it is considered that the information, findings, opinions, and recommendation in the report might have an adverse effect on his physical or mental health:

(1) The member shall be allowed to read the board's report or be furnished a copy thereof;

(2) Findings or opinions that a condition was incurred through the member's misconduct, not in line of duty, or not aggravated by service, or that he is unsuitable for retention in the service shall be brought to his attention;

(3) The member shall be afforded an opportunity to submit a statement in rebuttal to any portion of the board's report;

(4) NAVMED Form 6100/2 statement concerning the findings and recommendations of the board shall be completed, referred to the member for signature, and witnessed.

In all cases, the board's report shall contain a statement indicating whether, and to what extent, the foregoing steps have been taken. If a member submits a statement in rebuttal, the board shall review its report and make any change which is considered appropriate, or prepare a statement in surrebuttal. The member's signed NAVMED 6100/2 statement, and/or statement in rebuttal, shall accompany the board's report but shall not be incorporated into it.

§ 725.305 Report.

(a) The medical board report shall be submitted to the convening authority of the medical board on NAVMED 6100/1 (Medical Board Report Cover Sheet), a multipage interleaf carbon format. The cover sheet shall not be mechanically reproduced. The body shall present a summary in narrative form of all pertinent data concerning each complaint, symptom, disease, injury, or disability presented by the member, which causes or is alleged to cause, impairment of health, unfitness for duty, or military unsuitability. The facts are to be represented briefly and concisely and must show the reason for admission to the sicklist; the diagnosis and any change thereof shall be substantiated; the board's opinion relative to misconduct and origin of

the condition reported shall be supported, and the board's recommendation justified.

(b) Where no impairment exists, the report shall so indicate.

(c) Whenever possible, impairment of function should be reported in terms of objective tests or findings rather than as opinion or conjecture.

(d) The report must contain sufficient data to permit a reviewer to conclude whether the member suffers impairment of health, and, if so, to determine its nature and the degree of impairment. The discussion of each impairment should be presented in such a manner as to show the limitation of activity imposed by the disability and the significance of subjective symptoms alleged to cause impairment. Such evidence is intended for use in rating disability in the event the member is later determined to be unfit to perform the duties of his grade or rate.

(e) Any disability rating, which will be based in part on the data presented, is governed by the ability of the body as a whole, or of the psyche, or of a system or organ of the body, according to the general or localized effects of disease or injury, to function under the circumstances of ordinary activity in daily life including employment. The Physician's Guide, Disability Evaluation Examinations, Bureau of Medicine and Surgery, Veterans Administration, indicates the scope of the report required for rating purposes and will be utilized in all cases.

(f) If a previous report of medical survey or medical board has been submitted, it is not necessary to repeat the detailed information contained therein. In such cases, attention may be invited to the previous report and description of the present illness restricted to the interval history and currently pertinent data. Any facts which are not a matter of record or of personal knowledge to a member of the board, but which are based on the individual's own statement, should be recorded as "according to the member's own statement." Medical-social report must be held in the strictest confidence, should not be shown to the individual, and information derived therefrom, shall not be entered in reports of medical boards. Such data are obtained primarily for the benefit of the patient in diagnosis and treatment and may be utilized for the purpose of further interrogation of the patient, if pertinent. Any additional history so obtained from the patient or from other direct sources contacted as a result of "lead information" may be incorporated as a part of the history of the case.

(g) The examining facility and date of the entrance physical examination shall be reported in the case of members recommended for discharge who have less than 1 year of active service.

(h) In the following instances, the report shall contain a statement concerning member's capability of managing his own affairs, in accordance with the JAG Manual, ch. 15:

(1) All psychoses;

(2) Organic brain disorders when the board report indicates impairment of judgment;

(3) Psychoneuroses, severe, where possible impairment of judgment is indicated;

(4) Any case in which a member has previously been declared incapable of managing his own affairs; and

(5) All psychiatric cases of sufficient severity to require further hospitalization. (ManMed, art. 18-20(1) (a) through (g))

§ 725.306 Disposition of report.

The report of the medical board shall be signed by all the members of the board and transmitted to the convening authority.

§ 725.307 Action by convening authority.

(a) When the indicated disposition is appearance before a physical evaluation board and the convening authority of the medical board concurs and is the commanding officer of a Naval Hospital (both within and without CONUS), the Commanding Officer of the Naval Submarine Medical Center, or the Commandant, 14th Naval District, he shall endorse and forward an original and two copies of the medical board report and other required documents to the Central Physical Evaluation Board located in the Office of Naval Disability Evaluation, Washington, D.C. 20390. In this connection, a copy of the member's current health record, injury report or investigative report (when appropriate), and the following clinical record documents shall accompany the medical board report—a copy (photostatic, quick-copy, types, etc.) of the history, physical examination, doctor's progress notes, all laboratory, X-ray, and operative reports and all consultations. Colored photographs should be provided in those cases involving scarring with disfigurement, pigmentation, or in cases of unusual deformities such as ankylosis of individual fingers. In addition, a copy of the request for medical records and a statement of service shall be attached (see §§ 725.310 and 725.311). Orders shall not be issued for personal appearance before a PEB until, and unless, the ONDE (Central PEB) advises the appropriate authority that the member has requested personal appearance before the PEB. Also, orders for personal appearance shall be issued in the case of mentally incompetent members. Mentally incompetent members shall be represented by qualified counsel before the formal PEB.

(b) When the convening authority of the medical board is other than the above, and referral to a PEB is the recommended disposition, the medical board report shall be forwarded to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, via the Chief, Bureau of Medicine and Surgery, for appropriate action.

(c) When the recommended disposition is appearance before a PEB and the convening authority of the medical board does not concur, the convening authority shall advise the member concerned of his nonconcurrence and afford the member an opportunity to submit a statement in rebuttal. The convening authority shall then forward the medical board report, the member's signed statement, and a full statement setting forth the convening authority's reasons for nonconcurrence to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, via the Chief, Bureau of Medicine and Surgery, for determination as to disposition to be effected.

(d) If and when the ONDE (Central PEB) advises the referring authority that a member has requested personal appearance before a PEB, the referring authority shall issue orders promptly directing the member to appear before a formal PEB located geographically convenient to the member.

(e) If further hospitalization is indicated, the member shall be retained on the sicklist until recommended findings have been made by the ONDE (Central PEB). If further hospitalization is not indicated, the member may be discharged from the sicklist and transferred to a nearby appropriate administrative command to await counseling. In those cases where the member has been discharged from the sicklist and does not accept the recommended prima facie findings of the Central PEB, the member shall be transferred through medical channels to the appropriate hospital for a full and fair hearing. If such transfer is effected, the Disability Evaluation System Counselor shall immediately advise the ONDE (Central PEB) of the date of transfer and the command to which the member is transferred. The ONDE shall notify the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, of the member's new command.

(f) The convening authority of a medical board, for good and sufficient reason, and with the consent of the member concerned, may withdraw any case he has referred to the Central PEB, so long as the case is still before the Central PEB and recommended findings have not yet been made. If recommended findings have been made by the Central PEB, and the convening authority considers that good and sufficient reasons exist for withdrawal of the case from the Disability Evaluation System, the convening authority, with the consent of the member concerned, may request the Chief of Naval Personnel, or the Commandant of the Marine Corps, as appropriate, or the Chief, Bureau of Medicine and Surgery, to withdraw the case under the provisions of Chapter 8 of this Manual. (Refer to ManMed, art. 18-21, Item (1), (a) through (f))

§ 725.308 Line of duty misconduct reports.

In each case in which a member of the naval service incurs an injury which might result in a permanent disability or which results in his physical inability to perform duty for a period exceeding 24

hours (as distinguished from a period of hospitalization for evaluation or observation), findings concerning line of duty and misconduct must be made. Responsibility to order investigation in such cases is contained in the JAG Manual, sec. 0806. Whenever a copy of the report of investigation or injury report is not forwarded with the medical board report, a statement explaining the circumstances of the injury shall be attached to the medical board report. The statement shall include the name and address of the command having responsibility for the investigation, or a finding of not misconduct and in line of duty.

§ 725.309 Cases involving discipline.

(a) When court-martial proceedings or investigative proceedings which might lead to court-martial are pending, indicated, or have been completed; in cases of uncompleted sentences of court-martial involving confinement or punitive discharge; and in cases of homosexual behavior, existing concurrently with a seriously incapacitating physical disability other than a psychosis, requiring processing in accordance with current SECNAV INST 1900.9 series, the report of the medical board, together with all pertinent facts relative to the disciplinary aspects, of the case, shall be forwarded expeditiously by the convening authority, in accordance with Article 18-21 Item 23(1)(a), Manual of the Medical Department, U.S. Navy, for such administrative action as is deemed warranted; and no orders directing or authorizing the appearance of the member before a PEB shall be issued by the convening authority. (Refer to ManMed, art. 18-12)

(b) The Chief of Naval Personnel or Commandant of the Marine Corps, as appropriate, may either direct disciplinary processing, direct disability processing, or direct concurrent disciplinary and disability processing of the member's case.

§ 725.310 Request for medical records.

When the indicated disposition of the board is appearance before a PEB and the convening authority of the medical board concurs and is the commanding officer of a Naval Hospital (both within and without CONUS), the Commanding Officer of the Naval Submarine Medical Center, or the Commandant, Fourteenth Naval District, he shall immediately advise the Chief, Bureau of Medicine and Surgery (Code 33), and request that the member's medical records be promptly forwarded to the ONDE (Central PEB). In all other cases, where the indicated disposition of the board is appearance before a PEB, the Central PEB shall take such prompt action as may be necessary to obtain the medical records. (Refer to ManMed, art. 18-22)

§ 725.311 Requests for statements of service.

The command responsible for making the determination that a member is to appear before a PEB (generally the convening authority of the medical board, the Chief of Naval Personnel, or the Commandant of the Marine Corps) shall initiate a request to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, for a statement of service for the member. Requests addressed to the Chief of Naval Personnel shall be sent to Pers-E. Requests on a Navy enlisted man shall include the member's Navy Enlisted Classification Code (NEC) as part of the identification of the member. Requests on Marine Corps personnel shall include the member's Military Occupation Specialty (MOS) (when known) as a part of the identification of the member. (Refer to ManMed, art. 18-22A)

§ 725.312 Terminal/death imminent.

(a) The provisions of this paragraph apply to members of the Navy and the Marine Corps who are patients in a hospital.

(b) It is not within the mission of the Department of the Navy to provide definitive medical care to members on active duty requiring prolonged hospitalization, who are unlikely to return to duty. The time at which a member should be processed for disability separation must be determined on an individual basis, taking into consideration the interests of both the Government and the member. However, before initiating disability evaluation procedures on a patient who has been identified as a terminal case, the hospital commanding officer shall insure that "optimum hospital improvement" has been attained. When "optimum hospital improvement" has been attained, disposition of the patient shall be governed by humanitarian consideration, with due regard for the economic conditions of the patient and his beneficiaries. However, terminal cases shall neither be retained nor separated solely for the purpose of increasing their retirement or separation benefits.

(c) Normally, a terminal medical case will be processed in accordance with the instructions of the other chapters of this Manual. However, if death is so imminent as to preclude completion of routine procedures, and application of the criteria set forth in paragraph (b) of this section warrants early separation of a member, whose case has not been presented to a PEB, a message report from the hospital commanding officer, or telephone communication, if necessary, shall be made directly to the Office of Naval Disability Evaluation, Washington, D.C., providing information necessary for disposition to be made. Outside of normal working hours these communications shall be made to the Duty Officer, Bureau of Medicine and Surgery. Such communications shall include the following information, insofar as possible:

(1) Member's full name, rank/rate, service/file number, SSN, USN/USNR, USMC/USMCR;

(2) Dependency status (i.e., single, married, children, other relatives listed in available Emergency Data personnel records);

(3) Whether member has government insurance and amount;

(4) Status of member as regards Retired Serviceman's Family Protection Plan;

(5) Approximate length of ACTIVE service;

(6) Life expectancy (i.e., hours or days);

(7) Diagnosis and diagnostic nomenclature number (IDCA);

(8) If death is imminent, as a result of an injury, as opposed to a disease:

(i) Duty status of member at time of accident (i.e., leave or liberty, authorized or unauthorized);

(ii) Opinion of investigating officer, regarding line of duty/conduct;

(iii) Brief of circumstances of accident, including time and date of injury.

(d) In a case in which the PEB proceedings have already been forwarded to the Office of Naval Disability Evaluation and then death becomes imminent, such fact shall be made known to the Office of Naval Disability Evaluation immediately, so that action may be expedited, if warranted. Outside of normal working hours, the procedure described in paragraph (c) of this section shall be followed.

(e) Commanding officers of naval hospitals or other authorized persons shall insure that the spouse, or (if there is no spouse) the legal guardian or custodian of the child or children of mentally incompetent members, is promptly advised of her/his right to request the Secretary of the Navy to make an election in their behalf regarding the Retired Serviceman's Family Protection Plan.

(f) Upon effecting a member's disability retirement, the member, or his next of kin if the member is mentally incompetent (including unconsciousness resulting from disease or injury), shall be immediately advised of the right to file for "Disabled Veterans' Insurance" under the National Service Life Insurance Act, as amended, 38 U.S.C. section 722. In cases of mental incompetence, as defined in this paragraph, if the next of kin or some other close family member to whom this information can be furnished is not available, so apprise the Chief of Naval Personnel or the Commandant of the Marine Corps (DN), as appropriate, immediately of that fact, and as to the date on which, and the person to whom, such information was furnished.

§ 725.313 Expedited disability separation.

(a) The provisions of this paragraph apply only to members of the Navy and Marine Corps who are patients in a service hospital.

(b) When it appears obvious at the time of admission to the hospital that a member's condition is of such a nature that he is never likely to return to duty, and immediate transfer to a Veterans Administration hospital is medically indicated, the member may be processed for physical disability retirement prior to attaining optimum hospital improvement in the service hospital. The medical officer treating the case will,

within the first 10 days of the member's hospitalization, inform the hospital commanding officer, who shall immediately forward the following information to the ONDE (PRC) by speedletter (airmail where appropriate, telephone in extreme cases), with information copies to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, the Judge Advocate General, and the Chief, Bureau of Medicine and Survey. Simultaneously, if indicated, a request to the Armed Services Medical Regulating Office (ASMRO) for bed designation in a VA hospital should be submitted, if the member requires further hospitalization and the member can be transported. The speedletter shall refer to this paragraph and shall state:

(1) Member's full name, rank/rate, service/file number, SSN, USN/USNR, USMC/USMCR;

(2) A VA claim has been prepared and reviewed by a VA representative and is ready for submission upon execution of TDRL orders;

(3) Approximate length of ACTIVE service;

(4) Diagnosis and diagnostic nomenclature number (appending an interim Narrative Summary, to include a description of functional impairment);

(5) If the condition which renders the member unfit is the result of an injury, as opposed to a disease:

(i) Duty status of member at time of accident (i.e., leave or liberty, authorized or unauthorized);

(ii) Opinion of investigating officer regarding line of duty/conduct;

(iii) Brief of circumstances of accident.

In addition to the interim Narrative Summary, there shall be appended to the speedletter report a statement signed by the member concerned agreeing to the special processing of his case and waiving his right to a full and fair hearing before a physical evaluation board (NAVMED Form 1900/1).

(c) Subject to the availability of space and facilities and capabilities of the professional staff, hospital commanding officers may approve requests from members processed under this paragraph for retention in a service hospital until optimum service hospital improvement has been achieved.

(d) In those instances where the member, after counseling, declines special processing of his case, he shall sign a statement to that effect, to be made a permanent part of his record, and his case shall be processed routinely in accordance with applicable provisions of this Manual.

(e) Hospital commanding officers shall, upon transfer of a member to a Veterans Administration hospital, request that the VA hospital forward to the ONDE (PRC) a copy of the Narrative Summary prepared upon the member's discharge from treatment, or interim summaries at 6-month intervals, whichever is appropriate.

Subpart D—Office of Naval Disability Evaluation

§ 725.401 Convening authority.

The Secretary of the Navy has established the Office of Naval Disability Evaluation (as a Department of the Navy Staff Office).

§ 725.402 Composition.

The Office of Naval Disability Evaluation shall be composed of a Director (Navy line flag officer or Marine Corps general officer), a Deputy Director (who is a Marine Corps colonel, when the Director is a Navy line flag officer, and a Navy captain when the Director is a Marine Corps general officer), and administrative facilities and personnel to support it, the Physical Review Council, the central and the formal physical evaluation boards, the Disability Evaluation System counselors, and such other personnel as are required to perform its function.

§ 725.403 Function and jurisdiction.

(a) The Director shall supervise, regulate, monitor, coordinate, and administer the Disability Evaluation System in conformity with 10 U.S.C. ch. 61 and other applicable provisions of law and regulations. The Director shall also provide for the physical disability evaluation of Navy and Marine Corps personnel for retention, retirement, or discharge and shall have primary cognizance within the Department of the Navy for matters relating to the Disability Evaluation System. The Director, ONDE, shall convene and have jurisdiction over the PRC and the PEB's. He shall control, unify, and standardize the administration of the Disability Evaluation System and shall establish criteria and provide for the training of personnel assigned thereto. In addition, the Director shall have jurisdiction over the Disability Evaluation System counselors, providing training and guidance for these personnel in the exercise of their responsibilities.

(b) The Director shall not normally take part in the review of any particular case, except upon completion of action in a given case he may review same for the purpose of establishing policy or changing existing policy.

(c) The Director shall, with secretarial approval, issue and maintain manuals and similar publications and orders and instructions to promulgate policies and procedures relating to the Disability Evaluation System and as necessary to his function as set forth herein. He is authorized to issue changes to such manuals and similar publications when concurred in by all interested bureaus and offices and by the Judge Advocate General, as provided by Article 1205, U.S. Navy Regulations.

(d) The Director shall establish military and civilian personnel ceilings and staffing, and equipment and space requirements for the Office of Naval Disability Evaluation and for the field PEB's and shall formulate budget requirements for this purpose.

(e) The Director shall review proposed legislation affecting disability evaluation.

Subpart E—Physical Evaluation Boards

§ 725.501 Function.

(a) Under the provisions of 10 U.S.C. section 1214, no member of the Armed Forces may be retired or separated for physical disability without a full and fair hearing if he demands it. Physical evaluation boards are constituted to afford hearings incident to evaluation of the physical fitness of certain members and former members to perform the duties of their office, grade, rank, or rating. The PEB is a fact-finding body established for the purpose of:

(1) Providing a full and fair hearing for the party concerned;

(2) Investigating the nature, cause, degree, and probable permanence of the disability of any party whose case may be brought before it; and

(3) Making recommended findings for the determinations required by law to establish eligibility of the party concerned for retention, disability retirement, or separation.

(b) PEB's are located at the Department of the Navy, Office of Naval Disability Evaluation, Washington, D.C.; Naval Hospital, Bethesda, Md.; Ninth Naval District Headquarters, Great Lakes, Ill.; and the Naval Hospital, San Diego, Calif. The Central Physical Evaluation Board located at the Office of Naval Disability Evaluation, hereinafter referred to as the Central PEB, considers cases under the informal hearing procedure only. The PEB's at the other locations consider cases under the formal hearing procedure and do not use the informal hearing procedure, except as the ONDE may specifically direct. Additional PEB's may be convened as the need arises.

§ 725.502 Jurisdiction of boards.

A PEB shall have jurisdiction to act in any proper case referred to it by the Secretary (JAG), the Commandant of the Marine Corps, the Chief of Naval Personnel, the Chief, Bureau of Medicine and Surgery, the Naval Physical Disability Review Board, the Director, Office of Naval Disability Evaluation, or any officer listed in § 725.307 of this Manual.

§ 725.503 Convening authorities.

(a) In addition to the authority granted in chapter 4 of this Manual, the Secretary of the Navy may, from time to time, empower other officers to convene PEB's.

(b) No officer may appear as the party whose case is to be evaluated before a PEB which has been convened by him or anyone temporarily succeeding to his office or by any one under him in the chain of command.

§ 725.504 Appointment of boards.

(a) Orders appointing PEB's shall:

(1) Cite the authority therefor;

(2) Designate the time and place of meeting;

(3) List, by name, the regular members, counsel for the board, and counsel for the party; and

(4) List, by name, the alternate members.

(b) Certified copies of such orders and amendatory orders shall be forwarded to the Judge Advocate General by the convening authority. The original orders appointing PEB's and originals of all amendatory orders shall be retained by the boards until canceled. When canceled, they shall be forwarded to the Judge Advocate General, by way of the convening authority.

§ 725.505 Composition.

(a) A PEB will be composed of competent and mature officers of sound judgment who are familiar with board procedures and, in particular, with the regulations and instructions pertaining to the Disability Evaluation System. The board shall be comprised of three commissioned officers in the rank of CDR/LCOL, or above, as members, one of whom shall be a medical officer and two of whom shall be nonmedical officers and, whenever practicable, line officers of the naval service. Unless directed otherwise by the convening authority, when the party concerned is a member of the Marine Corps, the president of the board shall be the senior Marine Corps member and when the party concerned is a member of the Navy, the president of the board shall be the senior nonmedical Navy member. However, in cases arising under 10 U.S.C. section 1554, the PEB shall be composed of five commissioned officers as members, three of whom shall be nonmedical officers and two of whom shall be medical officers. Counsel for the board and counsel for the party shall also be appointed in formal PEB's. The members of the board shall be of substantially comparable rank and experience. Under no circumstances will differences in rank or experience be permitted to inhibit or influence junior members in the expression of their opinions. Whenever practicable, at least a majority of the members of the board who act on a case shall be senior in rank to the party, but this requirement may be waived in writing by the party, or, in the absence of objection by the party or his counsel, shall be considered as waived. When the party is a member of a Reserve component, at least one member of the board acting on his case shall be a Reserve officer. If a Reserve officer is not assigned to permanent duty on the PEB, one of the alternate (Reserve) officers must be utilized.

(b) Appointment to membership on a PEB shall constitute a primary duty of the officers so assigned. Although alternate members may (and should) be appointed, the number thereof is to be kept to the minimum consistent with the expeditious processing of PEB cases and the maintenance of continuity of the membership. The use of alternate members should be reserved for cases when the regular members are absent because of leave or illness or as may be required for a Reserve party.

§ 725.506 Membership and assignment of personnel.

(a) The Chief of Naval Personnel and the Commandant of the Marine Corps, as appropriate, shall assign officers to the Director, ONDE, for duty as permanent nonmedical members of PEB's. The Chief, Bureau of Medicine and Surgery, shall make available for assignment to the Director, ONDE, officers for duty as permanent medical members of PEB's. The District Commandants through their law centers serving the geographical area in which PEB's are located will provide officers qualified in accordance with 10 U.S.C. section 827 (Art. 27, UCMJ) for duty as counsel for the formal boards and for the parties whose cases are under consideration. Officers so assigned as counsel shall be competent, mature officers, who have had substantial experience as primary counsel in adversary proceedings before fact-finding tribunals.

(b) Officers assigned to field/formal PEB's as permanent members shall be attached to the military commander of the are in which located for logistic and administrative support and for court-martial jurisdiction. Operational and technical control shall be exercised by the Director, ONDE. The normal tour of duty for personnel assigned to PEB duty shall be for 2 years. Generally, tours shall not be extended.

(c) No medical officer shall act as a medical member of a PEB if he has direct charge of the case of the party concerned immediately preceding appearance before the board or if he was a member of a board of medical officers which reported on the party concerned.

(d) Officers of the Dental Corps and the Nurse Corps are considered to be nonmedical officers, as used in this chapter, and may act as PEB nonmedical members only when the case under consideration concerns a member of their Corps.

(e) The Commandant of the Marine Corps, Commandants of Naval Districts, and/or Commanding Generals of Marine Corps Bases in which PEB's are located shall furnish the Director, ONDE, upon his request, with the names of senior Navy and Marine Corps nonmedical members and medical officers to act as alternates.

(1) At least two of the alternate members must be officers of the Navy and/or Marine Corps Reserve.

(2) Designation of alternate members is authorized in order to allow the expeditious processing of cases during absences of permanently assigned personnel. Alternate members shall not act on cases until their names have been promulgated in an appointing order. The authorization of alternate members is not intended as a means of providing rotation of officers for duty on PEB's nor as a vehicle to circumvent the requirement for permanently assigned personnel.

(3) The president of a PEB shall assure that alternate members serving on his board are familiar with their duties and responsibilities.

§ 725.507 President, duties and responsibilities.

The president shall take appropriate action to preserve order in open sessions of the board and to insure that the proceedings are conducted in a dignified and judicial manner. He shall rule upon all interlocutory questions except challenges. His rulings on interlocutory questions may be objected to by other members of the board, in which case the matter will be decided by a majority vote of the board members in closed session. For good reason he may recess or adjourn the board or grant a continuance in the case. He shall preside over closed sessions of the board and speak for the board in announcing its recommended findings and the result of any vote upon challenge or other interlocutory question. He and the counsel for the board shall authenticate the record of proceedings, except that, in the absence of the president, the record may be authenticated by any other member who acted on the case.

§ 725.508 Members in general, duties and responsibilities.

It is the responsibility of each member of the board to weigh and impartially to examine the evidence presented in a case and to make recommended findings, each according to his conscience and in conformity with applicable laws, regulations and established policies. Each member has an equal voice and a vote with the other members in deliberating upon and deciding all questions submitted to a vote. Each member may question witnesses in an order prescribed by the president. Members of the board may discuss the case freely in closed session, but, except as authorized to be set forth in the record of proceedings pursuant to this chapter, the opinions expressed by any member in closed session shall not be disclosed.

§ 725.509 Counsel for the Physical Evaluation Board.

(a) Counsel for a formal PEB shall be a competent, mature officer of sound judgment, who is familiar with procedures, regulations, and instructions relating to the Disability Evaluation System. He must be a member of the bar of a Federal court or of the highest court of a State to be designated as counsel for the board.

(b) Notwithstanding the provision of paragraph (a) of this section that the counsel shall be an officer, a civilian employed by the Government who is a member of the bar of a Federal court or the highest court of a State may be appointed counsel for the PEB.

(c) The counsel for the PEB, in every case before the board, shall present all available evidence which is relevant to the issues to be decided by the board. This shall include, but not be limited to, the records provided by the Central PEB and such additional information as is considered necessary to assure that the full facts of the case are disclosed. In accordance with procedures prescribed by competent authority, he shall secure

or request witnesses to appear before the board and shall obtain depositions, affidavits, or statements which may aid the board in reaching decisions on the issues before it. (See Manual for Courts-Martial, United States, 1969, para 117.) He shall notify the board members, witnesses, counsel for the party, and reporter of the time and place fixed for the hearing and make necessary arrangements to permit a proper hearing to be held. He shall insure that the records of the party concerned are furnished to medical witnesses for examination prior to the hearing and shall perform such other duties as may be required by the president of the board. It is his specific responsibility to insure that the board has before it sufficient information to ascertain as accurately as practicable the circumstances in which the party concerned incurred his disability, the extent of the disability, and, when it appears that the disability existed prior to the party's entrance into active service, its extent at the time of entrance into active service, and all other pertinent circumstances relating to the party's disability. He shall exploit all practicable sources of information in order to bring out all the facts in an impartial manner without regard to the favorable or unfavorable effect on persons concerned. In carrying out the foregoing responsibility, it is expected that he will utilize his professional skill in the examination or cross-examination of all witnesses. Under the direction of the board, he shall be responsible for expeditious preparation of a complete, fully documented record of proceedings and shall sign the record of proceedings as an authentication of its correctness, prior to signature by the president of the board.

§ 725.510 Counsel for the party.

(a) Counsel for the party before a formal physical evaluation board shall be a competent, mature officer of sound judgment, who is familiar with procedures, regulations, and instructions relating to the Disability Evaluation System. He must be a member of the bar of a Federal court or of the highest court of a State to be designated as counsel for the party.

(b) Notwithstanding the provision of paragraph (a) of this section that the counsel shall be an officer, a civilian employed by the government who is a member of the bar of a Federal court or the highest court of a State may be appointed as counsel for the party.

(c) The designated counsel for the party shall represent the party in every case unless the party obtains civilian counsel at his own expense or other military counsel, if available, or unless the party, after having been given opportunity of consulting with counsel, expressly waives counsel. When counsel other than the designated counsel has been obtained to represent the party, designated counsel may act as associate counsel, if desired by the party. In the case of mentally incompetent parties, the legal representative may obtain civilian counsel at his own expense, or other military counsel, if available. In the event such counsel is not provided, the designated counsel will represent the mentally incompetent party in every case and a waiver of the right to counsel will not be accepted. Any notice or other written communication required or permitted to be given to the party or his legal representative shall be given to the party's military and/or civilian counsel. 5 U.S.C. section 500.

(d) An attorney-client relationship between counsel for the party and the party or his legal representative is established as soon as the party's case is received at the PEB for a formal hearing or when he is assigned to the case. If the party in mentally incompetent, the status of counsel for the party shall be analogous to that of a guardian ad litem. Counsel for the party shall fully advise the party or his legal representative of the legal and factual issues and of the merits of the case. He is authorized to communicate directly with the Recorder of the Central PEB and, if he considers that pertinent evidence was overlooked or otherwise not considered by the Central PEB, he may request reconsideration by the Central PEB if same can be accomplished without undue delay. With the written consent of the party or his legal representative, he may waive the party's right to a formal PEB hearing. In the event of such a waiver, the president of the PEB shall immediately return the case file, including such waiver, to the Central PEB, unless competent authority has directed a formal PEB hearing irrespective of waiver therefor. To avoid travel where the party is not in the same area as the PEB, counsel for the party may utilize the DESC to communicate with and advise the party of his rights. Such communications will be considered privileged and not divulged by the DESC to anyone except counsel for the party. If the party is on the TDRL, instructions for counseling the party will be requested from ONDE by counsel for the party.

(e) Counsel for the party shall represent the party before the PEB. He shall prepare his case in accordance with the law and regulations, carry out the responsibilities of counsel for an interested party before a formal fact-finding body, and guard the interests of the party by all honorable and legitimate means. He should be ever mindful that a primary purpose of the PEB is to examine the case comprehensively and to develop a clear, complete, and fully documented record of proceedings, so that intelligent and informed findings can be made by the PEB, at successive levels of review, and, often, in future proceedings.

(f) The specific duties of the counsel shall include:

(1) Conferring with the party (or his legal representative) and advising him of his rights;

(2) Interviewing witnesses;

(3) Requesting counsel for the board to arrange for the attendance of necessary witnesses and other specifically desired evidence;

(4) Presenting the party's case before the PEB including examination and cross-examination of witnesses;

(5) Submitting oral and written arguments to the board, as may be appropriate;

(6) Counseling the party, or legal representative, as appropriate, on the recommended findings of the PEB; and

(7) Preparing or assisting in the preparation of the party's rebuttal, if any.

§ 725.511 Recorder, Central Physical Evaluation Board.

The Recorder, Central PEB, shall be a competent, mature officer of sound judgment, who is familiar with procedures, regulations, and instructions relating to such board and to the Disability Evaluation System. The Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, will assign to the Director, ONDE, a Recorder for primary duty. The officer so designated shall, in every case before the board, assemble, prepare, and present all available evidence which is relevant to the issues to be decided by the board. This shall include, but not be limited to, the medical records, investigation reports and courts of inquiry, and current disciplinary status of the party concerned. It is his specific responsibility to insure that the board has before it sufficient information to ascertain, as accurately as practicable, the circumstances in which the party concerned incurred his disability, the full extent of the disability, and, when it appears that the disability existed prior to the party's entrance into active service, its extent at the time of entrance into active service, and all other pertinent circumstances relating to the party's disability. When necessary, the Recorder will return the case or exhibit for correction, before presentation of the case for PEB action. If additional data is needed to support the case, the entire record shall be returned to the hospital. The Recorder shall insure expeditious preparation of a complete, fully documented record of proceedings and shall sign the record of proceedings as an authentication of its correctness, prior to signature by the president of the board.

§ 725.512 Fitness reports.

The Director, ONDE, will submit fitness reports on all personnel permanently assigned to PEB duty. Concurrent fitness reports on officers assigned to PEB duty may be submitted to the Director, Office of Naval Disability Evaluation, Washington, D.C., by the officer having court-martial jurisdiction. Fitness reports on counsel for the board and counsel for the party shall be submitted only by the Reporting Senior of the activity or command to which they are permanently attached.

§ 725.513 Board reporter, interpreter and orderly.

The convening authority shall provide qualified reporters to all PEB's. The military commander providing administrative and logistic support, when necessary, or if requested by the board, the counsel

for the board and/or the party, shall provide an interpreter or an orderly, or both, in the same manner as provided for courts of inquiry. Such individuals shall act in the same capacity as in the proceedings of a court of inquiry.

§ 725.514 Informal hearing.

(a) *General*. The informal hearing procedure at the Central PEB is designed to save administrative time in the processing of cases and to insure uniform and equitable application of laws, policies, and directives governing the Disability Evaluation System. The formal (full and fair) hearing contemplated by the law is not interpreted to mean that an informal PEB will not provide full and fair consideration in each case. An informal board must be sure that each case considered is complete and correct in every respect. Although personal appearance before the Central PEB is not permitted, it is the party's right to present his views in writing to the Central PEB, if he so desires, which will be fully considered. The rapid processing intended by the use of an informal hearing by the Central PEB must not be permitted to override the fundamental requirement of consistently thorough evaluation of each case.

(b) *Procedures*. (1) Upon receipt of a case by the Central PEB, the Recorder shall immediately review the file to insure that all required documents have been received and take immediate action to obtain any missing documents. As soon as this is completed, he shall refer the file to the president of the Central PEB.

(2) The Central PEB shall review the file and make findings and recommendations according to the rules prescribed in this chapter. The entire file shall then be returned to the Recorder, who shall promptly transmit the file to the appropriate PEB in cases where the party is mentally incompetent or, because of his condition, it would be deleterious to his health for him to have personal knowledge of material in his file; otherwise, the Recorder shall cause the results of the PEB's action to be telephoned promptly to the DESC concerned. The Recorder shall insure that a notation is made in the file that the DESC has been informed of the recommended findings.

(3) The DESC shall, on being informed of the action taken by the Central PEB, without delay (within 48 hours excluding Saturdays, Sundays, and holidays), notify the party of such findings and shall explain the consequences of this action to the party and counsel him as to his rights. Thereafter, the party will have 3 days (excluding Saturdays, Sundays, and holidays) to elect either to concur in the action of the Central PEB or to demand a formal PEB hearing, with or without personal appearance. This will normally be accomplished on an appropriate form. If the party concurs, the Central PEB Recorder shall promptly transmit the entire case file to the PRC. If the party does not concur, he shall state his reasons for nonacceptance. The DESC shall inform the Central PEB Recorder by the most expeditious means of the party's decision and forward to him appropriate forms or papers which have been completed, as necessary. If a party fails to indicate his election within the time allowed or if he refuses to make an election, it is to be considered that he has demanded a formal hearing. The Central PEB Recorder shall immediately be notified of such nonelection, and the party shall be directed to appear before a formal PEB to insure that his legal rights are effectively preserved. Upon request from the DESC, the Central PEB Recorder may authorize a limited extension of time for the party to make his election when such action would be in the best interests of all concerned. Normally a reasonable extension will be granted when requested and needed by the party to consult with legal counsel.

§ 725.515 Personal appearance.

(a) Orders for a personal appearance before a formal PEB shall be issued by the authority which referred a case into the Disability Evaluation System upon notification from the Director, ONDE, that such appearance has been requested by the party or that a formal hearing is in the best interests of the party and the Government. Personnel who are in a patient status shall be transferred from hospital to hospital for formal (full and fair) PEB appearance in accordance with U.S. Navy travel instructions. Transportation through facilities of the Armed Services Medical Regulating Office (ASMRO) shall be utilized to the fullest extent possible.

(b) When the party concerned demands a formal hearing, he shall appear personally before a PEB for a formal hearing, unless there is an opinion by a medical board or a determination by the PEB that to do so would be detrimental to his health. In addition to the fact that it may constitute a military offense, failure to appear when so directed or authorized shall be considered as a waiver of the right of the party concerned to appear before the board unless it is reasonably shown that such failure was through no fault of the party. However, the board may, at its discretion, waive the appearance of the party, if so requested in writing by the party concerned. Such request shall be appended to the record of proceedings of the board.

§ 725.516 Formal hearing (full and fair).

(a) General: The purpose of a formal hearing is to accord the party his right to a full and fair hearing, as provided in 10 U.S.C. section 1214. For the purpose of this Manual, the rights of the party shall include, but not be limited to:

(1) Personal presence, unless injurious to his health;

(2) Representation by qualified counsel during all stages of the proceedings until final action on the case is effected;

(3) Challenge of members for cause;

(4) Presentation of evidence in his own behalf;

(5) Securing witnesses, records, depositions, affidavits, and statements on relevant issues, insofar as practicable;

(6) Cross-examination of witnesses;

(7) Presentation of arguments in his behalf;

(8) Having the issues in his case decided only on evidence adduced and presented in the hearing; and

(9) Filing a rebuttal to the recommended findings of the PEB, and, in certain circumstances, to filing a rebuttal to the recommended substitute findings of the Physical Review Council.

(b) A formal hearing shall be conducted:

(1) When the party (legal representative) demands it;

(2) When the party fails or refuses to indicate an election following an informal hearing;

(3) When the president, Central PEB, determines that a formal hearing is necessary in the best interests of the party or the Government (e.g., to document the testimony of witnesses or to clarify the official records);

(4) When directed by the Director, ONDE, or other competent authority; or

(5) Whenever otherwise required under this Manual.

(c) Preliminary actions: The president of the PEB will establish the date and time of the hearing, subject to the following rules:

(1) Not less than 3 days prior to the date a hearing is to be held, the party, his counsel and/or legal representative, as appropriate under paragraph (h) of this section, will be allowed to inspect all records assembled for the hearing, to have copies of same made, if practicable, and to make necessary notes in preparation of his case;

(2) The party may waive this period or any portion thereof;

(3) If additional time is required to prepare his case, a written request for extension of time will be forwarded to the president of the PEB, who, in turn, will endorse the request to the party through his counsel indicating approval or disapproval and the date and time of the rescheduled hearing; and

(4) In instances where the party is incompetent, ample time for travel will be allowed if the legal representative desires to be present at the hearing.

(d) The counsel for the PEB shall carry out the duties and responsibilities set forth in § 725.509 in every formal hearing.

(e) Failure of party to appear for formal hearing: When a party (except in mentally incompetent, deleterious to health, or absentia type cases) fails to appear, after having elected to do so, the president of the PEB will suspend the hearing and determine the reason for the party's absence. If there appears to be no reasonable excuse for the absence, the hearing will proceed and the president will include in the record a statement of circumstances. Should the party later appear before the hearing is concluded, the president may recess the hearing and permit the counsel to brief the party on the proceedings up to that point.

(f) Waiver of appearance by the party: A party may waive in writing his

personal appearance at a formal hearing. In such a case, the appointed counsel, or individually selected counsel if there is one, must be present and represent the party during all open sessions of the hearing and perform the duties of counsel during post-hearing actions.

(g) Representation by counsel: Each party shall be represented by counsel at a formal hearing. His duties and responsibilities are set forth in § 725.510.

(h) Availability of records to party: All records assembled for use during the hearing, including those furnished by the Director, ONDE, and by other official sources, and requested by the party, shall be made available to the party and his counsel for review. In cases involving mental incompetence or when disclosure to the party of information relative to his mental or physical health would be injurious to mental or physical wellbeing, only the counsel and, if present, the legal representative may examine the records. The party (legal representative) and counsel may make any notes from the records necessary for proper preparation of the party's case and have copies of same made to the extent practicable. All official reference material used by the PEB shall be made available to the party (legal representative) and his counsel.

§ 725.517 Formal hearing procedures.

(a) Appendix A, a procedural guide, shall be used by all formal PEB's. The verbatim record of all matters of business before the board in open session will be attached to NAVSO 6100/16.

(b) Challenges: (1) Any member of a PEB may be challenged at any time during the hearing for cause stated to the PEB. The board will not receive a challenge to more than one member at a time. After disclosing grounds for challenge, the party may examine the member of the board. This examination may or may not be under oath at the discretion of the challenging party but, in either event, shall be recorded verbatim. The counsel for the board may cross-examine the challenged member. After such examination and cross-examination any other evidence bearing on the member's fitness to serve shall be heard. If the challenged member is to be examined under oath as to his fitness to serve, the counsel for the board shall administer the oath or affirmation as set forth in appendix A.

(2) The burden of establishing the challenge is on the party who made the challenge. The challenged member shall withdraw when the board is closed to vote upon the challenge. A unanimous vote (or a majority vote of a five-member board) is sufficient to sustain the challenge; a tie vote shall serve to disqualify the challenged member. The board shall decide the challenge according to the preponderance of the evidence. When a challenge reduces the board below the required number of members, alternate members will be called by the president (or senior member) of the board.

(c) Administering oaths: The prescribed oaths or affirmation for the president and board members, the reporter, and the counsels for the board and the party, as set forth in appendix A, shall be administered to each board (see JAG Manual, sec. 0111). If the form of affirmation is used, the closing sentence of adjuration will be omitted. The counsel for the board shall administer the oath in the form set forth in appendix A to each party and witness before he first testifies.

(d) Evidence: (1) Before taking testimony, the counsel for the board will, for the record, present all papers pertaining to the case to the board in open session. These papers may be inspected by the party and his counsel during the hearing. The party or his counsel may cross-examine the author of the document, record, or statement by calling him as a witness, if he is located at the installation at which the PEB is located or otherwise reasonably available, or by taking his deposition.

(2) A PEB shall consider all documentary evidence transmitted to it by proper authority. The board, in addition, may require and examine such records as may be in the files of the Department of the Navy that relate to the issues before the board. All evidence having a probative value as to the determination of issues before the board shall be considered. In consideration of the weight or probative value to be accorded evidence, the members of the board are expected to utilize their background and experience, their common sense, and their knowledge of human nature and behavior. In every case, the testimony of the party concerned shall be considered in connection with all the evidence adduced and given such weight as the board may believe it merits. When the testimony presented at the hearing indicates that the party claims to have disabilities not disclosed by the official medical records or presents evidence sharply in conflict with official medical records, and the issue thus drawn is not one that can be readily resolved by the observation of the board, there shall be further development of the case by requesting further physical examination, special studies, or further investigation by appropriate agencies; and the hearing shall be adjourned until such development has been accomplished. Recommended findings of the board shall be based upon evidence consistent with a reasonable probability of truth.

(e) Party testimony: A party appearing for a formal hearing will be advised by the board that, if he so desires, he may:

(1) Testify as a witness, under oath, in his own behalf; in which case, he may be cross-examined as any other witness;

(2) Introduce witnesses, sworn statements, documents, or other evidence in his own behalf and cross-examine witnesses examined by the board;

(3) Make an unsworn statement, personally or through counsel, or both, oral and/or written, without being subject to cross-examination;

(4) Make an oral argument and/or file a written argument (appended to the record of proceedings), personally or through counsel, or both; or

(5) Remain silent.

The party is not required to make any statement relating to the origin, incurrence, or aggravation of any disease or injury he may have, unless the party opens up such matters on his direct testimony before the PEB. (See 10 U.S.C. section 1219)

(f) Witnesses: The presence of witnesses at every hearing is not required. The board may summon military witnesses whose presence is requested by the party or his counsel, if the witnesses are reasonably available and if, in the opinion of the board, their testimony is essential or contributes materially to the case. Article 49, UCMJ (10 U.S.C. section 849), is used in determining reasonable availability of witnesses. The use of affidavits or depositions to obtain testimony of witnesses is encouraged. The board may summon military witnesses considered necessary to complete its recommendations and to comply with the legal requirements of a full and fair hearing. To assure the attendance of a military witness, the president of the board will request the proper commander to make the necessary arrangements for the timely presence of the witness, provided he is reasonably available. It is the responsibility of the party and his counsel to make the necessary arrangements for the attendance of a civilian witness appearing on behalf of the party.

(g) Objections: Objections may be made to any action (other than a challenge) taken or proposed to be taken by the board, as well as to the admission of testimony. Objections, when made, are recorded as part of the proceedings. The board must note in the record its ruling on any objections that may be offered. Ordinarily, the objections are passed upon by the president of the board. However, if any other member dissents from the president's ruling, the objection is ruled upon by the board in closed session. The ruling is the decision of the majority of the board and is announced on the reopening of the hearing.

(h) Continuance of hearing: The board may continue a formal hearing on its own motion. A formal hearing may also, for reasonable cause, be continued at the request of the counsel for the board, the party, or his counsel.

(i) Recommended findings: Upon completion of the presentation of the case, the board will be closed for deliberation. No person, other than the voting members, will be present during closed sessions. The voting members then arrive at the recommended findings as prescribed in this chapter. Upon completion of the deliberations, the board will reopen and the findings will be announced to the party or counsel.

(j) Minority report: Each recommended finding made pursuant to this chapter, which is concurred in by a majority of the board, shall constitute the action of the board. Any dissenting member of the board shall make a minority report concerning those particulars in which he does not agree with the action

of the board. The report will be attached as part of the record of proceedings. Reference will be made to the attachment in the space provided for minority findings on NAVSO 6100/16.

(k) Action prior to final adjournment: The board, upon its own motion at any time prior to forwarding the record of proceedings, may set aside its previous recommended findings, consider further evidence, and make new recommended findings.

§ 725.518 Recommended findings, members on active duty for more than 30 days (other than for training under 10 U.S.C. section 270 (b)).

(a) Upon completion of a formal hearing the voting members shall meet in closed session and, after having considered and deliberated upon all the evidence before it, the PEB shall announce, through the president, the board's recommended findings. The recommended findings shall be made as prescribed in this chapter. The board shall determine:

(1) That the party is fit or unfit because of physical disability;

(2) If the party is unfit, that such disability was (incurred) (aggravated) while the party was entitled to receive basic pay;

(3) That such disability (is) (is not) the result of intentional misconduct or willful neglect, and whether such disability (was) (was not) incurred during a period of unauthorized absence;

(4) (i) That such disability (is) (is not) the proximate result of active duty (because of aggravation) (when applicable), or

(ii) That such disability (was) (was not) incurred in line of duty, in time of war or National emergency, or

(iii) That the party has over 8 years of active service;

(5) That accepted medical principles indicate that such disability (is) (may be) permanent; and

(6) That such disability is ratable at (percentage) in accordance with the standard Schedule for Rating Disabilities in current use by the Veterans' Administration.

(b) If, for any reason, the PEB is unable to make the foregoing determinations because of insufficient information, the case will be promptly returned to the commanding officer of the referring hospital for clarification. The reason for its return will be clearly stated in the letter of transmittal. Examples of reasons are as follows:

(1) Further physical examination or the preparation of additional records;

(2) Further information and description by the medical board of the party's defects and their effect on his functional ability or his ability to perform duty;

(3) Further hospitalization for observation, evaluation, and reconsideration by a medical board; and

(4) Correction or explanation of apparent errors, omissions, or inconsistencies in case records or supporting documents.

(c) Finding One: Fit/Unfit: (1) If it is considered that the party concerned is fit to perform the duties of his office, grade, rank, or rating, the PEB shall make the following recommendation only: "It is recommended that (name of party) be found fit for duty."

(2) If it is considered that the party concerned is unfit to perform the duties of his office, grade, rank, or rating, solely because of a condition or defect not a physical disability, the PEB shall make the following recommended finding only: "It is recommended that (name of party) be found unfit to perform the duties of his office, grade, rank, or rating because of (specify condition or defect)."

(3) If it is considered that the party concerned is unfit to perform the duties of his office, grade, rank, or rating because of physical disability, the PEB shall make the following recommended finding: "It is recommended that (name of party) be found unfit to perform the duties of his office, grade, rank, or rating because of physical disability," namely:

(i) List diagnosis and ICDA number of each disability contributing to the party's unfitness. The primary diagnosis rendering the party unfit shall be listed first. The remaining diagnoses shall be listed in order of importance and degree of impairment caused.

NOTE: In any case in which the party found unfit by reason of physical disability, has more than one condition, the board shall submit recommended findings with respect to each condition causing physical disability which the party presents.

(4) Discussion: (i) "Unfit because of physical disability" is defined in § 725.229, supra. To become eligible for disability benefits under 10 U.S.C. ch. 61, it must be determined that a party is unfit to perform the duties of his office, grade, rank, or rating because of physical disability. Therefore, this is the first determination that must be made. A party is considered unfit because of physical disability when he is unable, because of disease or injury, to perform the duties of his office, grade, rank, or rating in such a manner as to reasonably fulfill the purpose of his employment on active duty. A party who is not physically qualified to perform full and unrestricted duty is unfit because of physical disability. A party may be unfit because of a defect, or from the combined effect of two or more defects, even though one of them alone would not cause unfitness.

(ii) Although a party may have disabilities which are ratable in accordance with the Veterans Administration Schedule for Rating Disabilities, such disabilities do not necessarily render him unfit for naval service. In each case considered, it is necessary to correlate the nature and degree of functional impairment produced by physical disability with the requirements of the duties to which the party may reasonably expect to be assigned by virtue of his office, grade, rank, or rating (excluding special hazardous duty, such as duty involving flying, etc., but giving due consideration to the requirements of other potential sea, field, or combat assignments).

(iii) A party who has a condition which is likely to render him unfit in the near future will be considered to be unfit for duty, even though he may be physically capable of performing all of his duties at the moment. On the other hand, a party who remains hospitalized or who is convalescing with a prognosis for a return to duty in the near future will be considered to be fit for duty.

(iv) In each case, the overall effect of all defects present must be considered, both from the standpoint of the effect on the party's performance and requirements which may be imposed on the naval service to maintain and protect him during future duty assignments. The determination of physical disability is not based on such factors as a party's inability to meet the physical standards for enlistment or appointment; or his pending voluntary or involuntary retirement, discharge, or release; or that he does not meet the needs of the service for his special skills; or that he is not physically qualified for specialized duties, such as duty involving flying or duty aboard a submarine; or that he is not physically qualified for transfer to another service or another component or category within the naval service. DOD DIRECTIVE 1332.18 sets forth medical conditions and physical defects which normally render a party physically unfit for further duty. When there is reasonable doubt whether a party is fit or unfit, or as to the nature of the condition causing unfitness, these matters should be resolved on the basis of further clinical investigation and observation, and such other evidence as may be adduced. If after further clinical investigation and observation a reasonable doubt whether a party is fit or unfit still exists, that doubt shall be resolved in favor of the party.

(d) Finding Two: Incurred/Aggravated:

(1) *Form of Finding Two.* Finding Two of the PEB will be as follows:

That such disability (was) (was not) incurred while entitled to receive basic pay; or That such disability was aggravated while entitled to receive basic pay.

(2) *Discussion*—(i) *Service incurred.* "Incurred while entitled to basic pay" is defined in § 725.216 supra. For parties on active duty for more than 30 days, the PEB must determine whether each ratable condition was incurred while entitled to receive basic pay. "While entitled to receive basic pay" encompasses all types of duty which entitled the party concerned to receive active duty pay and any duty without pay, which may be counted the same as like duty with pay. A party is presumed to have been in sound mental and physical condition upon entering active service, except as to physical disabilities noted and recorded at the time of entrance. Any disease or injury discovered after a party enters active service is presumed to have been incurred while entitled to receive basic pay, in the absence of clear evidence to the contrary. Determinations concerning the inception of disease or injury, not noted at the time of entry, should not be based on medical judgment alone, as

distinguished from accepted medical principles, or on history alone, without regard to clinical factors pertinent to the basic character, origin, and development of such disease or injury. This determination should be based on a thorough analysis of the entire evidentiary showing in the individual case and a careful correlation of all material facts, with due regard to accepted medical principles pertaining to the history, manifestations, clinical course, and character of such disease or injury.

(ii) *Service aggravated*. "Aggravation by service" is defined in §725.206, supra. When, by clear evidence, it is determined that a condition originated before entry on active military service, the PEB must further consider whether the condition was aggravated by military service. Any additional disability resulting from the preexisting physical condition will be presumed to have been caused by service aggravation and, as required by §725.231 only specific findings of "natural progression" of the preexisting disease or injury based on accepted medical principles, as distinguished from medical opinion alone, are sufficient to overcome the presumption of service aggravation. However, in the case of parties with more than 3 years' service, any increase in the severity of a preexisting disease or injury will be considered as evidence of service aggravation, provided that such increase in severity is not due to the party's intentional misconduct or willful neglect or was not incurred during a period of unauthorized absence.

(e) Finding Three: Misconduct or willful neglect/unauthorized absence:

(1) *Form of Finding Three*. Finding Three of the PEB shall be as follows:

That such disability (is) (is not) due to intentional misconduct or willful neglect and (was) (was not) incurred during a period of unauthorized absence.

(2) *Discussion*. The PEB is responsible for recommending a finding as to whether or not the disability is the result of the party's intentional misconduct or willful neglect, and whether or not the disability was incurred during a period of unauthorized absence. "Misconduct" is defined in § 725.223, supra, and "unauthorized absence" is defined in § 725.241, supra. The law presumes that any disease or injury was incurred in line of duty, unless there is clear and convincing evidence of intentional misconduct or willful neglect, or that it was incurred during a period of unauthorized absence. Any reasonable doubt will be resolved in favor of the party. The JAG Manual, Chapter VIII, prescribes the manner in which the Line of Duty determinations are made. Evidence received in Line of Duty determinations made in accordance with the JAG Manual, Chapter VIII, is material evidence to be considered by the PEB in arriving at their findings. The record of proceedings in all cases, other than disabilities incurred as a result of enemy action, shall contain documentation which explains the circumstances surrounding the incurrence of the disability. The documentation may be either the report of a fact-finding body (formal or informal), an Injury Report Form, NAVJAG 5800/15, depositions, statements, or testimony elicited at a formal hearing. When a disability is incurred at any time during a period of unauthorized absence, regardless of whether the absence interfered with the member's military duties, the member is excluded from receiving benefits under 10 U.S.C. ch. 61.

(f) Finding Four: Proximate result/line of duty:

(1) *Form of Finding Four*. Finding Four of the PEB shall read as follows:

(i) That such disability (is) (is not) the proximate result of active duty (because of aggravation), or

(ii) That such disability (was) (was not) incurred in line of duty in time of war or national emergency, or

(iii) The party has at least 8 years of active service.

(2) *Discussion*. Unless the party has 8 or more years' active service, the PEB must determine whether each diagnosis listed, which constitutes the party's disability, was the proximate result of the performance of active duty, or that such disability was incurred in line of duty in time of war or national emergency. Disease or injury incurred by naval personnel on active duty for more than 30 days, while serving on active service, is considered to have been incurred in line of duty unless one of the exceptions listed in this § 725.218 applies. A finding regarding proximate result (defined in § 725.232, supra) must be made in injury cases when the member is on active duty orders for 30 days or less, on training duty under 10 U.S.C. section 270(b), or on inactive duty training orders.

(g) Finding Five: Permanency of disability:

(1) *Form of Finding Five*. Finding Five of the PEB shall be as follows:

That accepted medical principles indicate that such disability (is) (may be) permanent.

(2) *Discussion*. The PEB will determine for each diagnosis listed, whether the disability "is permanent" or "may be permanent" and record its finding for each (see § 725.230). A disability will be considered as "may be permanent" when, based on medical experience in like cases, it is considered that:

(i) The party may become fit to perform the duties of his office, grade, rank, or rating within 5 years from retirement or separation, or

(ii) The compensable percentage rating may, if less than 80 percent, change within said 5 years, or

(iii) The compensable percentage rating, if 80 percent or more, may reduce below 80 percent during said 5 years.

(h) Finding Six: Percentage ratings:

(1) *Form of Finding Six*. Finding Six of the PEB shall be as follows:

That such disability is ratable at ( ) percent under the standard Schedule for Rating Disabilities in current use by the Veterans' Administration, as follows: (tabulate method for determining percentage).

(2) *Discussion*. The law provides for the use of the Veterans' Administration Schedule for Rating Disabilities (VASRD) in determining the percentage of disability of a party who is found to be unfit because of physical disability and is otherwise eligible for disability benefits. The VASRD does not prescribe standards under which fitness for military duty may be determined. A party may have a disability which is ratable in the VASRD, but which is not considered to be of sufficient importance to render him unfit for duty. Therefore, the VASRD is not to be used until the party has been found unfit to perform his duties. The board members and reviewers must be familiar with the entire contents of the VASRD, including the general policies, introductory paragraphs to sections, and italicized footnotes. Failure to adhere to criteria of the Schedule, except as provided in DOD DIRECTIVE 1332.18, will result in error and consequent delay in disability processing. Some of the rules more commonly used in applying the Schedule are as follows:

(i) *Degree of severity*. The basis of disability evaluation, and of the assessment of degrees of severity of disabilities, is the ability of the individual as a whole, to function under the circumstances of ordinary activity; that is, in daily life under normal environment. In this connection, it must be remembered that an individual may be too ill, weak, or otherwise disabled, to engage in work, although he may be up and about and fairly comfortable at home or upon limited activity.

(ii) *Disabilities not listed*. In view of the number of atypical instances, it is not expected that every disability evaluated will show all of the symptoms and signs described in the various Veterans Administration ratings. Since the codes merely mention the most common ones, sign and symptoms of closely related disabilities will be considered by analogy. Findings sufficiently characteristic to identify the disability and its degree of severity and, above all, coordination of the rating with the impairment of function must be made in all instances.

(iii) *Reasonable doubt*. When, after careful consideration of all evidence, a reasonable doubt arises regarding the degree of severity of a disability, such doubt shall be resolved in favor of the party.

(iv) *Pyramiding*. Evaluation and rating of the same disability under more than one diagnosis (pyramiding) shall be avoided.

(v) *Zero rating*. Occasionally a disability is of such mild degree that it does not meet the criteria even for the lowest rating provided in the VASRD under the applicable diagnostic code number. A zero percent rating may be applied in such cases although the lowest listed rating is 10 percent or more. However, in instances in which the VASRD specifies a "minimum rating," a rating no lower than the prescribed minimum shall be assigned.

(vi) *Amputation rule*. The combined permanent rating for disabilities of an extremity shall not exceed the rating for the amputation level next higher than the site of the injury. A disability of an

extremity shall not be given a higher rating that would be given if the limb were amputated at the most distal of the customary amputation sites which would include the affected area (region) in the part removed.

(vii) *Interpolation of VA ratings*. Although rating scales in the VASRD have been carefully constructed and tested to reflect proper ratings for varying degrees of severity of a disability based on the nature of the disease and the progression of its manifestations, in many instances ratings cannot be graduated in precise increments of 10, but will range from 20 percent to 40 and 80, or from 30 percent to 60 and 80. Interpolation of these ratings shall not be attempted by Navy adjudicative bodies in the disability system.

(viii) *Combined compensable rating*. If the party is found to be physically unfit and eligible for disability benefits, the percentages of all compensable disabilities are combined in the manner prescribed in paragraph 25 of the VASRD.

(*a*) Combined compensable ratings will be converted to the nearest number divisible by 10, and combined ratings ending in 5 will be adjusted upward.

(*b*) When a partial disability results from disease or injury, of both arms, or both legs, or paired skeletal muscles, or there is a bilateral involvement of peripheral nerves, the ratings for the disabilities of the right and left sides will be combined as usual, and 10 percent of this value will be added (not combined) before proceeding with further combinations or converting to the combined compensable rating. For example, if ratings for disabilities in paired extremities are combined to equal 59 percent, 5.9 percent (10 percent bilateral factor) will be added to the 59 percent to total 64.9 percent which is then converted to 65 percent and, in accordance with the same rule, is converted to 70 percent. This is proper even though the combined rating was less than 65 percent and underwent two upward conversions.

(ix) Prescribed VA Codes in accordance with the VASRD will be assigned to each diagnosis listed on NAVSO 6100/16. In selecting appropriate codes, consider the following:

(*a*) Description of functional impairment in medical records must be checked against the VASRD name of the disease or injury and its modifying terms.

(*b*) Related diagnoses should be merged for rating purposes when the VASRD provides a single code covering all their manifestations. This prevents pyramiding and reduces chance of overrating.

(i) Basis of recommended findings: It is essential that the record clearly reflect facts sufficient to form the basis for the recommended findings. Accordingly, the board should state in the record its basis for conclusions on issues where the record presents substantial evidence for more than one conclusion on such issues. In any case where the board makes a finding of misconduct or not in line of duty which conflicts with the approved findings of any other fact-finding body of which the board has knowledge, the board shall state in the record the basis for its conclusions.

§725.519 Recommended findings, members on active duty for 30 days, or training duty under 10 U.S.C. section 270(b).

The board shall make the same recommended findings as prescribed in § 725.518(a), except that finding (2) thereunder should be as follows:

That such disability (is) (is not) the result of an injury.

§ 725.520 Recommended findings, inactive duty training.

The board shall use the same phraseology in its recommended findings as prescribed in § 725.519, except the words "inactive duty training" shall be substituted for the words "active duty" in recommended findings § 725.518(f) (1) (i).

(NOTE for §§ 725.519 and 725.520: If not the result of an injury, no additional recommended findings are required. If the result of an injury, then the subsequent recommended findings shall relate only to disability resulting from the injury and a recommended finding whether the disability is the proximate result of performing such duty shall be made under finding (4)a of § 725.518(a)).

§ 725.521 Recommended findings, cases arising under 10 U.S.C. sections 1004 and 1163.

(a) Boards acting in cases arising under 10 U.S.C. sections 1004 and 1163 shall make the following recommended findings:

It is recommended that (name of party) be found (physically qualified) (not physically qualified) for active duty in the (U.S. Naval Reserve) (U.S. Marine Corps Reserve).

(b) If it is recommended that the party be found not physically qualified, the board shall set forth the disqualifying defect or disability, and the diagnostic nomenclature number (ICDA number) therefor, and give an opinion as follows:

Such disability (is) (is not) due to intentional misconduct or willful neglect.

(c) In determining the party's physical qualifications for active duty, the impairment of function suffered will be correlated with the requirements of the duties to which he may reasonably expect to be assigned if recalled to active duty in his current rank or rate.

§ 725.522 Recommended findings, case arising under 10 U.S.C. section 6331.

Boards acting in cases arising under 10 U.S.C. section 6331 shall make the following recommended findings only:

It is recommended that (name of party) be found (physically qualified) (not physically qualified) for active duty in the (Fleet Reserve) (Fleet Marine Corps Reserve).

If it is recommended that the party be found not physically qualified, the board shall set forth the disqualified defect or disability and the diagnostic nomenclature number (ICDA number) therefor.

§ 725.523 Recommended findings, reevaluation of members on Temporary Disability Retired List.

Boards acting in cases of members of the naval service on the Temporary Disability Retired List shall make findings as prescribed in §§ 725.518 or 725.519, as appropriate. For disability for which the party was temporarily retired, recommending findings are not necessary under § 725.518(a) (2), (3), and (4).

§ 725.524 Miscellaneous cases.

Boards considering cases not covered in §§ 725.518–725.523 shall make recommended findings only with respect to issues designated by competent authority.

§ 725.525 Rebuttal.

The party or his counsel shall be advised of the board's recommended findings and shall be afforded 5 days, exclusive of Saturdays, Sundays, and holidays, after receipt of a copy of the record of proceedings of the board, in which to file a rebuttal. A rebuttal will set forth, specifically, the recommended findings of the board with which the party or his counsel does not concur, together with proposed alternate recommended findings which are acceptable to the party. It is not mandatory, but desirable, that a brief, setting forth the legal and factual basis for such nonconcurrence or any other request for relief, be included in the rebuttal. In any case where a PEB is directed to conduct a new hearing or proceedings in revision and the party or his counsel files a rebuttal to the recommended findings arrived at in such proceedings, the rebuttal shall operate to afford the party an automatic appeal to the Naval Physical Disability Review Board, provided: (a) The recommended findings of such PEB differ in a material respect, detrimental to the party, from any prior recommended findings made in the case by a PEB; and (b) the proposed substitute findings thereafter made by the Physical Review Council differ in a material respect, detrimental to the party, from the relief sought in his rebuttal.

§ 725.526 Preparation and authentication of proceedings.

The record of proceedings of a PEB shall be prepared in accordance with this Manual.

§ 725.527 Forwarding of record of proceedings.

(a) The complete record of proceedings of the PEB, together with all documents which were before the board, shall be submitted to the PRC. An original and four/five (as appropriate) copies of the record of proceedings shall be prepared by the PEB and distributed as follows:

(1) Original to Office of Naval Disability Evaluation (PRC)

(2) Copy 1 to be retained at PEB

(3) Copy 2 to the party (NAVSO 6100/16 only) in informal hearings

NOTE: When it would be deleterious to party's health to receive his copy, this copy shall be filed in the original record of proceedings, unless specifically requested by the legal representative.

(4) Copy 3 to be filed in Health Record

(5) Copy 4 to DESC (NAVSO 6100/16 only)

(6) Copy 5 to counsel for the party (formal hearings only)

(b) Proceedings of the PEB's will be recorded on NAVSO Form 6100/16. Erasures and corrections must be initialed by the counsel for the board, or the Recorder, as appropriate.

(1) Copies of medical records or reports received from sources other than the Armed Services of the United States shall not be furnished parties with mental disorders or to parties imprisoned or confined to correctional institutions.

(2) Copies of medical records shall not be furnished parties when such records contain information which may be deleterious to the party's physical or mental health.

(c) Assembly of the record of proceedings shall be as indicated in Table 5-1. Pages of the transcript will be numbered consecutively beginning with page 1.

(d) Transmittal of case record of proceedings to the ONDE will be by the most expeditious means available, preferably by Pouch Air Mail.

(e) The foregoing, however, shall not preclude the review of these records by the counsel for the party. The recipient of such copy of the record of proceedings shall give a dated receipt therefor. The record of proceedings forwarded to the ONDE shall include party's signed and dated statement of intension, his statement in rebuttal (if one was filed), and/or a properly executed registered mail return receipt for party's copy of the proceedings. The PEB shall indicate when a party has not been provided a copy of the proceedings or, when only part of the proceedings was provided the party, indicate what part of the record was not provided. The PEB shall request the party to indicate a mailing address where he can be most expeditiously reached. If these documents are not received by the PEB within ten (10) working days after transmittal of party's copy of the proceedings, the proceedings shall be forwarded to the ONDE with notification concerning nonreceipt.

(f) A copy of the record of proceedings having been furnished to party or his counsel, a charge of $0.25 per page will be made for any subsequent copy requested.

§ 725.528 Proceedings in revision and new hearings.

In the event that a PEB is directed to conduct a new hearing, such hearing shall be conducted and the record prepared in the same manner as if the board were meeting in the first instance. The record of proceedings in such case shall be prefixed to the original record. A board directed to convene for a hearing in revision shall, when practicable, consist of the same members who previously acted upon the case and shall proceed as instructed by the referring authority. A board conducting a hearing de novo (a new hearing) shall consist of different members than those who previously acted upon the case.

§ 725.529 Action subsequent to forwarding the record.

In the event any cognizant authority shall receive information, subsequent to the forwarding of a record of proceedings of a PEB and prior to final action thereon, that the party concerned, following his hearing before such board, has: (a) Committed an offense or offenses such as are believed by the cognizant authority to have a possible bearing on the case and should therefore be brought to the attention of the Office of Naval Disability Evaluation; (b) incurred disability in addition to that presented at the time of his hearing; or (c) suffered an increase in the disability that was evaluated; or that his status has changed in any respect which might affect final action on the record of proceedings, such authority shall immediately forward this information to the ONDE by message, with information copies to the Chief of Naval Personnel or the Commandant of the Marine Corps (Code DMD), as appropriate, the Judge Advocate General, and the Chief, Bureau of Medicine and Surgery. Such message shall be followed as soon as practicable by a complete report of the matter, together with recommendations, concerning the action to be taken. Upon a change in his status occurring subsequent to his hearing before a PEB and prior to final action thereon, which, in his opinion, might affect final action, the party concerned may forward information of such change in the manner provided above.

§ 725.530 Processing time.

In order to provide information concerning the processing time at the various stages of disability evaluation proceedings, the Director, ONDE, shall provide a form to be appended to each record of proceedings in duplicate for recording the chronology of each such proceedings from the date the medical records are received from the Bureau of Medicine and Surgery to the date of final action (See Appendix "B," NAVSO 6100/9 or 6100/9a, as appropriate).

§ 725.531 Counseling.

(a) *General.* Each party or his legal representative will be counseled throughout the course of disability evaluation processing. The purpose of counseling is to enable the party fully to understand the significance of the findings and recommendations made by the medical board, PEB, PRC, and, if involved, the NPDRB, and his rights with respect to options available to him. Counseling is initially the responsibility of the Disability Evaluation System Counselor (DESC) of the medical treatment facility which conducts the medical board on the member. If, upon advisement of the Central PEB's findings and recommendations, the member demands a formal hearing, the DESC will immediately notify the Recorder of the Central PEB, who will arrange for orders to be issued for such appearance. The counsel for the party, located at the formal board, shall assume the counseling responsibility for all activity connected with that board. After a formal hearing, and the party has returned to the hospital where the medical board originated, or to the administrative command holding the party's Service Record, the counseling responsibility shall be again assumed by the DESC in that geographic area, except counseling which relates to the formal PEB proceedings shall be under supervision of the counsel for the party (See § 725.510(d)). In any event, counseling will be based on the circumstances of the case and designed to serve the party's best interests. Parties under treatment are often most concerned over their eventual disposition. They frequently will have questions about medical board and PEB procedures, about the possibilities for remaining on active duty in spite of their disabilities, and similar questions, to which answers are not readily available. Such questions should be answered so far as available information permits. Generally, the answer to such questions will be to describe procedures used in handling disability cases. In these circumstances, parties will be reassured that they will be counseled from time to time as their cases progress, and they should be encouraged to ask questions whenever they wish. Unless a DESC is a member of a bar of a Federal court or of the highest court of a State, it is not his function to give legal advice to a party or his legal representative. For this purpose the Navy Law Center in said geographic area or if not practicable, a nearby Naval activity therein which renders legal assistance, shall make available at least one officer who is qualified as prescribed in § 725.510(a) for providing legal advice to parties and their legal representatives referred by the DESC or otherwise asking for such advice.

(b) *Stages of counseling.* In particular, counseling will be provided at the following stages of disability evaluation processing:

(1) When the findings and recommendations of the medical board are made known to the party or his legal representative;

(2) When the findings and recommendations of the Central PEB are made known to the party or his legal representative;

(3) When the party's case is to be considered by a formal PEB;

(4) When the findings and recommendations of a formal PEB are announced;

(5) When the findings and recommendations of the PRC are made known to the party or his legal representative; and

(6) When the findings and recommendations of the NPDRB are made known to the party or his legal representative.

(c) *Scope of counseling.* The scope of counseling may vary with the circumstances of the party's case; however, it must include, as a minimum, each of the matters listed below, to the extent that they are raised by the findings and recommendations:

(1) Statutory rights: The party will be advised that:

(i) No member of the naval service may be separated for physical disability

without a full and fair hearing, if he demands it.

(ii) If he is a Reservist, he has the right to at least one Reserve voting member on the PEB considering his case.

(iii) He may not be discharged or released from the naval service by reason of disability until he has executed or refused to execute a claim for compensation, pension, or hospitalization to be filed with the Veterans Administration.

(iv) He cannot be required to sign a statement relating to the origin, incurrence, or aggravation of a disease or injury he has, and that any such statement against his interests, signed by him, is invalid.

(2) Findings and recommendations: Each of the several findings and recommendations made by the appropriate board or PRC must be explained in meaningful, understandable language to the party, together with the effect the recommended findings and recommendations will have on his status.

(3) Pay: Based on the available data, estimate the amount of retired pay or severance pay the member may expect to receive, if the findings are recommendations are approved and show how pay is computed under the several formulae that may apply. Income tax exemptions that may apply under current tax laws and rulings of the Internal Revenue Service and also estimated withholding tax should be explained. The fact that an election made under the Retired Serviceman's Family Protection Plan will result in a deduction from retired pay, and its amount, should be made known to the party. If temporary retirement is recommended, it is to be emphasized that the subsequent changes that may occur in the compensable percentage of disability as the result of periodic reexaminations will not result in an increase or decrease in the amount of party's retired pay, so long as his name is retained on the Temporary Disability Retired List.

(4) Grade determination: The party must be told that the grade in which he will be retired will be based upon the provisions of applicable law, and that determination of highest grade satisfactorily held will be made by the Secretary of the Navy or Secretary of the Armed Service in which previous service was performed.

(5) Deduction of severance pay from Veterans Administration compensation: It should be made clear to the party that any disability severance pay he may receive will be deducted from any compensation for the same disability to which he may become entitled from the Veterans Administration, and it is thus important for a party who receives disability severance pay promptly to file a claim with the Veterans Administration so that this amortization by the Veterans Administration or disability severance pay will commence as soon as possible. Otherwise, if he defers filing a claim with the Veterans Administration, at some future date when his need for compensation from the Veterans Administration may be great, its receipt will be delayed while his disability severance pay is recouped.

(6) Veterans Administration: (i) Whenever possible, arrangements should be made for a party being retired or separated, because of physical disability, to have a personal interview with the Veterans Administration representative, serving his hospital or installation, concerning his entitlement to Veterans Administration benefits. If, for any reason, this is not feasible, the party shall be counseled as indicated in the following paragraph.

(ii) The party will be advised of his right to apply to the Veterans Administration for disability benefits before separation, or subsequent thereto, or not at all, as he elects. Notwithstanding an election to the contrary, he should be urged to file a claim before separation whether or not he finally decides to avail himself of the Veterans Administration benefits. It must be pointed out that greater monetary benefits may be available from the Veterans Administration, and, although there is no assurance that Veterans Administration benefits will be greater, the party is not bound in any case to accept them. All parties should be especially urged to initiate a claim with the Veterans Administration, because the Veterans Administration benefits may be substantially greater, depending on the party's grade, severity of the disability, and his dependency status. The party will be shown how disability compensation paid by the Veterans Administration relates to retired or severance pay. Other potential benefits, such as past service life insurance, survivors' benefits, medical care, and hospitalization, will be pointed out. It will be emphasized in all cases that the Veterans Administration makes its own determination with respect to entitlements and administration of rights and benefits arising under laws it administers and that the Veterans Administration is not bound by determinations made by the naval service.

(7) Temporary Disability Retired List (TDRL): If it has been recommended that the party's name be placed on the TDRL, he will be advised of the effect of such a disposition. He (or his legal representative) will be counseled that he must undergo periodic reexamination when so directed by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, or his retired pay may be suspended. He will be advised that he must notify the Chief of Naval Personnel (B84) or the Commandant of the Marine Corps (Code DGH), as appropriate, of any change in residence. The party must be informed that the maximum time he is entitled to retirement pay as a result of his TDRL status is 5 years and that final disposition may be made at an earlier date, whenever a report of periodic reexamination discloses that his condition has sufficiently stabilized. He will be informed that changes in the degree of severity of his disability will not affect his retired pay while he is on the TDRL, but that his final disposition may result in permanent retirement, with the same, a greater, or lesser percentage of disability; separation with or without severance pay; or an opportunity to reenter the naval service.

(8) The DESC shall insure that each party counseled has been furnished with a copy of the pamphlet, "Disability Separation" (NAVPERS 1586E/NAVMC 1117-PD).

(9) Review at Departmental level: Each member will be informed of the review procedures that take place at the Departmental level. He will be told that the PRC, and the NPDRB if a case is referred to them, are authorized to recommend changes or modify PEB findings and recommendations, and he will be advised of the rights and elections available to him in such event.

(10) Legal advice: Each party or his legal representative will be informed of his right to seek legal advice from an officer so designated from a Navy Law Center (or other activity). To this end, the DESC will assist him in making arrangements for such consultation.

§ 725.532 Counseling required by other directives.

The counseling required by the preceding paragraphs applies to disability evaluation cases and does not replace further separation counseling required by other directives.

§ 725.533 Action on cases of parties on the Temporary Disability Retired List.

(a) Upon receipt of a report of a periodic physical examination of a party on the TDRL, or a report of other current medical examinations acceptable to the ONDE, the Central PEB shall evaluate such report and take one of the following actions:

(1) If the party's 5-year period on the TDRL will not soon terminate, and the Central PEB considers that no change in his status is indicated, he will be so informed by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate.

(2) If the party's 5-year period on the TDRL will soon terminate, or if the Central PEB considers that a change in the party's status is indicated, the Central PEB will take action in accordance with § 725.523, and, unless the party has already indicated his concurrence in such action, he or his legal representative will be notified of such action by the president of the Central PEB.

(b) When a party or his legal representative is notified under paragraph (a)(2) of this section, he shall be further informed that he has 5 days, exclusive of Saturdays, Sundays, and holidays, after receipt of notification to demand a formal hearing. After such period (which may be extended by the president of the Central PEB), if a formal hearing has not been demanded, the record of proceedings of the Central PEB shall be forwarded to the PRC. Otherwise, the case shall be referred to a formal PEB for further consideration and action as provided for in this chapter.

§ 725.534 **Action when party fails to report for final periodic physical examination.**

(a) If the party fails to report for his final physical examination, or otherwise fails to arrange for an acceptable current medical examination, the Central PEB, upon request, shall consider all available records pertaining to the physical condition of the party concerned and, on the basis thereof, recommend to the Secretary (JAG) via the Physical Review Council one of the following final determinations:

(1) That assuming that the party may have undergone maximum improvement consonant with accepted medical principles, he may be considered as fit for duty at the expiration of 5 years after the date his name was placed on the TDRL; or

(2) That, based on the available evidence and accepted medical principles, the party is considered unfit for duty as of the expiration of 5 years after the date his name was placed on the TDRL because of the physical disability for which he was temporarily retired ratable at least at ( ) percent under the standard Schedule for Rating Disabilities in current use by the Veterans Administration.

(b) In the case of a party who has failed to report for a final periodic physical examination, upon a final determination by the Secretary (JAG) as set forth in paragraph (a)(1) of this section, his name shall be administratively removed from the TDRL at the termination of 5 years on such list or as soon thereafter as practicable. However, if the final determination by the Secretary (JAG) is as set forth in paragraph (a)(2) of this section, the party will be permanently retired or separated under 10 U.S.C. sections 1210(c)-(e), as appropriate. The foregoing does not affect any statutory rights if it is subsequently shown that proper notification was not received or that there was just cause for his failure to report. 10 U.S.C. section 1210(a).

(c) Action under this paragraph shall be prepared by the Central PEB in such form as its president may prescribe and shall be signed by each member acting on the case and by the Recorder. It shall be transmitted to the Secretary (JAG) via the PRC not earlier than 60 days prior to the end of the 5-year period during which the name of the party is carried on the TDRL.

Subpart F—The Physical Review Council

§ 725.601 **Composition.**

The Director, ONDE, shall convene a PRC, comprised of:

One senior Navy officer provided by the Chief of Naval Personnel;
One senior Marine Corps officer provided by the Commandant of the Marine Corps;
One senior Medical Corps officer designated by the Chief, Bureau of Medicine and Surgery; and
One senior Judge Advocate of the Navy or Marine Corps designated by the Judge Advocate General; as members.

In addition to the members enumerated above, an officer shall be assigned by the Director, ONDE, to act as the Recorder for the PRC. The officers assigned to the ONDE for duty on the PRC shall be fully cognizant of the policies in their areas of responsibility or technical specialty. The Commandant of the Marine Corps, the Chief of Naval Personnel, the Chief, Bureau of Medicine and Surgery, and the Judge Advocate General shall furnish the Director, ONDE, with the names of senior Navy and Marine Corps officers (as appropriate to their area of responsibility) to act as alternates on the PRC, in the absence of the permanently assigned members.

§ 725.602 **Areas of responsibility.**

(a) The Navy officer shall provide liaison with the Chief of Naval Personnel for the ONDE and shall implement the personnel rules and policies of the Navy as may relate to disability evaluations. To this end, he shall review each record of proceedings of a PEB forwarded to the PRC which involves a Navy member in the light of such rules and policies, and his professional knowledge and experience, and, as appropriate, shall advise the other members of the PRC of the proper application of such rules and policies.

(b) The Marine Corps officer shall provide liaison with the Commandant of the Marine Corps for the ONDE and shall implement the personnel rules and policies of the Marine Corps as may relate to disability evaluations. To this end, he shall review each record of proceedings of a PEB forwarded to the PRC which involves a Marine Corps member in the light of such rules and policies, and his professional knowledge and experience, and, as appropriate, shall advise the other members of the PRC of the proper application of such rules and policies.

(c) The Medical Officer shall provide liaison with the Chief, Bureau of Medicine and Surgery, for the ONDE and shall implement the rules and policies of such Bureau as may relate to disability evaluations. To this end, he shall review each record of proceedings of a PEB forwarded to the PRC in the light of such rules and policies, established medical principles, and his professional knowledge and experience, and, as appropriate, shall advise the other members of the PRC of the proper application of such rules, policies, and principles.

(d) The Judge Advocate shall provide liaison with the Office of the Judge Advocate General for the ONDE and shall implement the rules and policies of the Judge Advocate General as may relate to disability evaluations. To this end, he shall review records of proceedings of PEB's whenever there is: (1) A conflict between the other members of the PRC reviewing the case; or (2) a determination that a member's disability is due to misconduct or was incurred during unauthorized absence is proposed; (3) a determination is proposed which conflicts with the action or findings, as approved, of a fact-finding body external to the DES; or (4) a request by the Director or another member of the PRC acting on a case for the proper application of legal rules and principles or professional legal guidance. In addition, the Judge Advocate shall be legal counsel to the Director for all matters under his cognizance.

§ 725.603 **Jurisdiction.**

The PRC shall have jurisdiction to act in any particular which is in implementation of its function.

§ 725.604 **Function.**

(a) It is the function of the PRC to review the proceedings and recommended findings of PEB's.

(b) It is not the function of the PRC to act as a board, or to decide as a body by vote, or to conduct hearings. However, the concurring action of two or more members of the PRC shall be considered the action of the PRC, as such. Applications for personal appearance by parties concerned will not be entertained.

§ 725.605 **General instructions.**

(a) If, after consideration of all the evidence in a case before it, the PRC considers that the recommended findings of a PEB are correct, the record of proceedings of the PEB shall be forwarded expeditiously to the Secretary (JAG) for final action.

(b) In the event that the PRC considers that the recommended findings of the PEB are not correct, but that substitute findings not substantially detrimental to the party are correct, it shall make such substitute findings, and the record of proceedings shall be forwarded to the Secretary (JAG) for final action.

(c) In any case considered under the modified procedure prescribed in § 725.-514, wherein the party has accepted the recommended findings of the Central PEB, but the PRC does not agree with the findings and proposes substitute findings substantially detrimental to the party, the PRC shall notify the party of the proposed substitute findings and the reasons for disagreement; the party shall be advised of the courses of action available to him. Thereafter, the party shall be afforded a formal hearing, if he demands it or indicates that the proposed substitute findings are not acceptable to him within 5 days, exclusive of Saturdays, Sundays, and holidays, after the receipt of the notification. However, if the proposed substitute findings of the PRC are acceptable to the party or he does not demand a formal hearing, the record of proceedings (with party's signed statement of acceptance attached) shall be forwarded to the Secretary (JAG) for final action.

(d) If the PRC considers that the recommended findings of the PEB arrived at after the party has had a formal hearing, are not correct, and proposes substitute findings that would be substantially detrimental to the party, the PRC shall notify the party of such substitute findings. If the party submits a statement in rebuttal to the proposed findings of the PRC, and, after

considering the statement in rebuttal, the PRC adheres to its proposed findings, the case shall be referred to the NPDRB. However, if the party advises the PRC that its proposed findings are acceptable, or if, in further consideration of the case in the light of the statement in rebuttal, the PRC agrees that the recommended findings of the PEB are correct, the PRC shall forward the record of proceedings to the Secretary (JAG) for final action.

(e) In any case of a party who has had a formal hearing and, as a result of proceedings in revision or a new hearing by a PEB, recommended findings are made, final approval of which in lieu of prior recommended findings made in the case would change final disposition in a manner substantially detrimental to the party, and a rebuttal has been filed to the last PEB's action, the PRC shall refer the case to the NPDRB for further consideration unless the PRC's final findings do not differ in a material respect, detrimental to the party, from the relief sought in the rebuttal.

(f) The PRC may, on its own initiative, take no action on the recommended findings of the PEB and return the case to a medical board for further study; or to the PEB for a hearing in revision for correction of errors, or for further development of the case, or for reconsideration of its recommended findings; or to a PEB comprised of different members for another hearing, or to a PEB in a different area for another hearing.

(g) In the event one of the members of the PRC, in opposition to the other two members acting on the case, is of the opinion that a case should be returned to a medical board or a PEB for any reason, a brief of the facts shall be submitted directly to the Secretary (Director, ONDE) with a request for instructions as to disposition of the case.

(h) Notwithstanding the foregoing provisions of this paragraph, the PRC or any member thereof may at its (or his) discretion, forward any case of a party, who has had a formal hearing or where same has been waived, to the NPDRB for further consideration. However, a member of the PRC may exercise the individual right to refer a case to the NPDRB only when he questions a matter within his area of responsibility. The PRC shall give the party or his counsel notice of such referral with a brief statement of reasons therefor.

(i) In a case where there is no action of the PRC as such, because each of the members is in disagreement with the others, and following consultation by the members it appears that such disagreement is irreconcilable, the case shall, if the party has had a formal hearing or has waived same, be referred to the NPDRB with the proposed action of each member with a statement of reasons for each such action, and the party or his counsel shall be given notice of such referral, the proposed actions, and the reasons therefor; otherwise, the case shall be referred directly to a PEB for a formal hearing.

§ 725.606 Rebuttals.

When the party concerned has been notified of proposed substitute findings by the PRC, in accordance with § 725.605 (d), he or his counsel shall be allowed 5 days, excluding Saturdays, Sundays, and holidays, to file a rebuttal after receipt of notification. The notification transmitted to the party by the PRC of its proposed substitute findings shall include a brief statement of the reasons for such proposed findings and, if any, conflicting proposed substitute findings made by an individual member of the PRC. In cases with two or more sets of proposed substitute findings, the statement in rebuttal shall specify the findings not concurred in, setting forth the factual and legal basis for nonconcurrence. The party may also propose alternate findings acceptable to the party or some other relief. Failure to submit a statement in rebuttal within the time allowed shall be construed to mean that the PRC's substitute findings are acceptable to the party. The record must contain proof that the party or his legal representative received notification of action under § 725.605(d) or evidence that a reasonable effort was made to provide such notification. For reasonable cause upon request, the time for filing a rebuttal may be extended at the discretion of the PRC.

§ 725.607 Preparation and authentication of records.

Action by the PRC on the record of proceedings of PEB's shall be prepared in appropriate form and shall be signed by all members acting on the case and the Recorder.

§ 725.608 Procedure in Servicemen's Readjustment Act cases.

The PRC shall act in cases arising under 10 U.S.C. section 1554 in advisory capacity only and, in such capacity, shall recommend to the Secretary of the Navy that the findings of a board established under such act be approved or disapproved, or that orders be issued in the case. In the event that other than approval is recommended, the reasons therefor shall be stated. The action of the PRC shall otherwise be prepared in appropriate form and shall be signed by each member acting on the case and by the Recorder. It shall be promptly transmitted to the Judge Advocate General.

§ 725.609 Expedited disability separation.

(a) In cases processed under § 725.313 the PRC must insure that the following criteria are met:

(1) The party is unfit for duty and not likely to return to a duty status.

(2) The party's disability was incurred in line of duty and is not due to his own misconduct.

(3) The party's condition is of such nature that functional impairment will be ratable at 30 percent or more.

(4) Unless the functional impairment as it exists at the time of adjudication is 100 percent, the party shall not be permanently retired under the provisions of § 725.313 but his name shall be placed on the TDRL.

Subpart G—Naval Physical Disability Review Board

§ 725.701 Convening authority.

The Secretary of the Navy shall convene the Naval Physical Disability Review Board.

§ 725.702 Function and jurisdiction.

The NPDRB is constituted to review and report upon cases referred to it, pursuant to § 725.605, and cases arising under the provisions of Title 10 of the United States Code, section 1554. The Board shall have the same powers as exercised by, or vested in, the Board whose action is being reviewed. The Board shall consider the issues before it, in conformity with accepted medical principles, pertinent law and regulation, and established personnel policies.

§ 725.703 Composition.

The NPDRB shall consist of five commissioned officers as members, three of whom shall be nonmedical officers and two of whom shall be medical officers, plus a Recorder. In addition, except in cases arising under 10 U.S.C. section 1554, there shall be designated a counsel for the Board and appellate counsel for the party. The counsel and appellate counsel will be required to act, however, only in cases where their services are requested by the president, or by the party whose case is being considered.

§ 725.704 Qualifications.

Each member of the NPDRB shall be carefully selected for his competence, maturity, experience, and soundness of judgment. The Recorder may be either a commissioned officer or a civilian in the employ of the Government. When the party whose case is being considered is a member or former member of the Navy, the nonmedical members shall be officers of the Navy. When the party is a member or former member of the Marine Corps, the nonmedical members shall be officers of the Marine Corps. When the party is a member or former member of a Reserve component, at least a majority of the members of the Board present and acting in the case shall be Reserve officers unless otherwise authorized by the Secretary of the Navy. The appointing order convening the NPDRB may list more than five members, in which case the following provision shall be included in the order: "Only five members of this Board, three of whom shall be nonmedical members and two of whom shall be medical members, are empowered to act in any one case." The senior officer shall act as president.

§ 725.705 Rank of members.

Although any commissioned officer is eligible for appointment to the NPDRB, care should be taken to avoid great disparity in rank and experience. In no event may rank be permitted either to inhibit or influence junior members in expressing their opinions or in voting.

§ 725.706 Seniority.

Whenever practical, at least a majority of the Board who act on a case shall be senior to the party. In the absence of objection by the party, the seniority of the members of the Board shall be considered as waived.

§ 725.707 Limitation on members.

(a) No medical officer shall act as a member of the NPDRB who has had direct charge of the case of the party or who was a member of the Medical Board which reported on the party. No member of a PEB, the PRC, Naval Retiring Board, or Board of Medical Survey, which acted in the case of the party, shall act as a member of the NPDRB in the same case.

(b) Officers of the Dental Corps, Medical Service Corps, or Nurse Corps are not eligible for membership as medical members of the NPDRB. They may be appointed and sit as nonmedical members only when the party before the Board is a member of the same Corps.

§ 725.708 Counsel for the Board.

When counsel for the Board is required as provided in § 725.703, he shall be a competent, mature, commissioned officer of sound judgment. He shall be a member of the bar of a Federal court or of the highest court of a State. He must be familiar with Board procedures and with the laws, regulations, and instructions governing physical disability retirement and separation and physical standards.

§ 725.709 Appellate counsel for the party.

(a) Appellate counsel for the party shall be a member of the bar of a Federal court or of the highest court of a State and shall be selected on the basis of his competence, maturity, experience, and soundness of judgment, as well as his knowledge of the laws, regulations, and instructions governing retirement or separation for physical disability.

(b) In proceedings before the NPDRB the party concerned may be represented by civilian counsel, if provided by himself or his representative at no expense to the Government or by military counsel of his own choice, if personally available. In such case, the designated appellate counsel for the party, unless assistance is requested by the party or his chosen counsel, shall not act in the case.

§ 725.710 Procedure.

(a) In cases arising under 10 U.S.C. section 1554, the NPDRB will review and report upon the findings and decisions or recommendations of any PEB, Naval Retiring Board, or Board of Medical Survey because of which any person, while serving as an officer of the naval service, has been retired or released from active duty without pay for disability. The Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, will report to the Board the cases of personnel requesting and entitled to review in accordance with § 725.711. Upon receipt of authorization for review, the Recorder of the Board shall assemble all records available in the case and notify party and counsel (if any) of the time and place of hearing. Such notice shall be placed in the mails at least 30 days in advance of the scheduled time of hearing. The proceedings of the Board under this paragraph shall be conducted in accordance with the instructions and regulations which governed the proceedings of the Board whose action is being reviewed, except that: (1) Physical examination of the individual is not mandatory; (2) the Board will not make a preliminary report; (3) the medical members will not be subject to examination; and (4) the medical members will not submit a report. The Board will meet in open session for the hearing of a case and, at the conclusion thereof, shall meet in closed session for its deliberations and determinations. Party shall be entitled to appear in person before the Board during open sessions of the Board. He shall be entitled to be represented by counsel of his own choosing, except that no expense thereto will be borne by the Government. A party who, after due notification of the time and place of hearing, fails to appear at the appointed time, is deemed to have waived his right to appear. Party or counsel for the party may waive in writing his right of appearance.

(b) In cases referred to the NPDRB pursuant to § 725.605, the Board shall initially review each case on the record submitted to it. If the Board arrives at prima facie findings which concur in findings of the PEB, and such findings of the PEB have not been rebutted by the party, such findings are to be considered not detrimental to the rights of the party and shall, without further proceedings, be forwarded for final action of the Secretary (JAG). If the prima facie findings of the Board are in any way detrimental to the rights of the party (see § 725.237), the party shall be so apprised thereof and of his right to a hearing before the Board. Where the party then requests to be present, either personally at no expense to the Government, or through counsel, a hearing shall be held. A party who, after due notification of the time and place of the hearing, fails to appear at the appointed time, is deemed to have waived his right to appear. Party or counsel for the party may waive in writing his right of appearance. At such hearing, the Board will receive such relevant evidence, either written or oral, as the party desires to offer. In the event that the party does not desire a hearing, he may submit such additional evidence, arguments, or briefs as he may desire, which will then be considered along with all the other evidence of record. Upon concurrence of the majority of the membership, the Board may cause a record to be returned to a medical board or a PEB for the same reasons that it may be returned by the PRC.

(c) Whenever a case referred to the NPDRB, pursuant to § 725.605, is received within 30 days or less of an impending mandatory separation or retirement date, the Board shall expeditiously review such case on the record submitted to it and any other evidence received prior to the time of review, forwarding its findings as soon thereafter as possible.

§ 725.711 Request for review of retirement or separation without pay for physical disability.

Any officer or former officer retired or released from active service for physical disability without pay pursuant to the recommendation of a PEB or Board of Medical Survey, desiring a review of his case, may request such review. Such a request for review shall be in writing and shall be submitted to the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate. No request for review will be granted under these regulations unless received in the Department of the Navy within 15 years after the date of retirement or separation. Upon receipt of a request for review, the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, shall note thereon the time of receipt and will, when it appears that the NPDRB has jurisdiction to review the case, transmit the request for review and any supporting documents to the president of the Board with the authorization for review.

§ 725.712 Oath.

Members of the NPDRB convened to act in any case presented to it by proper authority shall be sworn as follows: "You, and each of you, do solemnly swear (or affirm) that you will honestly and impartially examine and report upon the case of ____________ about to be examined by the Board. So help you God" (The sentence "So help you God" is omitted in affirmation).

§ 725.713 Challenges.

No challenge to the members of the NPDRB, other than a challenge for cause, will be entertained by the Board. Procedure for challenging shall be the same as for members of a Court of Inquiry.

§ 725.714 Evidence.

The NPDRB shall consider all documentary evidence transmitted to it by proper authority. The Board, in addition, may require and examine such records as may be in the files of the Department of the Navy which relate to the issues before the Board. All evidence having a probative value as to the determination of issues before the Board may be considered without limitation by the restriction of the technical rules of evidence. The Board shall receive any additional relevant evidence party may present. Witnesses shall be permitted to present evidence either in person or by affidavit. All witnesses before the Board shall be subject to cross-examination by party, his counsel, or counsel for the Board. Members of the Board may question witnesses. Party may submit a statement, either oral or in writing, to the Board, may take the stand as a witness, or may be called as a witness by the Board. All oral testimony shall be taken under oath or affirmation administered by the Recorder in the manner set forth in Appendix "A." Not less than 3 days prior to

the date set for hearing, all records and papers pertaining to the case shall be made available to party or his counsel, as appropriate, who shall have the right to inspect such records and papers, to have copies made if practicable, and to make notes therefrom. Party or his counsel in writing may waive the right to such 3-day inspection period. Party, if available, may be examined physically by the medical members of the Board or by a medical officer detailed by the Chief, Bureau of Medicine and Surgery. The report of such examination, either oral or in writing, may be placed before the Board in the same manner as other evidence.

§ 725.715 Continuances.

The NPDRB may continue a hearing on its own motion or at the request of party or his counsel if a continuance appears necessary to insure a full and fair hearing.

§ 725.716 Findings or opinions and decisions or recommendations.

The findings or opinions of the NPDRB, in cases arising under 10 U.S.C. section 1554, shall relate to the time the officer was retired or released from active duty and shall contain a statement showing whether the decisions or recommendations of the board being reviewed are affirmed or reversed. The findings or opinions and decisions or recommendations of the NPDRB shall be made in closed session in each case. Findings, opinions, recommendations, or decisions, as appropriate, shall be made in accordance with phraseology prescribed at the time of the officer's retirement or release.

§ 725.717 Review of PEB action.

(a) In cases arising under 10 U.S.C. section 1554, phraseology as required under § 725.519 to § 725.525, as appropriate, shall be used. However, the recommended findings shall relate to the date of retirement or release from active service and the record shall so state. In the event a case is referred to the NPDRB by competent authority wherein an officer or former officer was retired or separated prior to October 1, 1949, the phraseology shall conform to that required by regulations existing at the time of such retirement or separation.

(b) In cases referred to the NPDRB pursuant to § 725.605, the Board shall render an advisory opinion for the Secretary of the Navy as to the appropriate recommended findings upon which it considers that final disposition should rest.

§ 725.718 Minority opinions, findings, recommendations, or decisions.

Any dissenting member of the NPDRB shall make a minority report on those particulars in which he dissents. Such report shall be included in the record of proceedings of the Board.

§ 725.719 Proceedings of the Board.

(a) The proceedings of the NPDRB shal be conducted in accordance with instructions set forth in this chapter and in accordance with the JAG Manual, ch. IV, insofar as is practicable.

(b) The officer senior in precedence among the members of the NPDRB considering any one case shall act as the presiding officer of the Board. He shall take appropriate action to preserve order in all sessions of the Board and to insure that the proceedings are conducted in a dignified and judicial manner. He will rule upon all interlocutory questions except challenges. His ruling or interlocutory questions may be objected to by any other member of the Board (and such objections will be decided by a majority vote of the Board members in closed sessions of the Board), and he will speak for the Board in announcing its recommended findings and the result of any vote upon challenge or other interlocutory question.

§ 725.720 Preparation of record of proceedings.

The record of proceedings of the NPDRB shall be prepared as prescribed for Courts of Inquiry in the JAG Manual, insofar as practicable. The record shall include verbatim transcript of the testimony of all witnesses, all arguments by counsel, and such original documents (or certified copies thereof) presented to the Board as evidence. In those cases where a full and fair hearing is held, a copy of the notification of such hearing shall be appended to the record. The record of proceedings shall be authenticated by the Recorder and by the senior member of the Board in that order, except that in the absence of the senior member the record may be authenticated by any other member who acted in the case.

§ 725.721 Forwarding of record of proceedings.

The record of proceedings of the NPDRB in cases arising under 10 U.S.C. section 1554 shall be forwarded promptly to the Judge Advocate General for transmission to the Secretary. In cases considered pursuant to § 725.605, the record of proceedings shall be promptly forwarded to the Secretary of the Navy (JAG).

Subpart H—Final Action, Relief From Final Action, and Other Actions on the Record

§ 725.801 Final action.

(a) The findings and the recommendations authorized to be made by these regulations have no legal effect until approved by the Secretary of the Navy. The administrative finalization of each case processed under these regulations will be effected in accordance with the final disposition directed by the Secretary and promulgated by the Judge Advocate General.

(b) No findings, recommendations, decisions or modifications thereof, made under this Manual, shall be considered as conclusive or final, or not subject to modification by competent authority, until final disposition of the case pursuant to action of the Secretary has been effected. However, the recommended findings of a formal PEB, or by the NPDRB after a formal hearing, based on observation or the testimony of witnesses adduced at the hearing, will not normally be modified on any review (other than by the Secretary) without further evidence unless clearly erroneous, and due regard shall be given to the opportunity of the board members to observe the party and judge the credibility of witnesses.

§ 725.802 Action by the Secretary of the Navy.

(a) Excepting those cases acted upon pursuant to the authority delegated in § 725.803, all cases processed under these regulations shall be promptly referred to the Secretary for consideration and direction of final disposition. Generally, the Secretary, in his discretion, may approve findings and direct disposition consistent with the findings approved; disapprove findings and direct disposition appropriate under the circumstances; make independent determinations and direct disposition consistent with the determinations made; direct further proceedings without approving or disapproving findings; or direct final disposition appropriate under the circumstances without approving or disapproving findings. Action upon a case being processed under 10 U.S.C. section 1554 will be in accord with the actions which could have been taken upon the proceedings being reviewed.

(b) Each case referred to the Secretary will be reviewed by the Judge Advocate General for an opinion as to whether the proceedings were conducted in accordance with applicable regulations, the party was accorded all the rights to which he was legally entitled, and the findings of record are legally supportable.

§ 725.803 Delegation of authority to act for the Secretary.

(a) Excluding cases arising under 10 U.S.C. section 1554 and cases processed solely for the purpose of making an election under former section 411 of the Career Compensation Act of 1949, the Judge Advocate General, the Deputy Judge Advocate General, or any Assistant Judge Advocate General, acting for the Secretary, may approve the findings of the PRC or the NPDRB and direct final disposition consistent with the findings approved when:

(1) The PRC concurs in the unanimous or the majority findings of a PEB;

(2) The PRC makes substitute findings which are not substantially detrimental to the party;

(3) The PRC makes substitute findings which are acceptable to the party;

(4) The PRC makes findings or concurs in findings which result in the temporary retirement of a party in terminal cases (see § 725.312);

(5) The NPDRB (or a majority thereof) concurs in the findings of the PRC;

(6) The NPDRB (or a majority thereof) concurs in the unanimous or the majority findings of the PEB which are acceptable to the party.

(b) The Judge Advocate General, the Deputy Judge Advocate General, or any Assistant Judge Advocate General, acting for the Secretary, may direct final disposition of a case without approval or disapproval of findings when:

(1) The PRC has recommended that no action be taken in order that the party may be continued on active duty in a limited duty status; or

(2) The PRC has recommended that no action be taken in order that the party may be retired or separated for reasons other than because of physical disability.

(c) The authority delegated in paragraphs (a) and (b) of this section will not be exercised unless review of the case discloses that the proceedings were conducted in accordance with applicable regulations; the party was accorded all the rights to which he was legally entitled; and the findings to be approved are legally supportable. If review discloses a material defect, the record of proceedings will be returned promptly to the PRC (or the NPDRB) for such further proceedings as are appropriate in the circumstances.

(d) The authority conferred by paragraphs (a) and (b) of this section is permissive and shall not prevent the referral of any case to the Secretary for consideration and direction of final disposition.

§ 725.804 Referred to NPDRB by JAG.

Whenever the Judge Advocate General, in reviewing a case pursuant to the authority delegated in this chapter, considers that the basis for the recommended action or actions is not sufficiently certain to justify the making of determinations on the case for the Secretary, he may refer the case to the NPDRB for consideration, advice, and recommendation.

§ 725.805 Effective date of retirement.

(a) Unless the final disposition directed in a case specifies an effective date of retirement pursuant to the authority contained in 10 U.S.C. section 1221, the effective date of retirement because of physical disability (either temporary or permanent) shall be specified by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate. The date specified by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, shall be the date upon which all administrative procedures incident to retirement are completed, but shall be no later than the first day of the month following the month during which final disposition was directed.

(b) The Judge Advocate General, the Deputy Judge Advocate General, and any Assistant Judge Advocate General is hereby authorized, except as the Secretary of the Navy may otherwise direct, to take action for the Secretary under the provisions of § 725.312 to specify an effective date for the retirement for permanent physical disability or placement on the TDRL of parties of the naval service earlier than the date otherwise provided, as recommended by the PRC pursuant to the provisions of this Manual.

§ 725.806 Retirement for other reasons.

A member (who meets all qualifications for retirement because of physical disability but who is also qualified for retirement or separation for other reasons), prior to the effective date of his retirement pursuant to these regulations, may request that no action be taken on his retirement because of physical disability in order that he may be retired or separated for other reasons. Such a request will be addressed to the Secretary and forwarded via the PRC for comment and recommendation. Normally a member will not be retired because of physical disability if he is eligible for retirement or separation for other reasons and makes a timely request for retirement or separation and fully understands the consequences of his election.

§ 725.807 Withdrawal of retirement proceedings.

The Chief of Naval Personnel, Commandant of the Marine Corps, or Chief, Bureau of Medicine and Surgery, may, for good and sufficient reason and with the consent of the party concerned, withdraw any case from the DES. However, if a party's appearance before a PEB has been specifically ordered by the Chief of Naval Personnel or the Commandant of the Marine Corps, the case may be withdrawn only upon approval of the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate.

§ 725.808 Relief from final action.

Relief from the executed final disposition directed in a case processed under these regulations may be granted only upon the grounds and in the manner hereafter set forth:

(a) Errors of promulgation: Clerical errors in the promulgation of the final disposition directed in a case may be corrected by the Judge Advocate General, the Deputy Judge Advocate General, or any Assistant Judge Advocate General, at any time, upon his own initiative, upon the petition of the individual concerned (or his legal representative), or upon the petition of any cognizant authority of the Naval Establishment. If the correction intended does not change the nature of the disposition directed or the percentage of disability applicable for purpose of computing retired pay, correction may be made without notice. Otherwise, the individual concerned (or his legal representative) must be given reasonable notice of the correction intended and afforded an opportunity to submit a statement or other evidence in rebuttal. A petition under this subparagraph should be addressed to the Judge Advocate General and should set forth the alleged error with a statement of the correction desired. No notice is required if the intended correction is beneficial to the party.

(b) Relief involving the cancellation of orders:

(1) Mistake of law is a basis for relief from final action. This includes: A failure to grant the party a full and fair hearing if the party made a timely demand for such a hearing; a directed disposition, even though executed, which was without authority; or a decision which, although executed, is contrary to the great weight of the evidence of record. Fraud or misrepresentation of a material fact affecting the final disposition of the case and substantial new evidence are also grounds for relief.

(2) A showing that the disability suffered by an individual, in fact, was different from that reflected by the record of proceedings conducted in his case does not, in itself, affect the validity of the retirement proceedings or the orders based thereon.

(c) Relief involving only a change in the nature or degree of disability reflected by an order of retirement: An otherwise valid order of retirement may be modified to the extent that the percentage of disability contained therein may be changed upon a showing that the nature or degree of disability suffered by a party at the time of his retirement was, in fact, other than that reflected by the record of proceedings conducted in his case. Relief of this nature may be granted upon a petition supported by evidence: which by due diligence could not have been presented prior to final disposition; which relates to a fact in existence at the time of final disposition; which is not merely cumulative or corroborative of matter considered at the time of final disposition; and which would have warranted the assignment of a higher percentage of disability if presented prior to final disposition.

(d) Procedure for seeking relief: Request for relief on the grounds set forth in paragraphs (b) and (c) of this section may be made by the individual concerned, by his legal representative or counsel, or by any cognizant authority of the Naval Establishment. Request will be by petition filed within 5 years from the effective date of the disposition complained of (except when discharge has been executed, in which case petition should be directed to the Board for Correction of Naval Records) addressed to the Secretary of the Navy, and forwarded via the PRC. No particular form is required. However, the petition must set forth the grounds for requesting relief and the relief desired; and, if the petition is based upon evidence which is not of record in the Department of the Navy, the evidence upon which it is based must be forwarded as an enclosure.

(e) Action by the PRC: All petitions submitted pursuant to paragraph (d) of this section will be considered by the PRC for the purpose of making recommendations relative to whether the relief requested (or any other relief) should be granted. If a petition to be considered was not submitted by the individual concerned (or his legal representative or counsel), the individual concerned (or his legal representative or counsel) will be given reasonable notice of the matter

presented by the petition and afforded the opportunity to submit a statement or other evidence in rebuttal. All petitions considered and the action of the PRC thereon will be promptly forwarded to the Judge Advocate General for review and action or for referral to the Secretary.

(f) Action by the Judge Advocate General: The Judge Advocate General will review each petition considered by the PRC and either will take action for the Secretary or will refer the matter to the Secretary for action with comments and recommendations.

(g) Delegation of authority to act for the Secretary of the Navy: The Judge Advocate General, the Deputy Judge Advocate General, or any Assistant Judge Advocate General, in his discretion, may take action for the Secretary on petitions submitted pursuant to paragraph (d) of this section, if he concurs in the unanimous recommendations made by the PRC. All other cases wil be referred to the Secretary for action. The authority herein conferred is permissive only and will not preclude the referral of a case to the Secretary for action incident to the specific direction of the Secretary or the election of the Judge Advocate General.

(h) Action by the Secretary of the Navy: In acting on a petition referred for consideration, the Secretary, in his discretion, may deny relief, set aside the final disposition directed in a case and direct further disability evaluation proceedings, or direct such action as is necessary to effect the relief requested or any other relief deemed appropriate.

(i) Effect of filing a petition for relief and action thereon: The filing of a petition for relief shall not affect the directed disposition of an individual or suspend its operation until and unless the Secretary of the Navy (or authority acting for the Secretary) shall so direct. Neither the action of the Secretary of the Navy (or authority acting for the Secretary) upon a petition for relief, nor any action taken by him pursuant to the proceedings on the reopening of a case, shall operate to extend the time for application for review of the original disposition by a statutory board.

Subpart I—Physically Restricted Personnel

§ 725.901 General considerations.

(a) With the consent of the member, particularly one with over 18 but less than 20 years of active service, the Secretary will entertain deferring the disposition of a member who, although unfit because of physical disability, can still perform useful service with appropriate assignment limitation. A member continued on active duty in accordance with the provisions of this chapter must be unfit because of physical disability with a basically stabilized condition, or one in which accepted medical principals indicate a slow progression of the disabling condition. He must be able to maintain himself in a normal military environment, without adversely affecting his health or the health of other members, or without requiring an inordinate amount of medical care. In addition, the member must request in writing that he be retained.

(b) Members, particularly those with over 20 years of active service, will not be continued on active duty solely to increase their monetary benefits, nor will they be continued unless their employment is justified as being of value to the naval service.

(c) The medical member of the PRC shall advise whether duty in a limited assignment status will or will not jeopardize the member's health or that of other members of the Service. Further, the officer assigned as a member of the PRC by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, shall certify (for the Chief of Naval Personnel or the Commandant of the Marine Corps) whether the member's services can or cannot be utilized in a limited assignment status, and, if so, whether his services can or cannot be considered to contribute to the effectiveness of the Service. The PRC shall recommend to the Secretary whether to retain the member in a limited duty assignment.

(d) Consideration similar to that given members on active duty shall be afforded members of the Naval and Marine Corps Reserve on inactive duty, except that the certification of the nonmedical member of the PRC shall refer to the utilization of the member in an effective limited assignment under mobilization conditions.

§ 725.902 Disposition of physically restricted members.

A member continued under these provisions shall be closely observed to assure that further continuance, or conversely separation, is consonant with the best interests of the Service and the member. When a member becomes unable to perform his duties in a limited duty assignment, he shall be admitted to a Naval Hospital for observation, treatment, and appropriate disposition

Subpart J—Disposition of Members Whose Names Are Carried on the Temporary Disability Retired List

§ 725.1001 Periodic physical examination.

(a) The law provides that the maximum time that a member's name can be carried on the TDRL in a pay status is 5 years. A member's name can be removed from the TDRL at any time, whenever a report of physical examination indicates that maximum improvement has been achieved or that the disability is of a permanent nature and not likely to undergo a significant change. Further, the law requires that members, whose names have been placed on the TDRL, shall be given physical examinations at least once every 18 months. The Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate, will issue appropriate orders for such examinations.

(b) Failure of a member to report for any periodic physical examination, unless he furnishes a report of a current acceptable medical examination, may result in the termination of his disability retired pay and may later be considered as showing an intent on the member's part to abandon benefits. If the member shows good cause for failure to report, the payments may be reinstated and may be made retroactive for a period of not over 1 year.

(c) First notification to report for a scheduled periodic physical examination may be by regular mail. However, when the party fails to report as directed, and a second notification must be forwarded, certified or registered mail (with return receipt) shall be used and the member shall be specifically informed in such second notification that failure to report may prejudice his disability retired pay and may later be considered as manifesting an intent to abandon benefits, resulting in removal of his name from the TDRL.

(d) Members who have waived retired pay, in order to receive compensation from the Veterans' Administration, are still members of the naval service, and are required to undergo periodic physical examinations when ordered by the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate. Failure to report for physical examinations as ordered may result in the suspension of their retired pay account. His retired pay account, once so suspended, will not automatically be reopened when the member later wishes to reelect to receive retired pay because of a decrease in, or termination of, his Veterans' Administration compensation.

(e) Members who are ordered to submit to a physical examination will be reimbursed for travel performed upon submission of a claim and presentation of their orders properly endorsed.

(f) The periodic physical examination should be conducted with the same scrupulous care and thoroughness as the examinations accomplished preliminary to appearance before a Medical Board. This examination should include an evaluation of any disabilities, which have been incurred or become manifest since temporary retirement, as well as the disabilities for which temporarily retired.

(g) Whenever inpatient observation is desirable or necessary for a proper evaluation, admission and retention as an inpatient for a period of 10 days is authorized. This length of inpatient observation may be extended upon the authorization of the Chief of Naval Personnel or the Commandant of the Marine Corps, as appropriate. It is particularly important that admission as an inpatient be effected for proper evaluation of neuropsychiatric cases.

(h) The report of periodic physical examination shall be prepared in letter or narrative summary form. It should contain an accurate interval history and a report of all clinical evaluations and laboratory studies. This report of periodic physical examination need not contain a review of all previous examinations, since these are already a matter of record. However, pertinent previous evaluations may be referenced and attention invited to them.

(i) The report of periodic physical examination should contain a statement as

to whether personal appearance of the member before a PEB would be deleterious to his physical or mental health, and whether disclosure of information to the member relative to his physical or mental condition would adversely affect his physical or mental health.

(j) The report of periodic physical examination requires only signature by the medical officer designated to conduct the examination and, unless the orders for the examination otherwise direct, should be transmitted to the ONDE via the commanding officer.

§ 725.1002 Reevaluation of members detained by civil authorities.

The procedures contained in this Manual are subject to modification whenever the party is undergoing confinement by civil authorities or is hospitalized in an institution under State or local control. The following procedures may be utilized whenever the circumstances of the member's confinement or hospitalization indicate that he will be unable to respond to the orders calling for his appearance for physical examination or PEB hearing:

(a) The report of the medical officer or medical assistant serving the confinement facility or institution in which the member is hospitalized may be submitted for the periodic physical examination.

(b) The party will be informed by a notice in writing that his case will be considered by a PEB 30 days from the date of said notice; that unless he waives his right to a formal hearing he will be afforded such hearing on that date but, in the event he fails or is unable to appear on that date, such hearing will be held in his absence with representation by counsel; i.e., by the appointed counsel named in the notice or by civilian counsel of his choice provided at his own expense. In the case of a party who is found to be mentally incompetent, the provisions of §§ 725.510 and 725.517 apply.

§ 725.1003 Termination of temporary disability retirement.

(a) If, as a result of any periodic physical examination, it is determined that the disability of the member concerned has become stabilized; i.e., that no further improvement or deterioration of the disability may normally be expected within the period the member can be carried on the TDRL, one of the following recommendations as to the member's disposition will be made:

(1) Permanent retirement;

(2) Discharge with or without severance pay; or

(3) Fit for return to duty.

(b) In the event the member is to be retained on the TDRL, he will continue to be examined at intervals of 18 months. However, he must be finally reevaluated before the end of the 5-year period when final disposition must be made of his status.

(c) If his disability is ratable at less than 30 percent but continues to render him unfit for duty, and if the member has served less than 20 years of active duty (and will not be entitled to retired pay or retainer pay by other provisions of law), he will be discharged with severance pay.

(d) If the member has recovered from his disability to a degree that he is fit to perform his duties, the following may apply:

(1) An enlisted member of a Regular component, subject to his consent, will be reenlisted in his Regular component; an officer in a Regular component, subject to his consent, will be recalled to active duty and, as soon as practicable, be reappointed to the active list of his Regular component, even if this means that there will be a temporary increase in the number of officers authorized for his grade.

(2) A member of a Reserve component, subject to his consent, will be reappointed or reenlisted, as the case may be, in his Reserve component.

§ 725.1004 Appointment, reappointment, enlistment, or reenlistment.

Any such appointment, reappointment, enlistment, or reenlistment shall be in a rank, grade, or rating not lower than the rank, grade, or rating permanently held by the member at the time his name was placed on the TDRL, and may be in the rank, grade, or rating immediately above the rank, grade, or rating permanently held. For the purpose of being placed on a lineal list, promotion list, etc., the member will be given such seniority in rank, grade, or rating, or will be credited with such years of service as the Secretary of the Navy may authorize. In this connection, consideration will be given to the probable opportunities for advancement and promotion to which the member might reasonably have been entitled had it not been for the placement of his name on the TDRL.

§ 725.1005 Regular officer.

An officer in a Regular component shall have his disability retired pay terminated on the date of his recall to active duty and his status on the TDRL terminated on the date of his reappointment on the active list.

§ 725.1006 Regular enlisted member.

An enlisted person of a Regular component shall have both his status on the TDRL and his disability retired pay terminated on the date of his reenlistment in the Regular component of which he was a member before being placed on the TDRL.

§ 725.1007 Reserve officer or enlisted member.

A member of a Reserve component, whether officer or enlisted person, shall have his status on the TDRL and his disability retired pay terminated on the date of his reappointment or reenlistment in a Reserve component, as the case may be.

§ 725.1008 Fleet Reserve or Fleet Marine Corps Reserve members.

(a) A member of the Fleet Reserve or Fleet Marine Corps Reserve on the TDRL who is found fit for duty shall, with his consent, resume his status in the Fleet Reserve or Fleet Marine Corps Reserve in the grade held by him when he was placed on the TDRL, or the next higher grade if considered qualified therefor in view of 10 U.S.C. section 1211(f).

(b) A member of the Fleet Reserve or Fleet Marine Corps Reserve on the TDRL who has less than 20 years' service computed under 10 U.S.C. section 1208 and who, as a result of a periodic physical examination, will become entitled to severance pay under 10 U.S.C. ch. 61, shall be given an opportunity to request that his name be removed from the TDRL and that his status in the Fleet Reserve or Fleet Marine Corps Reserve be resumed.

§ 725.1009 Member with less than 20 years' active duty eligible for Fleet Reserve or Fleet Marine Corps Reserve.

A member on the TDRL who has less than 20 years' service computed under 10 U.S.C. section 1208 and who, as a result of a periodic physical examination, will become entitled to severance pay under 10 U.S.C. ch. 61, shall be given the opportunity to request transfer to the Fleet Reserve or Fleet Marine Corps Reserve if he has completed 20 years or more of active service under 10 U.S.C. section 6330.

§ 725.1010 Reserve officer or enlisted member who has completed 20 years' service under 10 U.S.C. § 1332.

A member on the TDRL who has at least 20 years of service computed under 10 U.S.C. section 1332 and who, as a result of a periodic physical examination, is determined to be entitled to severance pay under 10 U.S.C. ch. 61, shall be given an election, instead of being separated, to request transfer to the inactive status list under 10 U.S.C. sections 1209 and 1335.

§ 725.1011 Disposition when member does not consent to reappointment or reenlistment.

If a member does not consent to his reappointment or reenlistment, his status on the TDRL and his disability retired pay shall be terminated as soon as is practicable.

APPENDIX—LIST OF FORMS

NAVSO 6100/9 Cover and Processing Time Sheet.

NAVSO 6100/9a Cover and Processing Time Sheet—Revaluation.

NAVSO 6100/16 Proceedings and Findings of Physical Evaluation Board.

NAVSO 6100/17 Recommended Findings of Physical Evaluation Board.

NAVSO 6100/18 Notification to Party of Formal Hearing.

NAVSO 6100/18A Notification to Party of Formal Hearing in Absentia.

NAVSO 6100/18B Notification to Legal Representative of Formal Hearing.

NAVSO 6100/19 Disability Counseling Worksheet.

NAVMED 1900/1 Certificate Relative to a Full and Fair Hearing.

[SEAL] MERLIN H. STARING,
Rear Admiral, JAGC, U.S. Navy, Acting Judge Advocate General.

NOVEMBER 3, 1971.

[FR Doc.71-16365 Filed 11-17-71;8:45 am]

Title 39—POSTAL SERVICE

Chapter III—Postal Rate Commission

PART 3002—ORGANIZATION

The Freedom of Information Act, Public Law 90-23, 5 U.S.C. 552(a)(1), requires that each agency shall separately state and currently publish in the FEDERAL REGISTER descriptions of its organization and statements of the general course and method by which its functions are channeled and determined. Part 3001, the Commission's rules of practice and procedure, effective January 12, 1971 (36 F.R. 396), includes a description of the Commission's organization and functions in § 3001.1.[1] It is now appropriate to supplement the information in order to reflect the Commission's subsequent staffing program. Accordingly, the Commission is issuing a new Part 3002.

Inasmuch as this is a rule of agency organization and procedure, notice and public procedure hereon are not required. It will be made effective on publication in the FEDERAL REGISTER, in order to assure earliest compliance with the Freedom of Information Act.

In consideration of the foregoing, the Postal Rate Commission hereby enacts Part 3002, effective November 18, 1971, to read as follows:

Sec.
3002.1 Purpose.
3002.2 The Commission and its offices.
3002.3 Office of the Secretary.
3002.4 Office of Special Assistant to the Commission.
3002.5 Office of Hearing Examiners.
3002.6 Office of the General Counsel.
3002.7 Office of Chief Economist.
3002.8 Office of Chief Accountant.
3002.9 Office of Technical Staff.
3002.10 Administrative Office.
3002.11 Office of Information.

AUTHORITY: The provisions of this Part 3002 issued under section 3603, 84 Stat. 759, 39 U.S.C. 3603; Freedom of Information Act, 5 U.S.C. 552, 81 Stat. 54.

§ 3002.1 Purpose.

This part is published in compliance with 5 U.S.C. 552(a)(1) and constitutes a general description of the Postal Rate Commission.

§ 3002.2 The Commission and its offices.

(a) *The Commission*. The Postal Rate Commission is an independent establishment of the executive branch of the U.S. Government created by the Postal Reorganization Act (84 Stat. 719, Title 39, United States Code). The Commission consists of five Commissioners appointed by the President, one of whom is designated as Chairman by the President. Three members of the Commisison constitute a quorum for the transaction of business, but all final acts of the Commission shall be by a vote of an absolute majority of the Commissioners.

(b) *The Chairman*. The Chairman has the administrative responsibility for assigning the business of the Commission to the other Commissioners and to the officers and employees of the Commission. He has the administrative duty to preside at the meetings and sessions of the Commission and to represent the Commission in matters specified by statute or executive order or as the Commission directs. The Commission will, in case of a vacancy in the office of the Chairman of the Commission, or in the absence or inability of the Chairman to serve, designate one of its members Acting Chairman to serve during the period of vacancy, absence or inability.

(c) *The staff*. The staff consists of such accounting, economic, engineering, legal, and rate experts, and such other employees as the Commission, from time to time, shall find necessary.

(d) *Offices*. The offices of the Commission are located at Suite 500, 2000 L Street NW., Washington, DC. All communications to the Commission should be addressed to: Postal Rate Commission, Washington, D.C. 20268.

(e) *Hours*. The offices of the Commission will be open from 8:45 a.m. to 5:15 p.m. of each day except Saturdays, Sundays, and holidays, unless otherwise directed by Executive order or officially declared, with appropriate notice.

(f) *Information*. Any person desiring to obtain information may do so by writing or coming in person to the Commission's offices. Requirements as to the form and content of formal submissions are set forth in the rules of practice (Part 3001 of this chapter), and public records of the Commission, available for inspection and copying, are described in § 3001.42 of the rules of practice in this chapter.

§ 3002.3 Office of the Secretary.

The Secretary shall have custody of the Commission's seal, the minutes of all action taken by the Commission, its rules and regulations, its administrative and other orders, and records. All orders and other actions of the Commission shall be authenticated or signed by the Secretary or any such other person as may be authorized by the Commission.

§ 3002.4 Office of Special Assistant to the Commission.

The Office of Special Assistant to the Commission is responsible for providing such analytical research for the Commission or for an individual Commissioner as the Commission or the Commissioner may request. In accordance with § 3001.8 of the rules of practice in this chapter, personnel of the Office of Special Assistant to the Commission do not appear as witnesses in hearings in any proceeding before the Commission and take no part in the preparation of evidence or argument presented in such hearings.

§ 3002.5 Office of Hearing Examiners.

The Office of Hearing Examiners is responsible for discharging the functions and exercising the powers of presiding officers in hearings, in accordance with the provisions of sections 7 and 8 of the Administrative Procedure Act (5 U.S.C. 556 and 557) and § 3001.23 of the rules of practice in this chapter.

§ 3002.6 Office of the General Counsel.

(a) *The general counsel*. The General Counsel directs and coordinates the functions of the Office of the General Counsel and is directly responsible for the counseling and advisory services set forth in § 3000.735-203 of this chapter. In accordance with § 3001.8 of the rules of practice in this chapter, the General Counsel does not appear as an attorney in hearings in any proceeding before the Commission and takes no part in the preparation of evidence or argument presented in such hearings.

(b) *Litigation division*. The Litigation Division participates in proceedings before the Commission pursuant to section 3624 of the Act. During the pendency of any such proceeding, the officer designated by the Commission to represent the interests of the general public will direct the activities of the Division in the case. Pursuant to section 8 of the rules of practice, personnel serving in this Division at any time during the pendency of a particular proceeding are prohibited from participating or advising as to any intermediate or Commission decision in such proceeding.

(c) *Appeals and regulation divisions*. The Appeals Division represents the Commission in court proceedings and performs legal research on issues appealed to the Commission. The Regulation Division advises the Commission on the legal aspects of proposed legislation and rule making. Both the Appeals and Regulation Divisions, pursuant to the direction and supervision of the General Counsel, advise the Commission on the legal aspects of proposed action and policies and on procurement, contracting, personnel matters, and other internal legal questions. In accordance with § 3001.8 of the rules of practice in this chapter, personnel of these two divisions do not appear as attorneys in hearings in any proceeding before the Commission and take no part in the preparation of evidence or argument presented in such hearings.

§ 3002.7 Office of Chief Economist.

The Office of Chief Economist pursues a program of analysis and research, and serves in an advisory capacity on matters pertaining to the economic aspects of the Commission's regulatory responsibilities. Areas of investigation include subjects such as methods of cost analysis, criteria for determining revenue contributions by class of service, and rate classifications and structures. In accordance with § 3001.8 of the rules of practice in this chapter, personnel of the Office of Economics do not appear as witnesses in hearings in any proceeding before the Commission and take no part in the preparation of evidence or argument presented in such hearings, unless designated for duty with the Office of Technical Staff by formal action of the Commission.

[1] In addition, § 3001.42 of the rules of practice sets forth rules governing public information and requests.

§ 3002.8 **Office of the Chief Accountant.**

The Office of the Chief Accountant advises the Commission and individual Commissioners with respect to accounting, financial, statistical and related matters. The office is also responsible for the accumulation and maintenance of data relevant to postal rates, fees and mail classification and analysis of the financial, statistical, and operating data of the Postal Service. In accordance with § 3001.8 of the rules of practice in this chapter, personnel of this office do not appear as witnesses in hearings in any proceeding before the Commission and take no part in the preparation of evidence or argument presented in such hearings, unless designated for duty with the Office of Technical Staff by formal action of the Commission.

§ 3002.9 **Office of Technical Staff.**

The Office of Technical Staff furnishes technical and analytical support to the Litigation Division of the Office of the General Counsel in proceedings held before the Commission. In this function, it reviews rate and classification proposals filed with the Commission, analyzes and evaluates the basic accounting, statistical, and economic data related to such proposals; assists in developing issues, analyzes testimony in proceedings, and assists the Litigation Division in the preparation and presentation of evidence, in cross-examination, and in the preparation of briefs. In addition to such permanent staff as may be provided, it includes from time to time such other personnel as the Commission may assign by formal action. Pursuant to § 3001.8 of the rules of practice in this chapter, personnel serving in this office at any time during the pendency of a particular proceeding are prohibited from participating or advising as to any intermediate or Commission decision in such proceeding.

§ 3002.10 **Administrative Office.**

Subject to the policy guidance of the Commission, the Administrative Office is responsible for: Development, implementation, and administration of the Commission's financial management system and accounting activities including those relating to the budget and the payroll; development and administration of a personnel program designed to meet the needs of the Commission and its employees; provision of facilities and operating and support services essential to the efficient and effective conduct of operations; acquisition, planning and assignment of office space; procurement and supply; serving as the contracting officer for the Commission and controlling the obligation of Commission funds, as authorized by the Commission.

§ 3002.11 **Office of Public Information.**

The Office of Public Information provides information for the public on matters relating to Commission activities. The office prepares news releases on Commission activities and personnel, and supervises the dissemination of that information.

By the Commission.

[SEAL] GORDON M. GRANT, *Secretary*.

[FR Doc.71-16824 Filed 11-17-71;8:48 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A-72—REGULAR PURCHASE PROGRAMS OTHER THAN FEDERAL SUPPLY SCHEDULE

Subpart 5A-72.1—Procurement of Stock Items

INTERIM STOCK REPLENISHMENTS

The table of contents for Part 5A-72 is amended to revise the following entries:

Sec.
5A-72.105-30 [Reserved]
5A-72.105-31 Public exigency purchases of stock items.

1. Section 5A-72.105-29 is revised as follows:

§ 5A-72.105-29 **Interim stock replenishments.**

(a) Interim stock replenishment procurement means regional purchase of stock items normally contracted for on a national or zone basis when (1) there is temporarily no contract source for such items because of a gap between the time the previous contract expired and the time a new contract is available, or (2) there is a contract source but delivery thereunder is not being made because of special conditions, such as strikes or default.

(b) Where a gap in contract coverage is expected to occur, the contracting officer is required to advise the ordering activities as to the approximate date the new contract may be expected and to furnish advice as to action to be taken with respect to purchase of interim requirements (see § 5A-72.105-23(a)(6)).

(c) Unless special instructions are issued, any of the following methods normally may be used, as appropriate, when purchasing interim stock replenishment requirements.

(1) If the amount is $2,500 or less, known acceptable brand name products may be purchased under small purchases procedures. Small purchases of this type may be made from the prior contractor under the terms of the expired contract if the prices are considered reasonable and the prior contractor agrees.

(2) If the amount is in excess of $2,500, purchase shall be made by formal advertising or negotiation, depending on the circumstances. Where public exigency procurement is justified, the instructions in § 5A-72.105-31 shall apply. Normally purchase action shall be taken by the regional office where the requirement is generated. Where, for justifiable reasons, such action by the region is not feasible, arrangements shall be made to submit the requirement for purchase action to the office responsible for national or zone contracting of the items involved. In such cases, the requirement shall be routed through the Inventory Management Division, Attention: FXIN, prior to submission to the designated centralized procurement activity.

§ 5A-72.105-30 [Reserved]

2. Section 5A-72.105-30 is reserved.

3. Section 5A-72.105-31 is revised as follows:

§ 5A-72.105-31 **Public exigency purchases of stock items.**

(a) Stock items may be procured under public exigency procedures when stocks on hand and due in are not sufficient to meet an agency's bona fide exigency needs, or when stocks have been depleted by unusually heavy demands to the extent that a substantial volume of back orders will result unless stock replenishment is made within less time than the minimum time required for formal advertising. Pursuant to paragraphs (b), (c), and (d) of this section, public exigency purchases of stock items may be made (for either direct delivery to the requiring agency or to the supply distribution facilities for stock replenishment and use in filling back orders) in accordance with established procedures in §§ 1-3.202, 5-3.202, and 5A-3.202 of this title.

(b) When there is an existing term contract for the required items, the ordering activity shall first explore the possibility of obtaining timely delivery under the existing contract by requesting accelerated delivery prior to making a public exigency procurement. If the established contractor agrees to making accelerated delivery only under the condition that delivery schedules on other Government orders must be extended or the contract price increased, the matter shall be discussed with the contracting officer who will decide if such arrangement is to be authorized. If the established contractor cannot make delivery in the time required, the procurement may be made under public exigency procedures where the circumstances justify. Exigency purchases may be made without the approval of the national or zone contracting officer, provided the possibility of obtaining accelerated delivery under the existing contract has been explored and found not feasible, or provided the location of the established contractor is so distant that timely delivery of the exigency requirement would be impossible. In such cases, a statement by the regional contracting officer shall be included in the contract file explaining why the national or zone contracting office was not contacted.

(c) Where there is no term contract coverage for the item required, and the circumstances described in paragraph (a) of this section are present, the requirement may be procured under public exigency procedures. However, where it is known that a national or zone term contract source will be available in the near future, the national or zone contracting officer should be consulted if time permits (by phone, or otherwise) to determine the current status of contract availability and delivery terms and to obtain any available information which might be helpful in obtaining timely delivery of the exigency requirement.

(d) The quantities purchased under public exigency negotiation authority shall be strictly limited to the amount necessary to meet the exigency requirements. Additional quantities shall be procured under normal procedures.

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

Effective date. These regulations are effective 30 days after the date shown below, but may be observed earlier.

Dated: November 10, 1971.

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

[FR Doc.71-16839 Filed 11-17-71;8:50 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 19116; FCC 71-1159]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in the Upper New England Area

Report and order. In the matter of amendment of § 73.202, *Table of Assignments,* FM Broadcast Stations (Skowhegan, Augusta, Westbrook, and South Paris, Maine; Plymouth and Dover, N.H.; Waterbury, Vt.; and Plattsburgh, N.Y.), Docket No. 19116, RM-1442, RM-1464.

1. The Commission here considers the notice of proposed rule making in Docket No. 19116, adopted January 6, 1971, to amend the FM Table of Assignments (§ 73.202(b) of the rules) affecting the upper New England area (FCC 71-23). The principal proposals were: Assignment of Class C FM Channel 286 to Skowhegan, Maine, as a substitute for Channel 296A presently there and occupied by Station WGHM-FM (although the notice raised the question whether the Class A channel might be left there if the Class C channel was allocated to that city) and the assignment of Class C Channel 248 to Plymouth, N.H. These are considered together because of the conflict between the Skowhegan and Plymouth proposals. This is that Channel 248, if assigned to Plymouth, must be deleted at Dover, N.H., and the Dover replacement proposal (Channel 287) would be less than the required 135-mile distance from Skowhegan Channel 286. Kennebec Valley Broadcasting System, Inc. ("Kennebec" hereafter), licensee of Stations WGHM (AM daytime-only) and WGHM-FM, Channel 296A, at Skowhegan, Maine, and the petitioner for Skowhegan, also proposed concomitant "necessary" changes at Augusta, Westbrook, and South Paris, Maine (RM-1442). The Plymouth petition, filed by Lakes Region Broadcasting Corp. ("Lakes Region" hereafter), requires the channel change at Dover (RM-1464). Both proposals require the deletion of Channel 287 at Waterbury, Vt., although Kennebec argued otherwise.

2. The following parties filed comments and/or reply comments: the petitioners; Radio Vermont, Inc.; WIRY, Inc.; Green Mountain Radio Associates; Eastminster Broadcasting Corp.; Oxford Hills Radio Communications, Inc.; WBEC, Inc.; Bangor Broadcasting Corp.; WKNE Corp.; and Abenaki Co. WIRY, Inc., and Green Mountain Radio Associates also filed petitions for rule making while this proceeding was pending. On July 26, 1971, Green Mountain Associates requested leave to withdraw and, in the circumstances, its "Motion for Leave to Withdraw, and Withdrawal of Petition for Rule Making" is granted and its proposal will not be considered. As indicated in paragraph 8 below, the proposal of WIRY is technically deficient. Abenaki filed leave to file late; see footnote 6, below.

3. Our notice proposed to do the following:

City	Add	Delete
Augusta, Maine	281 or 282 or 294	283
Skowhegan, Maine	286	296A
South Paris, Maine	224A	288A
Westbrook, Maine	265A or 288A	285A
Plymouth, N.H	Class A or 248	
Dover, N.H	287	248
Waterbury, Vt	296A	287

The notice made it clear that the Skowhegan proposal was deemed more meritorious than that for Plymouth and we would deny the latter "unless various objections are met * * * including establishment of the fact that a Class A channel cannot be assigned to Plymouth." It was also noted that the Skowhegan proposal is based on location on Sugarloaf Mountain about 34 miles northwest of the city, and it is premised on providing a first service (1 mv/m or better) to 4,228 square miles and a second service to 2,668 square miles under the criteria set out in "Roanoke Rapids and Goldsboro, N.C.," 9 FCC 2d 672 (1967).[1] The alternative proposals for Augusta and Westbrook were prompted by the objections of Portland's Station WGAN-TV, Channel 13, as to second harmonic interference. Because the Sugarloaf site precludes assignment of Channel 287 at Dover, since well under the 135 miles adjacent channel separation, Lakes Region "suggested" that Kennebec use Avery Peak (8 miles further north and further from Skowhegan), and the parties differ as to access and "shadowing" problems from that location. All populations are in accordance with the 1970 census, unless otherwise indicated.

4. As to the Plymouth proposal, Lakes Region urged that there would be wide-area coverage to unserved and underserved areas, which assertions our notice stated were not borne out by the facts as adduced by that petitioner. The notice also pointed to other problems: (1) Possible adjacent channel mileage shortage between the proposed Channel 248 assignment at Plymouth and Channel 246 at Rutland, Vt., (2) the limitations on site location of Channel 287 at Dover not only because of the Skowhegan proposal but also cochannel Station WPJB-FM, Providence, R.I., and if Channel 285A at Westbrook was unchanged; and (3) the allocation of Channel 248 to Plymouth as precluding Channel 249A in substantial areas in western Maine (where there appear to be no communities of substantial size), and larger areas in southwestern New Hampshire and central and western Massachusetts including the substantial communities of Athol and Orange, Mass., with no assignments of their own but close to communities with FM stations.

5. In our notice, we made a number of preliminary conclusions; see paragraph 10 thereof, pages 6-8. We stated that the Skowhegan proposal should be set forth as a Commission proposal because "clearly meritorious." In reaching this conclusion, we differed with Kennebec as to whether Channel 287 could remain assigned at Waterbury, Vt., since it is a Class C channel domestically even though Class B with respect to Canada; but we noted that this is not necessarily a great problem because Station WVNY at Burlington provides a greater wide area coverage than would Channel 287 from Waterbury, and Channel 296A could be assigned to Waterbury to replace Channel 287.[2]

6. We turn first to the comments and reply comments of Lakes Region. This party urges that the Commission erroneously concluded that Plymouth warrants only a Class A assignment. Plymouth, population 4,225, located in Grafton County (population 54,914), as noted in the notice, is neither the county seat nor the county's largest community. It has a daytime-only AM station. Lakes Region contends that a Class C assignment should be made to Plymouth to serve substantial areas and populations presently lacking in-State service, including 40 communities with at least 30,000 total population, and a second New Hampshire service to Conway (4,865), Franklin (7,292), Laconia (14,888), Gilford (3,219), Keene (20,467), and other small communities. In the same vein, Lakes Region contends that a Class C channel at Plymouth would serve 7,603 of the State's 9,014 square miles,[3] of which

[1] These areas are entirely within the United States.

[2] This certainly is more in keeping with population criteria for FM assignments. Waterbury's population is 4,164.

[3] On the basis of the 1960 census, 591,962 of 606,921 persons (97.5 percent).

3,425 square miles (38 percent)[4] receive no FM program service originating within the State of New Hampshire.[5] It is asserted that because of the proximity to neighboring New England States, New Hampshire "has been deprived of its fair share of wide area coverage FM channels." A necessary premise to Lakes Region's argument is that Station WMTW-FM is only technically assigned to Mount Washington, N.H., but in fact is a Portland, Maine, station (see paragraph 11, below). Based on this "307(b) issue" which we discuss below in paragraph 11, Lakes Region feels its proposal is at least as meritorious as that of Kennebec especially since the unserved area to be served by the Skowhegan station has only a population of 7,925 persons (a 0.8 percent decrease of population between the 1960 and 1970 census) and Maine's population growth is only 2.4 percent compared to that of New Hampshire of 19.1 percent. Lakes Region views this as an overriding consideration which would be reason to "waive" the 5-mile shortage (a "small infraction" in its terms) between Channel 286 on Sugarloaf Mountain and Channel 287 at Dover. As to preclusion, Lakes Region states that the impact of assigning Channel 248 at Plymouth affects only possibly Channel 249A assignment to Athol (population 11,185) or Orange (6,104) in Massachusetts both of which receive service from nearby communities, and no showing has been made that other FM channels are unavailable for those communities. Lakes Region disputes Eastminster's contentions that Station WDNH, Dover, should not have to change channels (from 248 to 287), on the ground that the grantee accepted its CP on Channel 248 on the express condition of being subject to the outcome of Lakes Region's petition.

7. Finally, Lakes Region alternatively proposes another plan which is as follows:

City	Add	Delete
Skowhegan, Maine	277	296A
Dover-Foxcroft, Maine	272A	276A
Augusta, Maine	298	283
Lewiston, Maine	284	298
South Paris, Maine	224A	[1] 288A
Rumford, Maine	[1] 288A or 241C	292A
Westbrook, Maine	265A	285A
Berlin, N.H	295	279
Dover, N.H	287	248
Plymouth, N.H	248	....
Barre, Vt	288A	296A
Waterbury, Vt	269A	287

[1] In reply comments, Lakes Region proposes 241C or 272A for Rumford, thus making the change at South Paris unnecessary; the South Paris Channel 288A assignment is occupied by Station WNWY, Norway, Maine. Also, RM-1630 requests assignment of Channel 241C to Rumford. As to the latter, the Commission is considering Channel 242.

[4] With a population of 47,200 (1960 census).

[5] Elsewhere, Lakes Region speaks of a "first true New Hampshire service" to 2,434 square miles (27 percent) and 44,415 persons (7.3 percent) and a "second" service to 1,923 square miles (21.3 percent) and 137,691 persons (22.7 percent). As stated in the text, all of these figures disregard WMTW-FM, Mount Washington, which has a very large coverage area, as not being in reality, a New Hampshire station.

While this alternative in part is posited on eliminating a 19-mile short-spacing between Station WMOU-FM, Channel 279, Berlin, and Channel 270, Granby, Quebec, there are many other deficiencies in mileage separations. The proposed Channel 295 assignment at Berlin would be short-spaced by 25 miles with Channel 295B assigned to Three Rivers, Quebec, and Channel 284 may not be assigned to Lewiston because Channel 230 is already assigned there and § 73.207 bars assignment to the same community of channels 53 or 54 apart unless there are certain separations (here, 30 miles between Class C channels). With these deficiencies, there is no basis for seriously considering the counterproposal.

8. We now turn our attention to the comments, reply comments, and other pleadings of the nonprincipal parties. Bangor Broadcasting Corp., licensee of Radio Station WGUY, Bangor, Maine, opposed the proposed assignment of Channel 294 at Augusta, Maine, because of conflict with its petition to assign Channel 293 to Bangor (RM-1603); since the Commission denied that petition by memorandum opinion and order, adopted May 12, 1971 (29 FCC 2d 476 (1971)), discussion here is unnecessary. WBEC, Inc., licensee of FM Station WQRB, Pittsfield, Mass., directed its comments only at the petition and comments of Green Mountain Radio Associates, which have been withdrawn; in the circumstances, discussion also is unnecessary. Radio Vermont, Inc., objects to the proposed deletion of Channel 287 from Waterbury, Vt., as adversely affecting future FM developments in that part of the State; it is argued that because of mountainous terrain and sparse population distribution, the proposed substitution of Channel 296A is not adequate (it is intimated that Radio Vermont has considered applying for the channel). We find this unpersuasive because of overriding public interest considerations already discussed in the notice. Abenaki Co., applicant for Augusta's Channel 283 at Gardiner, Maine (BPH-6403),[6] opposes the substitution of either Channel 281 or 282, the first as being short-spaced from its proposed site to Station WBCN, Boston, and 282 because of a 3-mile short-spacing to the Canadian cochannel at Woodstock, New Brunswick (although, in the latter respect, there is none to the proposed Gardiner transmitter site). In this respect, Canadian authorities stated they favor the assignment of either Channel 281 or Channel 294 to Augusta, rather than 282. Oxford Hills Radio Communications, Inc., licensee of Station WNWY-FM, Channel 288A, Norway,

[6] As noted above, this party asks for leave to file comments late. Until the memorandum opinion and order in Docket No. 18110 (28 FCC 2d 622), its application for a construction permit at Gardiner was subject to dismissal because it is the licensee of Station WABK in that community.

Maine, is affected by the proposed substitution of Channel 224A at South Paris, and, indeed, it was granted a CP subject to such change. It now claims a right to reimbursement from Kennebec, and, otherwise, it favors Lakes Region's proposal which would not affect its channel assignment. WIRY, Inc., became a party to this proceeding because of its interest in assigning either Channel 281 or Channel 287 at Plattsburgh, N.Y. Discussion of either proposal is unnecessary because both seriously violate minimum mileage separations under the Canadian-United States FM Agreement of 1947 and the Working Agreement of 1963.[7]

9. Aside from petitioners, the only other principal party commenting is Eastminster Broadcasting Corp., licensee of Station WDNH, Dover, N.H. This party's position is not materially different from that made in opposition to Lakes Region's petition (RM-1464) (Kennebec Valley's Skowhegan proposal does not concern Eastminster). Eastminster argues that, despite its accepting a CP subject to the rule making, it is contrary to the public interest for it to be forced to move beyond Dover, N.H., into the adjacent State (Maine); its studio and tower at a cost of $60,000 would be rendered useless. It also contends that a substitute channel is "substandard," a mandatory remote control operation would be imposed, and it would be forced into an untenable economic situation (which could lead to its demise). Consistent with the views expressed in our notice, it appears that at least three Class A channels may be assigned to Plymouth instead of Channel 248 (Channels 261A, 269A or 288A), while a wholly satisfactory site for Channel 287 at Dover cannot be found, if mileage separations are to be maintained. Eastminster characterizes Lakes Region's proposal as severely disrupting FM allocations and severely restricting, if not totally compromising, Station WDNH.

10. Kennebec's comments in part are directed at issues dealt with in the notice, that is, that the only accessible transmitter site from which a station on

[7] See following table:

	Actual miles	Required miles
Channel 281:		
Channel 278A, Granby, Quebec	60	70
Channel 280B, St. Jerome, Quebec	80	140
Channel 282B, Drummondville, Quebec	94	140
Channel 283C₁, Cornwall, Ontario	67	105
Channel 287:		
Channel 285B, St. Jean, Ontario	43	85
Channel 287C₁, Ottawa-Hull, Ontario	121	190
Channel 289C₁, Montreal (Laval), Quebec	56	105

Channel 286 could operate is Sugarloaf Mountain and not Avery Peak or other sites proposed by Lakes Region. This party also points out that at least three Class A channels may be assigned to Plymouth without any changes elsewhere. Finally, Kennebec requests that if Channel 286 is assigned to Skowhegan that Station WGHM-FM, licensed to it, be authorized to operate on that channel rather than 296A.[8] Kennebec stresses the inaccessibility of Avery Peak and any part of the Mount Bigelow terrain. Kennebec's reply comments to a large extent are intended to refute the comments of other parties, including Lakes Region and counterproposal in paragraph 7. We need not set these out in detail because most have been disposed of (see paragraphs 7-8). With respect to Lakes Region's suggestion of a waiver of spacing between Channel 286 for Skowhegan and Channel 287 at Dover, Kennebec points to footnote 5 of the notice which pertinently said:

> * * * this would not be considered. We have emphasized in the past the importance of maintaining the integrity of the separation rules, and accordingly have denied requests for FM assignments in cases more meritorious than this. We adhere to these views * * * while we have in the past made changes in channels of existing stations where necessary to provide additional needed assignments, none of these have involved change in site such as would be involved in the case of the Dover station here.

CONCLUSIONS

11. The principal parties' comments in sum substantially adhere to the views expressed in the petition stage of this docket. These arguments were carefully considered in our notice, as required by the Administrative Procedure Act (5 U.S.C. 553). While not a completely new contention, we comment specially on Lakes Region's argument that Plymouth merits a Class C channel because of 307 (b) considerations. This argument is that a station on a Class C channel at Plymouth would serve either unserved (no service) or underserved (one service) areas as to service from stations in New Hampshire. The implication is that New Hampshire has been allocated only Class A channels. Even assuming, as we do not, that Mount Washington is not a New Hampshire assignment, of the other FM assignments for New Hampshire, seven of the 17 are Class B/C. For Maine, 13 of 34 channels assigned now are Class B/C. Further, Lakes Region misconceives the "Roanoke Rapids" case, 9 FCC 2d 672 (see paragraph 3, above), which deals with the criteria for determining unserved and underserved areas for making Class B or C assignments. Nothing in that case hints that service from other States be ignored. Moreover, Kennebec quite properly notes that Mount Washington should not have been excluded, since the licensee of Station WMTW-FM assured the Commission of its intention to program for the entire service area including communities in New Hampshire, Maine, and Vermont. In the circumstances, there has been "a fair, efficient, and equitable distribution of radio services."

12. In view of the foregoing, it seems quite clear that the Skowhegan rule making should be adopted while that for Plymouth (both the original and the alternative) must be denied. We need not elaborate at length on our conclusions which in part were set out previously in the notice of proposed rule making and in other respects above. Briefly, the proposal for a Class C channel at Skowhegan would make possible a first FM service to an unserved area of considerable size, although not large in population, exceeding in merit the Plymouth proposal with which it conflicts because of the Dover problem. The Plymouth proposal also involves other problems which would probably, in sum, require its denial anyhow, including the problem with respect to Rutland, Vt., the preclusion on the making of a first assignment to a sizeable community such as Athol or Orange, Mass.,[9] and the matter of a replacement at Dover which would require the station there not only to change its channel but to find a new site, at a considerable distance from its present location and the city. While the Dover licensee took its original CP subject to the outcome of this proceeding, we do not find that the extensive disruption to existing service involved would serve the public interest. As long as a Class A channel not involving these problems can be found for Plymouth—and one is assigned herein—we cannot find that the making of a Class C assignment there is warranted under the circumstances. Accordingly, the Plymouth proposal is denied, and we are making the Class C assignment at Skowhegan as requested. This requires changes in other assignments at Waterbury, Vt., and Augusta (discussed below), Westbrook and South Paris, Maine, the latter requiring Station WNWY-FM, Norway, Maine, to change its channel although not its site.

13. There remain for decision two subsidiary questions: (1) Whether to leave the present Class A assignment in Skowhegan also, in addition to the new Class C; and (2) which channel to assign to Augusta as a replacement for Channel 283, which must be deleted to make the Skowhegan assignment. As to the first, Skowhegan is a community of 6,571 persons (Skowhegan town is shown as having 7,601, both figures representing slight decreases from 1960 figures). In only a rather small number of cases has the Commission assigned two channels to communities of this size, less than 10,000 persons. In the absence of any expressed interest in another Skowhegan channel, we do not find reason to leave it in the table, and accordingly we are deleting it and modifying the license of Station WGMH-FM to specify the new Class C assignment.

14. As to the replacement at Augusta, the notice herein proposed one of three channels, 281, 282, or 294. None is free from problems, as indicated above. The Canadian authorities, while not objecting to any of the proposed alternatives, have pointed out that substituting Channel 282 for 283 at Augusta would involve a short-spaced cochannel separation to a Canadian assignment, indicating that they would prefer Channel 281 or 294. The applicant for the Augusta assignment for use at Gardiner, Maine (at its AM site), objects to Channel 281 because it would be short-spaced (at that site) to a Boston station. Channel 294 has been objected to on the ground of second-harmonic interference to reception of television Channel 13, Portland, a consideration which, as the notice stated (paragraph 10(b)), we have in the past recognized as a problem but one which is correctable and should not stand in the way of making needed FM assignments.

15. Under the circumstances, we find the following to be the best solution: Assign Channel 294 to Augusta for the time being, but raise with Canadian authorities in the very near future the question of whether Channel 282, actually used by a station at Gardiner, Maine (which is farther from Canada than Augusta), would be acceptable instead of Channel 294. The application of Abenaki Co. for the Augusta channel (now 283) at Gardiner has been on file since 1968 and presents no technical problems except the pendency of this proceeding. Accordingly, if this application is granted, it will specify Channel 294, but it also will be conditioned on acceptance of modification of construction permit to specify Channel 282 instead if that channel presents no problems internationally (it can be used at the site specified in the Abenaki application). Since no construction in Maine at this time of year is likely to proceed to a point where frequency becomes important, this possible change should not delay the building of the station and its going into service. This proceeding will remain open for the making of this Augusta change (294 to 282) without further proceedings, if it appears appropriate. If Channel 282 is ultimately not deemed appropriate for this use, the new station will remain on Channel 294; for reasons stated in the Notice and elsewhere, we do not view possible second-harmonic interference to TV reception as reason not to make desirable FM assignments.

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[8] In short, this party seeks a show cause order to change channels. We assume also from its comments that it would answer in the negative the question whether 296A should remain assigned to Skowhegan. There has been no interest expressed by any party in a second channel at that community (population 6,571).

[9] As noted above, the Plymouth petitioner claims that it is now shown that no other channels are available to these places; but the notice specifically mentioned this as a problem in connection with this proposal, and, therefore, the burden was on the petitioner to establish, if possible, that it is not a problem because other channels are available. It did not do so. In view of the general scarcity of channels in southern New England, it may well be that no other assignment is possible.

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

17. In accordance with the foregoing, *It is ordered*, That effective December 23, 1971, the FM Table of Assignments (§ 73.202(b) of the rules) is amended with respect to the cities listed below, to read as follows:

City	Channel No.
Augusta, Maine	267, 294
Skowhegan, Maine	286
South Paris, Maine	224A
Westbrook, Maine	265A
Plymouth, N.H.	261A
Waterbury, Vt.	269A

18. *It is further ordered*, That effective December 23, 1971, the outstanding license held by Kennebec Valley Broadcasting System, Inc., for Station WGHM-FM, Skowhegan, Maine, is modified to specify operation on Channel 286 in lieu of Channel 296A, subject to the following conditions:

(a) The licensee shall inform the Commission in writing by no later than December 23, 1971, of its acceptance of this modification.

(b) The licensee shall submit to the Commission by January 12, 1972, all necessary information complying with the applicable technical rules for modification of authorization to cover the operation of Station WGHM-FM on Channel 286 at Skowhegan, Maine.

(c) The licensee may continue to operate on Channel 296A under its outstanding authorization for one year unless it is ready to operate on the new frequency sooner and submits an application for an FM broadcast station license with proof of performance measurement data to demonstrate compliance with technical performance requirements of the rules. The licensee shall not operate on Channel 286 without prior authorization from the Commission.

19. *It is further ordered*, That effective December 23, 1971, the outstanding license held by Oxford Hills Radio Communications, Inc., for Station WNWY-FM, Norway, Maine, is modified to specify operation on Channel 224A in lieu of 288A, subject to the following conditions:

(a) The licensee shall inform the Commission in writing by no later than December 23, 1971, of its acceptance of this modification.

(b) The licensee shall submit to the Commission by January 12, 1972, all necessary information complying with the applicable technical rules for modification of authorization to cover the operation of Station WNWY-FM on Channel 224A at Norway, Maine.

(c) The licensee may continue to operate on Channel 224A under its outstanding authorization until December 23, 1971, or until 45 days after it receives notice from the Commission that a station is authorized to operate on Channel 286 at Skowhegan, Maine, whichever is later, or the licensee is ready to operate earlier on the new frequency and submits an application for an FM broadcast station license with proof of performance measurement data to demonstrate compliance with technical performance requirements of the rules. The licensee shall not operate on Channel 288A without prior authorization from the Commission.

20. *It is further ordered*, That the petition for rule making filed by WIRY, Inc., Plattsburgh, N.Y., is denied.

21. *It is further ordered*, That the petition for rule making filed by Green Mountain Radio Associates, Rutland, Vt., is dismissed, as requested by that party.

22. *It is further ordered*, That the petition for rule making filed by Lakes Region Broadcasting Corp., Inc., is denied, except to the extent granted above.

23. *It is further ordered*, That Abenaki Co. is granted leave to file its comments late for good cause shown.

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

Adopted: November 10, 1971.

Released: November 12, 1971.

FEDERAL COMMUNICATIONS COMMISSION,[10]

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

[FR Doc.71-16853 Filed 11-17-71;8:52 am]

[10] Commissioner Reid absent.

[Docket No. 19297; FCC 71-1158]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Certain Cities

First report and order. In the matter of § 73.202, *Table of Assignments*, FM Broadcast Stations. (Modesto, Turlock, and Patterson, Calif.; Albuquerque, N. Mex.; Centerville, Iowa; and Milford, Delaware), Docket No. 19297, RM-1611, RM-1612, RM-1622, RM-1625, and RM-1661.

1. The Commission has under consideration the notice of proposed rule making in Docket No. 19297, adopted August 4, 1971, to amend the FM Table of Assignments, § 73.202(b) of the rules. The notice invited comments on the proposals to assign channels to four communities. This first report and order will only consider the proposals to assign Channel 254 to Centerville, Iowa, and to change the assignment from Channel 240A to Channel 249A at Milford, Del. There were no oppositions filed to these proposals and the proposals are free of conflicts. The consideration of their merits is given below. The remaining proposals will be considered at a later date. All population figures, unless otherwise indicated, are from the 1970 U.S. census.

2. Centerville, Iowa (RM-1622): Although Centerville, Iowa (Pop. 6,531) has Class A Channel 237A assigned to it, Hope Co., Inc., requested assignment of Class C Channel 254. Hope Co. is the licensee of Class IV AM Station KCOG, Centerville, which, it contends, provides service to six neighboring counties in the States of Iowa and Missouri, and it seeks to provide improved service to these areas. On the basis of its allegations that a Class C station would provide a first FM service to 1,093 square miles and a second service to 1,547 square miles, compared to a Class A station which would provide such services to only 180 square miles and 394 square miles, respectively, a rule making was instituted. The notice also stated that there was some preclusion on two adjacent channels but that other channels were available for assignment and this was not a serious reason not to consider the assignment.

3. Comments were submitted only by Hope Co., urging the assignment of Channel 254 to Centerville. We believe that it would be in the public interest to adopt the proposal as set forth in the notice of proposed rule making. Since the petitioner stated that it would seek immediate use of this channel, a Class C station here would provide for an early service to the unserved area, whereas otherwise it would be some time before it will be served by other stations. However, the station will have to be located approximately 5 miles northeast of Centerville to comply with the provisions of § 73.207(a) of the rules. In addition a question was raised as to whether the assignment of Channel 237A should be retained at Centerville. We believe that, in view of the size of Centerville, two assignments to the community are not warranted. Channel 237A will be removed and made available for assignment to some other community.

4. Milford, Del. (RM-1661): In response to a petition filed by Broadcasters, Inc., a rule making proceeding was instituted to change the assignment at Milford, Del., from Channel 240A to Channel 249A. It appears that Broadcasters applied for the use of Channel 240A at the site of its daytime-only AM Station WTHD, and found the site would not comply with the minimum separation requirements of § 73.207 of the rules because of a co-channel station at Glen Burnie, Md. Since Broadcasters wished to operate from its AM site, it filed a petition requesting a change in the channel assignment.

5. Comments in support of the proposal were filed by Broadcasters, and no oppositions were submitted. The Commission believes that the public interest would be served by adopting the proposal to change the channel assignment at Milford, Del., from Channel 240A to Channel 249A. It would thus provide for an FM station to a community of 5,316 persons, which also would be its first local nighttime aural broadcast facility.

6. In view of the foregoing: *It is ordered*, That, pursuant to section 4(i), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, effective December 23, 1971, § 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended by changing the entries of the following cities to read as indicated:

City	Channel No.
Milford, Del.	249A
Centerville, Iowa	254

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

Adopted: November 10, 1971.

Released: November 12, 1971.

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

[FR Doc.71-16855 Filed 11-17-71;8:52 am]

Title 7—AGRICULTURE

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNED FOR COMBINED CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for combined crop insurance for the 1972 crop year. The crops on which insurance is offered are shown opposite the name of the county.

State and County	*Crop(s)*
North Dakota:	
Barnes	Barley, Flax, Oats, Rye, Wheat.
Grand Forks	Barley, Flax, Oats, Wheat.
Pierce	Barley, Flax, Oats, Rye, Wheat.
Ransom	Barley, Corn, Flax, Oats, Wheat.
Richland	Barley, Corn, Flax, Oats, Rye, Soybeans, Wheat.
Sargent	Barley, Corn, Flax, Oats, Wheat.
Steele	Barley, Flax, Oats, Wheat.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16808 Filed 11-17-71;8:47 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR DRY BEAN CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for dry bean crop insurance for the 1972 crop year. The class(es) of beans on which insurance is offered is shown opposite the name of the county.

[1] Commissioner Reid absent.

State and County	*Class(es) of dry beans insured*
Colorado:	
Boulder	Pinto.
Larimer	Do.
Logan	Do.
Morgan	Do.
Sedgwick	Do.
Washington	Do.
Weld	Do.
Idaho:	
Ada	Great Northern, pink, pinto, red kidney, small red.[1]
Canyon	Do.[1]
Cassia	Do.[1]
Gooding	Do.[1]
Jerome	Do.[1]
Lincoln	Do.
Minidoka	Do.[1]
Owyhee	Do.
Twin Falls	Do.[1]
Michigan:	
Bay	Pea and medium white.
Gratiot	Do.
Huron	Do.
Saginaw	Do.
St. Clair	Do.
Sanilac	Do.
Shiawassee	Do.
Tuscola	Do.
Nebraska:	
Box Butte	Great Northern, pink, pinto.
Morrill	Do.
Scotts Bluff	Do.
Sheridan	Do.
Washington:	
Adams	Great Northern, pink, pinto, small flat whites, small red.
Franklin	Do.
Grant	Do.
Wyoming:	
Big Horn	Great Northern, pinto.
Goshen	Do.
Park	Do.
Platte	Do.
Washakie	Do.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16810 Filed 11-17-71;8:47 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CORN CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for corn crop insurance for the 1972 crop year.

ALABAMA

De Kalb.
Jackson.
Marshall.

COLORADO

Boulder.
Kit Carson.
Larimer.
Logan.
Morgan.
Sedgwick.
Washington.
Weld.

[1] Insurance is also provided on bush varieties of garden seed beans.

DELAWARE

Kent.
New Castle.
Sussex.

FLORIDA

Suwannee.

GEORGIA

Colquitt.

ILLINOIS

Adams.
Bond.
Brown.
Bureau.
Carroll.
Cass.
Champaign.
Christian.
Clark.
Clinton.
Coles.
Crawford.
Cumberland.
De Kalb.
De Witt.
Douglas.
Edgar.
Effingham.
Fayette.
Ford.
Fulton.
Greene.
Grundy.
Hancock.
Henderson.
Henry.
Iroquois.
Jasper.
Jefferson.
Jersey.
Jo Daviess.
Kankakee.
Kendall.
Knox.
La Salle.
Lee.
Livingston.
Logan.
McDonough.
McLean.
Macon.
Macoupin.
Madison.
Marshall.
Mason.
Menard.
Mercer.
Monroe.
Montgomery.
Morgan.
Moultrie.
Ogle.
Peoria.
Piatt.
Pike.
Putnam.
St. Clair.
Sangamon.
Schuyler.
Scott.
Shelby.
Stark.
Stephenson.
Tazewell.
Vermilion.
Warren.
Washington.
Wayne.
Whiteside.
Winnebago.
Woodford.

INDIANA

Adams.
Allen.
Bartholomew.
Benton.
Blackford.
Boone.
Carroll.
Cass.
Clay.
Clinton.
Decatur.
De Kalb.
Delaware.
Elkhart.
Fayette.
Fountain.
Fulton.
Gibson.
Grant.
Hamilton.
Hancock.
Hendricks.
Henry.
Howard.
Huntington.
Jackson.
Jasper.
Jay.
Johnson.
Knox.
Kosciusko.
Lagrange.
Madison.
Marion.
Marshall.
Miami.
Montgomery.
Morgan.
Newton.
Noble.
Parke.
Pulaski.
Putnam.
Randolph.
Ripley.
Rush.
Shelby.
Sullivan.
Tippecanoe.
Tipton.
Union.
Vermillion.
Vigo.
Wabash.
Warren.
Wayne.
Wells.
White.
Whitley.

IOWA

Adair.
Adams.
Allamakee.
Audubon.
Benton.
Black Hawk.
Boone.
Bremer.
Buchanan.
Buena Vista.
Butler.
Calhoun.
Carroll.
Cass.
Cedar.
Cerro Gordo.
Cherokee.
Chickasaw.
Clarke.
Clay.

IOWA—Continued

Clayton. Clinton. Crawford. Dallas. Decatur. Delaware. Des Moines. Dickinson. Dubuque. Emmet. Fayette. Floyd. Franklin. Fremont. Greene. Grundy. Guthrie. Hamilton. Hancock. Hardin. Harrison. Henry. Howard. Humboldt. Ida. Iowa. Jackson. Jasper. Jefferson. Johnson. Jones. Keokuk. Kossuth. Lee. Linn. Louisa. Lyon. Madison. Mahaska. Marion. Marshall. Mills. Mitchell. Monona. Monroe. Montgomery. Muscatine. O'Brien. Osceola. Page. Palo Alto. Plymouth. Pocahontas. Polk. Pottawattamie. Poweshiek. Sac. Scott. Shelby. Sioux. Story. Tama. Taylor. Union. Wapello. Warren. Washington. Webster. Winnebago. Winneshiek. Woodbury. Worth. Wright.

KANSAS

Atchison. Bourbon. Brown. Cheyenne. Crawford. Doniphan. Douglas. Finney. Franklin. Grant. Haskell. Jackson. Jefferson. Johnson. Kearny. Linn. Marshall. Miami. Nemaha. Osage. Pottawatomie. Scott. Shawnee. Sherman. Stanton. Thomas. Washington. Wichita.

KENTUCKY

Christian. Daviess. Henderson. Hopkins. McLean. Todd. Union.

LOUISIANA

Pointe Coupee.

MARYLAND

Caroline. Kent. Queen Annes. Talbot.

MICHIGAN

Branch. Calhoun. Cass. Clinton. Eaton. Gratiot. Hillsdale. Ingham. Ionia. Jackson. Kalamazoo. Lenawee. Livingston. Monroe. Saginaw. St. Clair. St. Joseph. Shiawassee. Tuscola. Washtenaw.

MINNESOTA

Big Stone. Blue Earth. Brown. Carver. Chippewa. Cottonwood. Dakota. Dodge. Douglas. Faribault.

MINNESOTA—Continued

Fillmore. Freeborn. Goodhue. Grant. Houston. Jackson. Kandiyohi. Lac Qui Parle. Le Sueur. Lincoln. Lyon. McLeod. Martin. Meeker. Mower. Murray. Nicollet. Nobles. Olmsted. Pipestone. Pope. Redwood. Renville. Rice. Rock. Scott. Sibley. Stearns. Steele. Stevens. Swift. Todd. Traverse. Wabasha. Waseca. Washington. Watonwan. Winona. Wright. Yellow Medicine.

MISSISSIPPI

Tippah.

MISSOURI

Adair. Andrew. Atchison. Audrain. Barton. Bates. Boone. Buchanan. Butler. Caldwell. Callaway. Cape Girardeau. Carroll. Cass. Chariton. Clark. Clinton. Cooper. Daviess. De Kalb. Dunklin. Franklin. Gentry. Grundy. Harrison. Henry. Holt. Howard. Jackson. Jasper. Johnson. Knox. Lafayette. Lawrence. Lewis. Lincoln. Linn. Livingston. Macon. Marion. Mississippi. Monroe. Montgomery. New Madrid. Nodaway. Pemiscot. Pettis. Pike. Platte. Ralls. Randolph. Ray. St. Charles. Saline. Scotland. Scott. Shelby. Stoddard. Sullivan. Vernon. Worth.

NEBRASKA

Adams. Antelope. Boone. Burt. Butler. Cass. Cedar. Clay. Colfax. Cuming. Dixon. Dodge. Fillmore. Gage. Hall. Hamilton. Johnson. Kearney. Knox. Lancaster. Madison. Merrick. Nemaha. Otoe. Pawnee. Phelps. Pierce. Platte. Polk. Richardson. Saunders. Scotts Bluff. Stanton. Washington. Wayne. York.

NORTH CAROLINA

Anson. Beaufort. Hyde. Nash. Pamlico. Pitt. Robeson. Rowan. Union. Washington.

NORTH DAKOTA

Cass. Ransom. Richland. Sargent.

OHIO

Allen. Ashland. Auglaize. Butler. Champaign. Clark. Clinton. Crawford. Darke. Defiance. Delaware. Erie. Fairfield. Fayette. Franklin. Fulton. Greene. Hancock. Hardin. Henry. Highland. Huron. Knox. Licking. Logan. Lucas. Madison. Marion. Medina. Mercer. Miami. Montgomery. Morrow. Ottawa. Paulding. Pickaway. Preble. Putnam. Richland. Sandusky. Seneca. Shelby. Union. Van Wert. Wayne. Williams. Wood. Wyandot.

PENNSYLVANIA

Adams. Chester. Cumberland. Dauphin. Franklin. Lancaster. Lebanon. Perry. York.

SOUTH DAKOTA

Aurora. Beadle. Bon Homme. Brookings. Charles Mix. Clark. Clay. Codington. Davison. Day. Deuel. Douglas. Grant. Hamlin. Hanson. Hutchinson. Kingsbury. Lake. Lincoln. McCook. Miner. Minnehaha. Moody. Roberts. Sanborn. Turner. Union. Yankton.

TENNESSEE

Franklin. Obion.

VIRGINIA

Nansemond. Southampton.

WISCONSIN

Barron. Buffalo. Calumet. Clark. Columbia. Crawford. Dane. Dodge. Dunn. Fond du Lac. Grant. Green. Iowa. Jackson. Jefferson. Kenosha. La Crosse. Lafayette. Pepin. Pierce. Polk. Racine. Richland. Rock. St. Croix. Sauk. Trempealeau. Vernon. Walworth. Waukesha. Winnebago.

WYOMING

Goshen.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16809 Filed 11-17-71;8:47 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR FLAX CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for flax crop insurance for the 1972 crop year.

MINNESOTA

Becker.
Big Stone.
Chippewa.
Clay.
Grant.
Kittson.
Lac Qui Parle.
Lincoln.
Lyon.
Mahnomen.
Marshall.
Murray.
Nobles.
Norman.
Otter Tail.
Pennington.
Pipestone.
Polk.
Pope.
Red Lake.
Redwood.
Roseau.
Stevens.
Swift.
Traverse.
Wilkin.
Yellow Medicine.

NORTH DAKOTA

Barnes.
Benson.
Bottineau.
Burleigh.
Cass.
Cavalier.
Dickey.
Eddy.
Emmons.
Foster.
Grand Forks.
Griggs.
Kidder.
La Moure.
Logan.
McHenry.
McIntosh.
McLean.
Mountrail.
Nelson.
Pembina.
Pierce.
Ramsey.
Ransom.
Renville.
Richland.
Rolette.
Sargent.
Sheridan.
Steele.
Stutsman.
Towner.
Traill.
Walsh.
Ward.
Wells.

SOUTH DAKOTA

Brookings.
Brown.
Campbell.
Clark.
Codington.
Corson.
Day.
Deuel.
Edmunds.
Grant.
Hamlin.
Kingsbury.
Lake.
McPherson.
Marshall.
Miner.
Moody.
Roberts.
Walworth.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16811 Filed 11-17-71;8:47 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR OAT CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for oat crop insurance for the 1972 crop year.

CALIFORNIA

Modoc.

ILLINOIS

Bureau.
Carroll.
Henry.
Jo Daviess.
Ogle.
Stephenson.

IOWA

Adair.
Adams.
Allamakee.
Audubon.
Benton.
Black Hawk.
Boone.
Bremer.
Buchanan.
Buena Vista.
Butler.
Calhoun.
Carroll.
Cass.
Cedar.
Cerro Gordo.
Cherokee.
Chickasaw.
Clarke.
Clay.
Clayton.
Clinton.
Crawford.
Dallas.
Decatur.
Delaware.
Des Moines.
Dickinson.
Dubuque.
Emmet.
Fayette.
Floyd.
Franklin.
Fremont.
Greene.
Grundy.
Guthrie.
Hamilton.
Hancock.
Hardin.
Harrison.
Henry.
Howard.
Humboldt.
Ida.
Iowa.
Jackson.
Jasper.
Jefferson.
Johnson.
Jones.
Keokuk.
Kossuth.
Lee.
Linn.
Louisa.
Lyon.
Madison.
Mahaska.
Marion.
Marshall.
Mills.
Mitchell.
Monona.
Monroe.
Montgomery.
Muscatine.
O'Brien.
Osceola.
Page.
Palo Alto.
Plymouth.
Pocahontas.
Polk.
Pottawattamie.
Poweshiek.
Sac.
Scott.
Shelby.
Sioux.
Story.
Tama.
Taylor.
Union.
Wapello.
Warren.
Washington.
Webster.
Winnebago.
Winneshiek.
Woodbury.
Worth.
Wright.

MINNESOTA

Becker.
Big Stone.
Blue Earth.
Brown.
Carver.
Chippewa.
Clay.
Cottonwood.
Dakota.
Dodge.
Douglas.
Faribault.
Fillmore.
Freeborn.
Goodhue.
Grant.
Houston.
Jackson.
Kandiyohi.
Kittson.
Lac Qui Parle.
Le Sueur.
Lincoln.
Lyon.
McLeod.
Mahnomen.
Marshall.
Martin.
Meeker.
Mower.
Murray.
Nicollet.
Nobles.
Norman.
Olmsted.
Otter Tail.
Pennington.
Pipestone.
Polk.
Pope.
Red Lake.
Redwood.
Renville.
Rice.
Rock.
Roseau.
Scott.
Sibley.
Stearns.
Steele.
Stevens.
Swift.
Todd.
Traverse.
Wabasha.
Waseca.
Washington.
Watonwan.
Wilkin.
Winona.
Wright.
Yellow Medicine.

NORTH DAKOTA

Barnes.
Benson.
Burleigh.
Cass.
Cavalier.
Dickey.
Eddy.
Foster.
Grand Forks.
Griggs.
Kidder.
La Moure.
Logan.
Morton.
Nelson.
Pembina.
Pierce.
Ramsey.
Ransom.
Richland.
Sargent.
Stark.
Steele.
Stutsman
Towner.
Traill.
Walsh.

OREGON

Klamath.

PENNSYLVANIA

Chester.
Cumberland.
Dauphin.
Perry.

SOUTH DAKOTA

Aurora.
Beadle.
Bon Homme.
Brookings.
Brown.
Charles Mix.
Clark.
Clay.
Codington.
Davison.
Day.
Deuel.
Douglas.
Grant.
Hamlin.
Hanson.
Hutchinson.
Kingsbury.
Lake.
Lincoln.
McCook.
Marshall.
Miner.
Minnehaha.
Moody.
Roberts.
Sanborn.
Spink.
Turner.
Union.
Yankton.

WISCONSIN

Barron.
Buffalo.
Calumet.
Clark.
Columbia.
Crawford.
Dane.
Dodge.
Dunn.
Fond du Lac.
Grant.
Green.
Iowa.
Jackson.
Jefferson.
Kenosha.
La Crosse.
Lafayette.
Pepin.
Pierce.
Polk.
Racine.
Richland.
Rock.
St. Croix.
Sauk.
Trempealeau.
Vernon.
Walworth.
Waukesha.
Winnebago.

WYOMING

Big Horn.
Park.
Washakie.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16812 Filed 11-17-71;8:47 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR PEA (CANNING AND FREEZING) CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for pea (canning and freezing) crop insurance for the 1972 crop year.

IDAHO

Franklin. Nez Perce.

MINNESOTA

Blue Earth. Brown. Dakota. Dodge. Faribault. Freeborn. Goodhue. Kandiyohi. Le Sueur. McLeod. Martin. Meeker. Mower. Nicollet. Olmsted. Redwood. Renville. Rice. Scott. Sibley. Steele. Wabasha. Waseca. Watonwan. Winona.

OREGON

Umatilla. Union.

UTAH

Box Elder. Cache. Davis. Salt Lake. Utah. Weber.

WASHINGTON

Columbia. Walla Walla. Whitman.

WISCONSIN

Calumet. Columbia. Dane. Dodge. Fond du Lac. Trempealeau. Winnebago.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16814 Filed 11-17-71;8:47 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR PEA (DRY) CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for pea (dry) crop insurance for the 1972 crop year.

IDAHO

Benewah. Kootenai. Latah. Lewis. Nez Perce.

OREGON

Umatilla. Union.

WASHINGTON

Adams. Columbia. Franklin. Grant. Spokane. Walla Walla. Whitman.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16815 Filed 11-17-71;8:48 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR PEANUT CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for peanut crop insurance for the 1972 crop year. The type(s) of peanuts on which insurance is offered in each county is shown opposite the county name.

ALABAMA

Barbour—Runner, Southeast Spanish, Virginia.
Coffee—Runner, Southeast Spanish, Virginia.
Conecuh—Runner, Southeast Spanish, Virginia.
Covington—Runner, Southeast Spanish, Virginia.
Crenshaw—Runner, Southeast Spanish, Virginia.
Dale—Runner, Southeast Spanish, Virginia.
Geneva—Runner, Southeast Spanish, Virginia.
Henry—Runner, Southeast Spanish, Virginia.
Houston—Runner, Southeast Spanish, Virginia.
Pike—Runner.

FLORIDA

Jackson—Runner, Southeast Spanish, Virginia.

GEORGIA

Baker—Runner, Southeast Spanish, Virginia.
Ben Hill—Runner, Southeast Spanish, Virginia.
Bulloch—Runner, Southeast Spanish, Virginia.
Calhoun—Runner, Southeast Spanish, Virginia.
Clay—Runner, Southeast Spanish, Virginia.
Coffee—Runner, Southeast Spanish, Virginia.
Colquitt—Runner, Southeast Spanish, Virginia.
Cook—Runner, Southeast Spanish, Virginia.
Crisp—Runner, Southeast Spanish, Virginia.
Decatur—Runner, Southeast Spanish, Virginia.
Dooly—Runner, Southeast Spanish, Virginia.
Early—Runner, Southeast Spanish, Virginia.
Irwin—Runner, Southeast Spanish, Virginia.
Lee—Runner, Southeast Spanish, Virginia.
Miller—Runner, Southeast Spanish, Virginia.
Mitchell—Runner, Southeast Spanish, Virginia.
Randolph—Runner, Southeast Spanish, Virginia.
Sumter—Runner, Southeast Spanish, Virginia.
Terrell—Runner, Southeast Spanish, Virginia.
Thomas—Runner, Southeast Spanish, Virginia.
Tift—Runner, Southeast Spanish, Virginia.
Toombs—Runner, Southeast Spanish, Virginia.
Turner—Runner, Southeast Spanish, Virginia.
Worth—Runner, Southeast Spanish, Virginia.

NORTH CAROLINA

Bertie—Virginia.
Bladen—Virginia.
Chowan—Virginia.
Edgecombe—Virginia.
Gates—Virginia.
Halifax—Virginia.
Hertford—Virginia.
Martin—Virginia.
Northampton—Virginia.
Pitt—Virginia.
Washington—Virginia.

OKLAHOMA

Caddo—Southwest Spanish.
Grady—Southwest Spanish.

VIRGINIA

Dinwiddie—Virginia.
Greensville—Virginia.
Isle of Wight—Virginia.
Nansemond—Virginia.
Prince George—Virginia.
Southampton—Virginia.
Surry—Virginia.
Sussex—Virginia.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16817 Filed 11-17-71;8:48 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR RICE CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for rice crop insurance for the 1972 crop year.

ARKANSAS

Arkansas. Ashley. Chicot. Clay. Craighead. Crittenden. Cross. Desha. Greene. Jackson. Jefferson. Lonoke. Monroe. Poinsett. Prairie. St. Francis. Woodruff.

LOUISIANA

Acadia. Calcasieu. Evangeline. Jefferson Davis. St. Landry.

MISSISSIPPI

Bolivar. Washington.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16819 Filed 11-17-71;8:48 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR SOYBEAN CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for soybean crop insurance for the 1972 crop year.

ALABAMA

Baldwin.
Escambia.
Jackson.
Lawrence.
Limestone.
Madison.
Morgan.
Shelby.
Talladega.

ARKANSAS

Arkansas.
Ashley.
Chicot.
Clay.
Craighead.
Crittenden.
Cross.
Desha.
Greene.
Jackson.
Jefferson.
Lawrence.
Lee.
Lincoln.
Lonoke.
Mississippi.
Monroe.
Phillips.
Poinsett.
Prairie.
Randolph.
St. Francis.
Woodruff.

DELAWARE

Kent.
New Castle.
Sussex.

ILLINOIS

Adams.
Bond.
Brown.
Bureau.
Cass.
Champaign.
Christian.
Clark.
Clinton.
Coles.
Crawford.
Cumberland.
De Kalb.
De Witt.
Douglas.
Edgar.
Effingham.
Fayette.
Ford.
Fulton.
Greene.
Grundy.
Hancock.
Henderson.
Henry.
Iroquois.
Jasper.
Jefferson.
Jersey.
Kankakee.
Kendall.
Knox.
La Salle.
Lee.
Livingston.
Logan.
McDonough.
McLean.
Macon.
Macoupin.
Madison.
Marshall.
Mason.
Menard.
Mercer.
Monroe.
Montgomery.
Morgan.
Moultrie.
Ogle.
Peoria.
Piatt.
Pike.
Putnam.
St. Clair.
Sangamon.
Schuyler.
Scott.
Shelby.
Stark.
Tazewell.
Vermilion.
Warren.
Washington.
Wayne.
Whiteside.
Winnebago.
Woodford.

INDIANA

Adams.
Allen.
Bartholomew.
Benton.
Blackford.
Boone.
Carroll.
Cass.
Clay.
Clinton.
Decatur.
De Kalb.
Delaware.
Elkhart.
Fayette.
Fountain.
Fulton.
Gibson.
Grant.
Hamilton.
Hancock.
Hendricks.

INDIANA—Continued

Henry.
Howard.
Huntington.
Jackson.
Jasper.
Jay.
Johnson.
Knox.
Kosciusko.
Lagrange.
Madison.
Marion.
Marshall.
Miami.
Montgomery.
Morgan.
Newton.
Noble.
Parke.
Pulaski.
Putnam.
Randolph.
Ripley.
Rush.
Shelby.
Sullivan.
Tippecanoe.
Tipton.
Union.
Vermillion.
Vigo.
Wabash.
Warren.
Wayne.
Wells.
White.
Whitley.

IOWA

Adair.
Adams.
Allamakee.
Audubon.
Benton.
Black Hawk.
Boone.
Bremer.
Buchanan.
Buena Vista.
Butler.
Calhoun.
Carroll.
Cass.
Cedar.
Cerro Gordo.
Cherokee.
Chickasaw.
Clarke.
Clay.
Clayton.
Clinton.
Crawford.
Dallas.
Decatur.
Delaware.
Des Moines.
Dickinson.
Dubuque.
Emmet.
Fayette.
Floyd.
Franklin.
Fremont.
Greene.
Grundy.
Guthrie.
Hamilton.
Hancock.
Hardin.
Harrison.
Henry.
Howard.
Humboldt.
Ida.
Iowa.
Jackson.
Jasper.
Jefferson.
Johnson.
Jones.
Keokuk.
Kossuth.
Lee.
Linn.
Louisa.
Lyon.
Madison.
Mahaska.
Marion.
Marshall.
Mills.
Mitchell.
Monona.
Monroe.
Montgomery.
Muscatine.
O'Brien.
Osceola.
Page.
Palo Alto.
Plymouth.
Pocahontas.
Polk.
Pottawattamie.
Poweshiek.
Sac.
Scott.
Shelby.
Sioux.
Story.
Tama.
Taylor.
Union.
Wapello.
Warren.
Washington.
Webster.
Winnebago.
Winneshiek.
Woodbury.
Worth.
Wright.

KANSAS

Allen.
Anderson.
Atchison.
Bourbon.
Brown.
Cherokee.
Coffey.
Crawford.
Doniphan.
Douglas.
Franklin.
Johnson.
Labette.
Linn.
Lyon.
Miami.
Neosho.
Osage.
Wilson.
Woodson.

KENTUCKY

Calloway.
Daviess.
Fulton.
Graves.
Henderson.
Hopkins.
McLean.
Ohio.
Union.

LOUISIANA

Acadia.
Avoyelles.
Bossier.
Caddo.
Calcasieu.
Caldwell.
Catahoula.
Condordia.
East Carroll.
Evengeline.
Franklin.
Jefferson Davis.
Madison.
Morehouse.
Natchitoches.
Pointe Coupee.
Rapides.
Red River.
Richland.
St. Landry.
Tensas.
West Caroll.

MARYLAND

Caroline.
Kent.
Queen Annes.
Talbot.

MICHIGAN

Branch.
Cass.
Clinton.
Gratiot.
Hillsdale.
Lenawee.
Monroe.
Saginaw.
St. Joseph.
Shiawassee.
Washtenaw.

MINNESOTA

Becker.
Big Stone.
Blue Earth.
Brown.
Carver.
Chippewa.
Clay.
Cottonwood.
Dakota.
Dodge.
Douglas.
Faribault.
Fillmore.
Freeborn.
Goodhue.
Grant.
Houston.
Jackson.
Kandiyohi.
Lac Qui Parle.
Le Sueur.
Lincoln.
Lyon.
McLeod.
Martin.
Meeker.
Mower.
Murray.
Nicollet.
Nobles.
Norman.
Olmsted.
Otter Tail.
Pipestone.
Pope.
Redwood.
Renville.
Rice.
Rock.
Scott.
Sibley.
Stearns.
Steele.
Stevens.
Swift.
Todd.
Traverse.
Wabasha.
Waseca.
Washington.
Watonwan.
Wilkin.
Winona.
Wright.
Yellow Medicine.

MISSISSIPPI

Benton.
Bolivar.
Calhoun.
Carroll.
Chickasaw.
Coahoma.
De Soto.
Holmes.
Humphreys.
Issaquena.
Lee.
Leflore.
Monroe.
Panola.
Prentiss.
Quitman.
Sharkey.
Sunflower.
Tallahatchie.
Tippah.
Tunica.
Union.
Washington.
Yazoo.

MISSOURI

Adair.
Andrew.
Atchison.
Audrain.
Barton.
Bates.
Boone.
Buchanan.
Butler.
Caldwell.
Callaway.
Cape Girardeau.
Carroll.
Cass.
Chariton.
Clark.
Clinton.
Cooper.
Daviess.
De Kalb.
Dunklin.
Gentry.
Grundy.
Harrison.
Henry.
Holt.
Howard.
Jackson.
Jasper.
Johnson.
Knox.
Lafayette.
Lewis.
Lincoln.
Linn.
Livingston.
Macon.
Marion.

MISSOURI—Continued

Mississippi.
Monroe.
Montgomery.
New Madrid.
Nodaway.
Pemiscot.
Pettis.
Pike.
Platte.
Ralls.
Randolph.
Ray.
St. Charles.
Saline.
Scotland.
Scott.
Shelby.
Stoddard.
Sullivan.
Vernon.
Worth.

NEBRASKA

Cass.
Colfax.
Cuming.
Dodge.
Lancaster.
Nemaha.
Otoe.
Richardson.
Saunders.
Washington.
Wayne.

NORTH CAROLINA

Anson.
Beaufort.
Craven.
Hyde.
Johnston.
Jones.
Pamlico.
Pitt.
Robeson.
Union.
Washington

NORTH DAKOTA

Cass.
Richland.
Traill.

OHIO

Allen.
Ashland.
Auglaize.
Butler.
Champaign.
Clark.
Clinton.
Crawford.
Darke.
Defiance.
Delaware.
Erie.
Fairfield.
Fayette.
Franklin.
Fulton.
Greene.
Hancock.
Hardin.
Henry.
Highland.
Huron.
Knox.
Licking.
Logan.
Lucas.
Madison.
Marion.
Medina.
Mercer.
Miami.
Montgomery.
Morrow.
Ottawa.
Paulding.
Pickaway.
Preble.
Putnam.
Richland.
Sandusky.
Seneca.
Shelby.
Union.
Van Wert.
Wayne.
Williams.
Wood.
Wyandot.

OKLAHOMA

Craig.
Ottawa.

SOUTH CAROLINA

Aiken.
Allendale.
Bamberg.
Barnwell.
Calhoun.
Clarendon.
Darlington.
Dillon.
Dorchester.
Florence.
Hampton.
Horry.
Kershaw.
Lee.
Lexington.
Marion.
Marlboro.
Orangeburg.
Sumter.
Williamsburg.

SOUTH DAKOTA

Bon Homme.
Brookings.
Charles Mix.
Clay.
Deuel.
Grant.
Hamlin.
Hutchinson.
Kingsbury.
Lake.
Lincoln.
McCook.
Minnehaha.
Moody.
Roberts.
Turner.
Union.
Yankton.

TENNESSEE

Carroll.
Chester.
Crockett.
Dyer.
Fayette.
Gibson.
Hardeman.
Haywood.

TENNESSEE—Continued

Lake.
Lauderdale.
Madison.
Obion.
Shelby.
Tipton.
Weakley.

VIRGINIA

Nansemond.
Southampton.

WISCONSIN

Buffalo.
Dunn.
Jackson.
Jefferson.
Kenosha.
Pepin.
Pierce.
Polk.
Racine.
Rock.
St. Croix.
Trempealeau.
Walworth.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16820 Filed 11-17-71;8:48 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR SUGAR BEET CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for sugar beet crop insurance for the 1972 crop year.

CALIFORNIA

Imperial.

COLORADO

Adams.
Boulder.
Kit Carson.
Larimer.
Logan.
Morgan.
Sedgwick.
Weld.

IDAHO

Ada.
Bannock.
Bingham.
Bonneville.
Canyon.
Cassia.
Franklin.
Jerome.
Minidoka.
Owyhee.
Power.
Twin Falls.

KANSAS

Finney.
Grant.
Kearny.
Sherman.
Stanton.
Wallace.
Wichita.

MICHIGAN

Bay.
Saginaw.
Tuscola.

MINNESOTA

Clay.
Kittson.
Marshall.
Norman.
Polk.
Wilkin.

MONTANA

Big Horn.
Carbon.
Custer.
Dawson.
Prairie.
Richland.
Rosebud.
Stillwater.
Treasure.
Yellowstone.

NORTH DAKOTA

Cass.
Grand Forks.
McKenzie.
Pembina.
Richland.
Traill.
Walsh.
Williams.

OHIO

Hancock.
Henry.
Lucas.
Ottawa.
Putnam.
Sandusky.
Wood.

OREGON

Malheur.

UTAH

Box Elder.
Cache.
Davis.
Salt Lake.
Utah.
Weber.

WASHINGTON

Adams.
Benton.
Franklin.
Grant.
Yakima.

WYOMING

Big Horn.
Goshen.
Park.
Washakie.

(Secs. 506, 516, 52 Stat. 73, as amended, 77 as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16821 Filed 11-17-71;8:48 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR TOBACCO CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for tobacco crop insurance for the 1972 crop year. The type(s) of tobacco on which insurance is offered in each county is shown opposite the county name.

FLORIDA

County	Type	County	Type
Alachua	14	Madison	14
Columbia	14	Suwannee	14
Hamilton	14		

GEORGIA

County	Type	County	Type
Appling	14	Jeff Davis	14
Atkinson	14	Lanier	14
Bacon	14	Lowndes	14
Ben Hill	14	Mitchell	14
Berrien	14	Pierce	14
Brantley	14	Tattnall	14
Brooks	14	Thomas	14
Bulloch	14	Tift	14
Candler	14	Toombs	14
Coffee	14	Turner	14
Colquitt	14	Ware	14
Cook	14	Wayne	14
Decatur	14	Worth	14
Irwin	14		

KENTUCKY

County	Type	County	Type
Adair	31	Daviess	31, 36
Allen	31, 35	Fayette	31
Anderson	31	Fleming	31
Barren	31	Franklin	31
Bath	31	Garrard	31
Boone	31	Grant	31
Bourbon	31	Graves	23, 31, 35
Boyle	31	Green	31
Bracken	31	Harrison	31
Breckinridge	31	Hart	31
Caldwell	22, 31, 35	Henderson	31, 36
Calloway	23, 35	Henry	31
Carroll	31	Hopkins	31, 36
Casey	31	Jessamine	31
Christian	22, 31, 35	Larue	31
Clark	31	Lewis	31

KENTUCKY—Continued

County		County	
Lincoln	31	Owen	31
Logan	22, 31, 35	Pendleton	31
McLean	31, 36	Pulaski	31
Madison	31	Robertson	31
Marion	31	Russell	31
Marshall	23, 31, 35	Scott	31
Mason	31	Shelby	31
Meade	31	Simpson	22, 31, 35
Mercer	31	Spencer	31
Metcalfe	31	Taylor	31
Montgomery	31	Todd	22, 31, 35
Muhlenberg	22, 31, 35	Trigg	22, 31, 35
		Warren	31, 35
Nelson	31	Washington	31
Nicholas	31	Wayne	31
Ohio	31, 36	Woodford	31

MISSOURI

County		County	
Buchanan	31	Platte	31

NORTH CAROLINA

County		County	
Alamance	11a	Lee	11b
Alexander	11a	Lenoir	12
Beaufort	12	Madison	31
Bertie	12	Martin	12
Bladen	13	Mitchell	31
Brunswick	13	Montgomery	11b
Buncombe	31	Moore	11b
Carteret	12	Nash	12
Caswell	11a	Northampton	12
Chatham	11b	Onslow	12
Chowan	12	Orange	11b
Columbus	13	Pamlico	12
Craven	12	Pender	12
Cumberland	13	Person	11a
Davidson	11a	Pitt	12
Duplin	12	Randolph	11a
Durham	11b	Richmond	11b
Edgecombe	12	Robeson	13
Forsyth	11a	Rockingham	11a
Franklin	11b	Sampson	12
Gates	12	Scotland	13
Granville	11b	Stokes	11a
Greene	12	Surry	11a
Guilford	11a	Vance	11b
Halifax	12	Wake	11b
Harnett	11b	Warren	11b
Haywood	31	Washington	12
Hertford	12	Wayne	12
Hoke	13	Wilkes	11a
Iredell	11a	Wilson	12
Johnston	12	Yadkin	11a
Jones	12	Yancey	31

OHIO

County		County	
Adams	31	Highland	31
Brown	31		

PENNSYLVANIA

County	
Lancaster	41

SOUTH CAROLINA

County		County	
Chesterfield	13	Kershaw	13
Clarendon	13	Lee	13
Darlington	13	Marion	13
Dillon	13	Marlboro	13
Dorchester	13	Orangeburg	13
Florence	13	Sumter	13
Georgetown	13	Williamsburg	13
Horry	13		

TENNESSEE

County		County	
Anderson	31	Jackson	31
Blount	31	Jefferson	31
Carter	31	Johnson	31
Claiborne	31	Knox	31
Cocke	31	Lawrence	31
De Kalb	31	Lincoln	31
Dickson	22	Loudon	31
Franklin	31	McMinn	31
Giles	31	Macon	31, 35
Grainger	31	Marshall	31
Greene	31	Maury	31
Hamblen	31	Monroe	31
Hancock	31	Montgomery	22, 31
Hawkins	31	Obion	23, 35

TENNESSEE—Continued

County		County	
Putnam	31	Trousdale	31
Robertson	22, 31, 35	Unicoi	31
Sevier	31	Washington	31
Smith	31	Weakley	23, 35
Stewart	22, 31	White	31
Sullivan	31	Williamson	31
Sumner	22, 31, 35	Wilson	31

VIRGINIA

County		County	
Amelia	11a, 21	Nansemond	11a
Appomattox	11a, 21	Nottoway	11a, 21
Brunswick	11a, 21	Pittsylvania	11a
Campbell	11a, 21	Prince Edward	11a, 21
Charlotte	11a, 21		
Cumberland	11a, 21	Prince George	11a
Dinwiddie	11a, 21		
Franklin	11a	Russell	31
Greensville	11a	Scott	31
Halifax	11a	Smyth	31
Lee	31	Southampton	11a
Lunenberg	11a, 21	Sussex	11a
Mecklenburg	11a	Washington	31

WISCONSIN

County		County	
Crawford	55	Richland	55
Dane	54	Trempealeau	55
La Crosse	55	Vernon	55

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16822 Filed 11-17-71;8:48 am]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR TOMATO CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties have been designated for tomato crop insurance for the 1972 crop year.

OHIO

Darke.
Fulton.
Henry.
Lucas.
Ottawa.
Putnam.
Sandusky.
Wood.

UTAH

Box Elder.
Davis.
Salt Lake.
Utah.
Weber.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16823 Filed 11-17-71;8:48 am]

PART 402—RAISIN CROP INSURANCE

Subpart—Regulations for the 1966 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR RAISIN CROP INSURANCE

Pursuant to authority contained in § 402.1 of the above-identified regulations, the following counties have been designated for raisin crop insurance for the 1972 crop year.

CALIFORNIA

Fresno.
Kern.
Kings.
Madera.
Merced.
Stanislaus.
Tulare.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16818 Filed 11-17-71;8:48 am]

PART 403—PEACH CROP INSURANCE

Subpart—Regulations for the 1965 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR PEACH CROP INSURANCE

Pursuant to authority contained in § 403.40 of the above-identified regulations, as amended, the following counties have been designated for peach crop insurance for the 1972 crop year.

ALABAMA

Chilton.

ARKANSAS

Cross.
Johnson.
Lee.
St. Francis.

GEORGIA

Peach.
Upson.

NORTH CAROLINA

Cleveland.
Montgomery.
Moore.
Richmond.
Rutherford.

SOUTH CAROLINA

Aiken.
Allendale.
Barnwell.
Chesterfield.
Edgefield.
Greenville.
Laurens.
Lexington.
Saluda.
Spartanburg.
York.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16816 Filed 11-17-71;8:48 am]

PART 404—APPLE CROP INSURANCE

Subpart—Regulations for the 1967 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR APPLE CROP INSURANCE

Pursuant to authority contained in § 404.20 of the above-identified regulations, the following counties have been designated for apple crop insurance for the 1972 crop year.

OREGON

Umatilla.

WASHINGTON

Chelan.
Columbia.
Douglas.
Okanogan.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16804 Filed 11-17-71;8:47 am]

PART 406—CALIFORNIA ORANGE CROP INSURANCE

Subpart—Regulations for the 1963 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR ORANGE CROP INSURANCE

Pursuant to authority contained in § 406.1 of the above-identified regulations, as amended, the following counties have been designated for orange crop insurance for the 1972 crop year.

CALIFORNIA

Fresno.
Kern.
Tulare.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16813 Filed 11-17-71;8:47 am]

PART 408—NORTH CAROLINA APPLE CROP INSURANCE

Subpart—Regulations for the 1965 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR APPLE CROP INSURANCE

Pursuant to authority contained in § 408.1 of the above-identified regulations, as amended, the following counties have been designated for apple crop insurance for the 1972 crop year.

NORTH CAROLINA

Alexander.
Henderson.
Wilkes.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16803 Filed 11-17-71;8:46 am]

PART 409—ARIZONA-DESERT VALLEY CITRUS CROP INSURANCE

Subpart—Regulations for the 1967 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CITRUS CROP INSURANCE

Pursuant to authority contained in § 409.20 of the above-identified regulations, the following counties have been designated for citrus crop insurance for the 1972 crop year.

ARIZONA

Maricopa.
Yuma.

CALIFORNIA

Imperial.
Riverside.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16806 Filed 11-17-71;8:47 am]

PART 410—FLORIDA CITRUS CROP INSURANCE

Subpart—Regulations for the 1970 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CITRUS CROP INSURANCE

Pursuant to authority contained in § 410.1 of the above-identified regulations, the following counties have been designated for citrus crop insurance for the 1972 crop year.

FLORIDA

Brevard.
De Soto.
Hardee.
Hernando.
Highlands.
Hillsborough.
Indian River
Lake.
Manatee.
Marion.
Martin.
Orange.
Osceola.
Pasco.
Polk.
St. Lucie.
Seminole.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16807 Filed 11-71-71;8:47 am]

PART 413—TEXAS CITRUS CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

APPENDIX; COUNTIES DESIGNATED FOR CITRUS CROP INSURANCE

Pursuant to authority contained in § 413.20 of the above-identified regulations, the following counties have been designated for citrus crop insurance for the 1972 crop year.

TEXAS

Cameron.
Hidalgo.
Willacy.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

[SEAL] RICHARD H. ASLAKSON,
Manager, Federal Crop Insurance Corporation.

[FR Doc.71-16805 Filed 11-17-71; 8:47 am]

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

[Navel Orange Reg. 240]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.540 Navel Orange Regulation 240.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907, 35 F.R. 16359), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on November 16, 1971.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period November 19, through November 25, 1971, are hereby fixed as follows:

(i) District 1: 689,911 cartons.

(ii) District 2: Unlimited.

(iii) District 3: 163,004 cartons.

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

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

Dated: November 17, 1971.

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

[FR Doc.71-16857 Filed 11-17-71;11:25 am]

[Lime Reg. 31, Amdt. 1]

PART 911—LIMES GROWN IN FLORIDA

Quality and Size Regulation

Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida, 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 of the Florida Lime Administrative Committee, established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of limes, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendations by the Florida Lime Administrative Committee reflect its appraisal of the Florida lime crop and the current and prospective market conditions. The size and grade requirements specified herein are necessary to provide consumers with good quality fruit, consistent with the overall quality of the supply avaliable during the period specified while maximizing returns to the producers pursuant to the declared policy of the act.

(3) It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that 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 restrictions on the handling of limes grown in Florida.

Order. In § 911.333 (Lime Regulation 31; 36 F.R. 12507) the introductory text of paragraph (a) and subparagraph (2) thereof are amended to read as follows:

§ 911.333 Lime Regulation 31.

(a) *Order.* During the period November 15, 1971, through April 30, 1972, no handler shall handle:

* * * * *

(2) Any limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) which do not grade at least U.S. Combination, Mixed Color, with not less than 75 percent, by count, of the limes in any container thereof grading at least U.S. No. 1, Mixed Color: *Provided,* That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet the requirements set forth in the U.S. Standards for Persian (Tahiti) Limes shall apply; or

* * * * *

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

Dated November 12, 1971, to become effective November 15, 1971.

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

[FR Doc.71-16801 Filed 11-17-71;8:46 am]

[Lime Reg. 5, Amdt. 1]

PART 944—FRUITS; IMPORT REGULATIONS

Limes

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), the provisions of paragraph (a)(2) of § 944.204 (Lime Regulation 5, 36 F.R. 10774) are hereby amended to read as follows:

§ 944.204 Lime Regulation 5.

(a) * * *

(2) Such limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) grade at least U.S. Combination, Mixed Color, with not less than 75 percent, by count, of limes in any container thereof grading at least U.S. No. 1, Mixed Color: *Provided,* That stem length shall not be considered a factor of grade, and tolerances for fruit affected by decay and for fruit failing to meet requirements set forth in the U.S. Standards for Persian (Tahiti) limes, shall apply;

* * * * *

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective time of this amendment beyond that hereinafter specified (5 U.S.C. 553) in that (a) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), which makes such regulation mandatory; (b) such regulation imposes the same restrictions being made applicable to domestic shipments of limes under amended Lime Regulation 31 (§ 911.333) which becomes effective November 15, 1971; (c) compliance with this amended import regulation will not require any special preparation which cannot be completed by the effective time hereof; and (d) this amendment relieves restrictions on the importation of limes.

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

Dated November 12, 1971, to become effective November 15, 1971.

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

[FR Doc.71-16862 Filed 11-17-71;8:51 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 71-EA-142, Amdt. 39-1334]

PART 39—AIRWORTHINESS DIRECTIVES

Fairchild Hiller Rotorcraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an Airworthiness Directive applicable to Fairchild Hiller 1100 and FH 1100 type helicopters. There has been a report of a strut failure as a result of fatigue which is believed to have been caused by corrosion. Since this deficiency can exist or develop in helicopters of similar type design, an Airworthiness Directive is being issued which requires the replacement of the strut with a redesigned strut.

Since the foregoing presents a situation which requires expeditious adoption of this amendment, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

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

FAIRCHILD HILLER ROTORCRAFT. Applies to Model 1100 and FH1100 Type Helicopters certificated in all categories.

Compliance required as indicated.

To preclude fatigue failure of the transmission mount strut, P/N 24-28031, due to internal corrosion, accomplish the following:

Within the next 30 days after the effective date of this AD, unless already accomplished replace P/N 24-28031 left side, lateral, adjustable transmission strut with P/N 24-28031-11 strut in accordance with section 28 of the FH-1100 Service Manual or an alternate method approved by the Chief, Engineering & Manufacturing Branch, FAA, Eastern Region. Upon installation of MS21252 fork fitting apply RTV-102 sealant or equivalent to the threads of fitting and under AN316-5R retaining nut.

This amendment is effective November 24, 1971.

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

Issued in Jamaica, N.Y., on November 9, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-16790 Filed 11-17-71;8:45 am]

[Docket No. 71-EA-148; Amdt. 39-1335]

PART 39—AIRWORTHINESS DIRECTIVES

Pratt & Whitney Aircraft Engines

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an Airworthiness Directive applicable to Pratt & Whitney JT9D-3A type aircraft engines.

There have been reports of cracks in the borescope boss weld on the diffuser case of the JT9D-3A engines. This has resulted in rupture of the case assembly and loss of the cowling. Because this condition can exist or develop in other aircraft of the same type design, a telegram was dispatched to all owners and operators of aircraft with JT9D-3A engine installations requiring inspection and replacement where necessary of the borescope weld. Since this situation still exists, an airworthiness directive is being issued to continue the inspection and replacement.

The foregoing situation makes notice and public procedure hereon impractical and good cause exists for making the amendment effective in less than 30 days.

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

PRATT & WHITNEY ENGINES: Applies to all Pratt & Whitney Aircraft JT9D-3A turbofan engines which incorporate Part Number 669647 diffuser case assembly.

Compliance required as indicated.

To preclude rupture of the part number 669647 diffuser case assembly as the result of borescope boss weld cracks, accomplish the following:

1. For wet operating JT9D-3A engines with diffuser cases having in excess of 2,500 hours or 600 cycles time in service:

A. Inspect borescope positions 1 and 5 in accordance with paragraph 3 within 50 cycles after receipt of this telegram or 125 cycles since the last inspection, whichever occurs later, and every 125 cycles thereafter.

B. Inspect all other borescope positions in accordance with paragraph 3 within 100 cycles after receipt of this telegram or 250 cycles since the last inspection, whichever occurs later, and every 250 cycles thereafter.

2. For dry operating JT9D-3A engines with diffuser cases having in excess of 2,500 hours or 600 cycles time in service, inspect all borescope positions in accordance with paragraph 3 within 100 cycles after receipt of this telegram or 250 cycles since the last inspection, whichever occurs later, and every 250 cycles thereafter.

3. Inspect borescope boss weld areas of the part number 669647 diffuser case assembly using one of the techniques specified in Pratt & Whitney Aircraft Alert Service Bulletin No. 2901 or any equivalent inspection procedure approved by the FAA, Chief, Engineering and Manufacturing Branch, Eastern Region. If any crack is found, remove the diffuser case from service.

4. Upon submission of substantiating data through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the repetitive inspection times specified in this airworthiness directive.

This amendment is effective November 24, 1971, and was effective upon receipt for all recipients of the telegram dated October 8, 1971 which contained this amendment.

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

Issued in Jamaica, N.Y., on November 9, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

[FR Doc.71-16791 Filed 11-17-71;8:45 am]

[Airspace Docket No. 71-RM-20]

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

Alteration of Control Zone and Transition Area

On September 28, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 19092) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the description of the control zone and transition area at Williston, N. Dak.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendments are hereby adopted, subject to the following change: The mileage recited in line 11 of the transition area as "14¼" is changed to read "14½".

Effective date. These amendments shall be effective 0901 G.m.t., January 6, 1972.

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

Issued in Aurora, Colo., on November 10, 1971.

DONALD E. PEARSON,
Acting Director,
Rocky Mountain Region.

In § 71.171 (36 F.R. 2055) the following control zone is amended to read as follows:

WILLISTON, N. DAK. (SLOULIN AIRPORT)

Within a 5-mile radius of the Sloulin International Airport (latitude 48°10'35" N., longitude 103°38'10" W.); within 1½ miles each side of the Williston VOR 136° radial, extending from the 5-mile-radius zone to 1½ miles southeast of the VOR; and within 2 miles each side of the 126° bearing from the Sloulin International Airport, extending from the 5-mile-radius zone to 10 miles southeast of the airport.

In § 71.181 (36 F.R. 2140) the following transition area is amended to read as follows:

WILLISTON, N. DAK.

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Sloulin International Airport (latitude 48°10'35" N., longitude 103°38'10" W.); within 3½ miles each side of the Williston VOR 316° radial, extending from the 10-mile-radius area to 11½ miles northwest of the VOR; and within 3½ miles each side of the 126° bearing from the Sloulin International Airport, extending from the 10-mile-radius area to 14½ miles southeast of the airport; and that airspace extending upward from 1,200 feet above the surface within a 13-mile radius of the Williston VOR, extending from the Williston VOR 203° radial clockwise to the Williston VOR 088° radial, and within 9½ miles southwest and 4½ miles northeast of the Williston VOR 316° radial, extending from the 13-mile-radius area to 18½ miles northwest of the VOR; and within 5 miles southwest and 9½ miles northeast of the 126° bearing from the Sloulin International Airport extending from the 10-mile-radius area to 21½ miles southeast of the airport.

[FR Doc.71-16792 Filed 11-17-71;8:45 am]

[Airspace Docket No. 71-WE-50]

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

Alteration of Control Zone and Transition Area

On October 8, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 19614) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the descriptions of the Tonopah, Nev., control zone and transition area.

Interested person were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received and the proposed amendments are hereby adopted without change.

Effective date. These amendments shall be effective 0901 G.m.t., February 3, 1972.

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

Issued in Los Angeles, Calif., on November 9, 1971.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

In § 71.171 (36 F.R. 2055) the description of the Tonopah, Nev., control zone is amended to read as follows:

TONOPAH, NEV.

Within a 5-mile radius of Tonopah Airport (latitude 38°03'30" N., longitude 117°05'00" W.) and within 3.5 miles each side of the Tonopah VORTAC 115° radial, extending from the 5-mile-radius zone to 10 miles southeast of the VORTAC.

In § 71.181 (36 F.R. 2140) the description of the Tonopah, Nev., transition area is amended to read as follows:

TONOPAH, NEV.

That airspace extending upward from 1,200 feet above the surface within 14 miles north and 5 miles south of the 083° and 263° radials of the Tonopah VORTAC extending from 12 miles west to 25.5 miles east of the VORTAC, and within 10 miles south of and parallel to the Tonopah VORTAC 089° radial, extending from the VORTAC to 21.5 miles east of the VORTAC.

[FR Doc.71-16793 Filed 11-17-71;8:46 am]

[Airspace Docket No. 71-WE-56]

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

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the description of the Tucson, Ariz., transition area.

A transition route is being considered between Tucson VORTAC direct to Libby, Ariz., VOR/RBN. In order to provide controlled airspace for the entire route it is necessary to alter the description of the Tucson, Ariz., transition area. Action is taken herein to reflect this change.

Since this change is minor in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing in § 71.181 (36 F.R. 2140) the description of Tucson, Ariz., transition area is amended in part by deleting "* * * excluding the portion within R-2303." at the end of the text.

Effective date. This amendment shall be effective 0901 G.m.t., February 3, 1972.

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

Issued in Los Angeles, Calif., on November 9, 1971.

ROBERT O. BLANCHARD,
Acting Director, Western Region.

[FR Doc.71-16794 Filed 11-17-71;8:46 am]

[Airspace Docket No. 71-GL-8]

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

Alteration of Control Zone; Correction

In F.R. Doc. 71-14898, on page 19905 in the issue of Wednesday, October 13, 1971, line 2 of the Mount Clemens, Mich., control zone description should be corrected to read "(latitude 42°36'30" N., longitude 82°50'15" ".

Issued in Des Plaines, Ill., on October 22, 1971.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.71-16795 Filed 11-17-71;8:46 am]

Chapter V—National Aeronautics and Space Administration

PART 1241—CONTRACT APPEALS

Subpart 1—General Procedures

INTERROGATORIES TO THE PARTIES; CORRECTION

In F.R. Doc. 71-15582 appearing at page 20580 in the issue of Wednesday, October 27, 1971, paragraph (c) of § 1241.117 is corrected to read as follows:

§ 1241.117 Interrogatories to the parties.

* * * * *

(c) *Form of interrogatories and responses.* The interrogratories shall be addressed to the person or the official or agent of the Government, corporation, partnership or association who is a responsible and authorized representative of the party. The interrogatories may be served upon the attorney representing a party. Each interrogatory shall be answered separately and fully in writing under oath by the party addressed, or, if the party addressed is the Government or a public or private corporation, partnership or association, by an officer or agent authorized to represent the party. Responses to the interrogatories must be filed with the Board and a copy served on the other party within 30 calendar days after service of the interrogatories to which objection has not been made as provided in paragraph (b) of this section and, in the case of interrogatories to which objection has been made, within 30 calendar days after receipt of an order from the Board directing a response to certain interrogatories. The answers are to be signed by the person making them.

* * * * *

ERNEST W. BRACKETT,
Chairman,
NASA Board of Contract Appeals.

[FR Doc.71-16828 Filed 11-17-71;8:49 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter III—Bureau of International Commerce, Department of Commerce

[13th Gen. Rev. of Export Regs. (Amdt. 28)]

SUBCHAPTER B—EXPORT REGULATIONS

MISCELLANEOUS AMENDMENTS TO SUBCHAPTER

Parts 368, 369, 371, 373, 375, 379, and 386 are amended to read as set forth below.

(Secs. 3, 63 Stat. 7; 50 U.S.C. App. 2023; E.O. 10945, 26 F.R. 4487, 3 CFR 1959-1963 Comp.; E.O. 11038, 27 F.R. 7003, 3 CFR 1959-1963 Comp.)

Effective date: Section 373.4(b) and Supplement No. 1 to Part 373—November 24, 1971. All other amendments—November 17, 1971.

RAUER H. MEYER,
Director,
Office of Export Control.

PART 368—U.S. IMPORT CERTIFICATE AND DELIVERY VERIFICATION PROCEDURE

1. In § 368.1(a), subparagraph (2) is amended to read as set forth below:

§ 368.1 Effect of regulation.

(a) * * *

(2) *Commodities covered and administering U.S. agencies.*—(i) *Office of Export Control.* The Office of Export Control will receive from importers in the United States the representations regarding the intended destination of commodities and will provide a certification that such representations have been made (*a*) for commodities under the export control jurisdiction of the Office of Export Control that are identified by the code letter "A" following the Export Control Commodity Number on the Commodity Control List (§ 399.1 of this chapter); (*b*) by agreement with the Atomic Energy Commission, for commodities classified as "source material," "byproduct material," "special nuclear material," or "facilities for the production or utilization of special nuclear material," as defined in the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission (see § 370.10(e) of this chapter); and (*c*) by agreement with the U.S. Treasury Department for commodities on the U.S. Munitions List (22 CFR Part 121) that do not appear on the more limited U.S. Munitions Import List (26 CFR Part 180).

(ii) *Treasury Department.* The U.S. Treasury Department, Alcohol, Tobacco, and Firearms Division, Washington, D.C. 20224, administers similar procedures with respect to arms, ammunition, and implements of war as enumerated in the U.S. Munitions Import List (26 CFR Part 180).

(iii) *State Department.* The U.S. Department of State, Office of Munitions Control, Washington, D.C. 20520, administers similar procedures with respect to triangular transactions involving any part of the U.S. Munitions List. (See § 368.2(a)(8) for a description of triangular Import Certificates issued by the U.S. Department of Commerce.)

* * * * *

2. In § 368.2(a), subparagraphs (2) and (5) are amended to read as set forth below.

§ 368.2 International Import Certificate.

(a) * * *

(2) *Where to file.* Except as noted in subparagraphs (4) and (5) of this paragraph, all requests for certification and validation of International Import Certificates or requests to amend such Certificates may be filed with the Office of Export Control (Attn.: 852), U.S. Department of Commerce, Washington, D.C. 20230, or with any of the following field offices of the U.S. Department of Commerce:

Boston.	Miami.
Buffalo.	New Orleans.
Chicago.	New York.
Cincinnati.	Philadelphia.
Cleveland.	Phoenix.
Dallas.	Pittsburgh.
Detroit.	Portland, Oreg.
Houston.	San Francisco.
Jacksonville.	Savannah.
Los Angeles.	Seattle.

* * * * *

(5) *Certain U.S. munitions list commodities.* For commodities on the U.S. Munitions List that do not appear on the more limited U.S. Munitions Import List, a request for certification and validation of an International Import Certificate shall be submitted, in triplicate directly to the Office of Export Control (Attention: 852), U.S. Department of Commerce, Washington, D.C. 20230.

* * * * *

3. In § 368.3(a)(1), subdivision (ii) is amended to read as set forth below:

§ 386.3 Delivery verification certificate.

(a) * * *

(1) * * *

(ii) The responsibility of a person or firm executives a U.S. International Import Certificate for providing the foreign exporter with confirmation of delivery of the commodities includes instances where the commodities are resold or transferred to another U.S. person or firm prior to actual delivery to the United States or to an approved foreign destination. The person who executed the Certificate shall secure in writing from the U.S. purchaser or transferee, and retain in his files for 2 years, (*a*) acceptance of the obligation to provide him with either the Delivery Verification Certificate (or other official government confirmation of delivery if a Delivery Verification Certificate is unobtainable) or assurance that this document was submitted to the Office of Export Control; and (*b*) an undertaking that each succeeding U.S. transferee or purchaser will assume the same obligation or assurance. In each case the seller or transferor shall transmit to the U.S. purchaser or transferee the identification number of the International Import Certificate covering the export from the foreign country and request that they pass it on to any other U.S. purchasers or transferees.

* * * * *

PART 369—RESTRICTIVE TRADE PRACTICES OR BOYCOTTS

4. In § 369.2(b), subparagraph (2) is amended to read as set forth below:

§ 369.2 Reporting requirements.

* * * * *

(b) * * *

(2) *Multiple transactions report.* Instead of submitting a report for each transaction regarding which a request is received, the exporter may submit a report covering all transactions regarding which requests are received from persons or firms in a single country during a single calendar quarter. This report shall be made by letter to the Office of Export Control no later than the 15th day of the first month following the calendar quarter covered by the report. If the exporter has received requests from persons or firms of more than one foreign country, a separate report shall be submitted for each country. Each letter shall include the following information:

(i) Name and address of U.S. exporter submitting report;

(ii) Calendar quarter covered by report;

(iii) Name of country(ies) against which the request is directed;

(iv) Country of requester;

(v) Number of transactions which restrictions were applicable;

(vi) Type(s) of request(s) received (questionnaire, attach copy. If other than questionnaire, give the type of document or other form of request and the specific information or action requested.);

(vii) General description of the types of commodities or technical data covered and the total dollar value thereof; and

(viii) Whether or not the U.S. exporter intends to comply with the request(s). (Submission of the information required by this subdivision would be helpful to the U.S. Government but is not mandatory.)

PART 371—GENERAL LICENSES

Section 371.17 is amended as set forth below:

§ 371.17 General License GLR; return or replacement of certain commodities.

A general license designated GLR is established, authorizing, subject to the provisions of this § 371.17, the return of certain commodities to the destination from which imported into the United States or the replacement of defective or unacceptable parts or equipment that were exported from the United States under a validated export license. When an export is made under the provisions of paragraphs (a) through (e) of this section, the U.S. Customs Entry Number (if any), the country from which the commodities were imported, and the port of entry shall be shown on the Shipper's Export Declaration.

* * * * *

(f) *Replacements for defective or unacceptable U.S.-origin parts or equipment.* (1) Any commodity may be exported under the provisions of this general license to replace a defective or unacceptable U.S.-origin commodity subject to the following conditions:

* * * * *

(v) No commodity shall be exported to replace any part of equipment that is worn out from normal use, nor may any commodity be exported to be held in stock abroad as spare parts or equipment for future use; except that if a stock of parts has previously been exported under a validated license expressly for use as spare parts, any such parts found to be defective or otherwise unacceptable may be replaced under the provisions of General License GLR even though they may be intended ultimately as replacements for parts worn out in normal use.[1]

(vi) The replacement commodity shall not be technologically advanced over that to be replaced;

(vii) The commodity to be replaced shall have been previously exported in its present form under a validated export license or as a component of a commodity that was exported under a validated export license;

* * * * *

PART 373—SPECIAL LICENSING PROCEDURES

6. The following commodity is added to the listing in § 373.4(b):

§ 373.4 Foreign-Based Warehouse Procedure.

* * * * *

(b) *Exports to the foreign-based warehouse.* * * *

* * * * *

862 High resolution photographic film and plates capable of a resolution of more than 500 lines/mm. (measured with a 1000:1 high contrast test object); metal-clad photographic film and plates, whether or not emulsion or photoresist coated; and other photographic film plates especially designed for use in the production of masks for microelectronic circuitry manufacture.

7. Section 373.7(j) is amended to read as set forth below:

§ 373.7 Service Supply (SL) Procedure.

* * * * *

(j) *Records*—(1) *U.S. Exporter.* A U.S. exporter shall prepare records of all exports made under the Service Supply (SL) Procedure containing, as a minimum, the information required by paragraph (k) of this section. Such records shall be retained for a period of 2 years.

(2) *Foreign-based service facility or foreign manufacturer.* A foreign-based service facility or a foreign manufacturer shall prepare, and retain for a period of 2 years, records of all commodities received under the provisions of the Service Supply (SL) Procedure, as well as all such commodities it has used or supplied domestically or reexported. All such records shall be made available to U.S. Government officials for inspection, upon request, in accordance with the provisions of § 387.11 of this chapter. As a minimum these records shall show:

(i) The Form IA-544 approval number and the full name and address of the individual or firm that supplied the parts, as well as the individual or firm that received, used, or reexported the parts;

[1] The Service Supply (SL) procedure (§ 373.7) provides a licensing procedure for the prompt servicing of equipment abroad.

(ii) A description of the equipment on which the parts were used or for which they were intended;

(iii) A description of the parts, including quantity and value; and

(iv) The date the parts were received, used, supplied, or reexported.

In the event that a foreign governmental regulation or statute prohibits a U.S. Government representative from inspecting these records in the foreign country, the Office of Export Control may, in substitution, require the submission of specified records, documents, or both.

8. The following commodity is added to the listing in Supplement No. 1 to Part 373, Supplement No. 1—Commodities Excluded From Certain Special Licensing Procedures

862(4a) High resolution photographic film and plates capable of a resolution of more than 500 lines/mm. (measured with a 1000:1 high contract test object); metal-clad photographic film and plates, whether or not emulsion or photoresist coated; and other photographic film and plates specially designed for use in the production of masks for micro-electronic circuitry manufacture.

PART 375—DOCUMENTATION REQUIREMENTS

9. In § 375.1, paragraphs (c) (2) and (f) (2) are amended to read as set forth below:

§ 375.1 International Import Certificate and Delivery Verification Certificates.

* * * * *

(c) * * *

(2) A license application to export commodities classified in a single entry on the Commodity Control List, the total value of which, as shown on the export order, is less than $1,000, except where a multiple transactions Import Certificate is filed in accordance with paragraph (f) (2) of this section;

* * * * *

(f) * * *

(2) *Multiple Transactions Import Certificate.* A multiple transactions import certificate is an officially authenticated original of an import certificate which covers more than one proposed transaction. If a multiple transactions import certificate specifies the amount of the commodities (in terms of either quantity or value), all export licenses, including those covering a commodity valued at less than $1,000, will be charged against the amount specified. The applicant shall attach the original multiple transactions import certificate, bearing the official authentication of governmental authorities in the importing country, to his first application the certificate is intended to support. A reproduced copy (photocopy or other type) of the import certificate is not acceptable. On each subsequent application submitted against that certificate, one of the following certifications, as appropriate, signed by the applicant, shall be inserted in the space entitled "Additional Information" or on an attachment:

* * * * *

10. In § 375.2, paragraphs (b) (2) (ii) and (e) (6) are amended to read as set forth below:

§ 375.2 Ultimate Consignee and Purchaser Statement.

* * * * *

(b) * * *

(2) * * *

(ii) The total value of commodities classified under a single entry on the Commodity Control List (as shown on the export order covering the application) is less than $1,000. However, these total value exemptions do not apply to an application supported by a Form FC-843.

* * * * *

(e) *Information required on form.* * * *

(6) *Validity period.* The original of a single transaction statement shall be submitted to the Office of Export Control with the first applicable license application. The period within which the statement may be submitted to the Office of Export Control is limited to 90 days after it is signed by the consignee or purchaser, whichever date is later. There is no specific time limit for submitting the multiple transactions statement to the Office of Export Control, but such statement may not be used to support license applications filed after the termination date shown in Item 2. The consignee/purchaser may enter in Item 2 whatever termination date he chooses up through June 30 of the second year following the year in which he signs the Form FC-843. For example, and FC-843 signed by the consignee and purchaser any time between January 1, 1971, and December 31, 1971, could be used to support license applications filed on or before June 30, 1973, if June 30, 1973 is entered in Item 2. During its validity period, a multiple transactions statement will be deemed as supporting all exports of the specified commodities from the U.S. exporter to the named consignee and purchaser for which license applications are submitted to the Office of Export Control, including those that are based on export orders of less than $1,000 and would therefore not be subject to this same requirement under the single transaction (FC-842) procedure.

PART 379—TECHNICAL DATA

11. The footnote to § 379.3(c) (2) is amended to read as set forth below:

§ 379-3 General License GTDA: Technical data available to all destinations.

* * * * *

(c) * * *

(2) * * *

[1] The term "early publication country" used in this sentence and in this context only refers to Belgium, Costa Rica, Denmark, Ecuador, Finland, France, Honduras, Iceland, Jamaica, Japan, Luxembourg, Netherlands, Nicaragua, Norway, Panama, Portugal, Sweden, Trinidad, Turkey, Republic of South Africa, Uruguay, Venezuela, and West Germany (Federal Republic of Germany).

PART 386—EXPORT CLEARANCE

12. Section 386.1 paragraphs (c) (2) (i) and (d) are amended to read as set forth below:

§ 386.1 General Export Clearance Requirements.

* * * * *

(c) * * *

(2) *General License Shipments and shipments without an export license*—(i) *Declaration required.* Unless otherwise set forth specifically by the Export Control Regulations or by the Bureau of Census Foreign Trade Statistics Regulations (see Subpart D), the sender shall present to the post office at the place of mailing, a duly executed Declaration for each shipment to any destination under a general license (or to Canada or any other destination for which an export license is not required), from one business concern to another business concern when the shipment consists of a commodity(ies) valued at more than $250. A Declaration is not required for noncommercial shipments.

* * * * *

(d) *Exports by means other than mail.* Except as provided in the "NAR" and Monthly Reporting procedures (§§ 386.3 (v) and (x)), the exporter or his agent must comply with the following requirements:

(1) *For validated license shipments.* The validated license and the related duly executed Shipper's Export Declaration must be presented to, examined, and authenticated by customs (see § 386.3); and a copy of the authenticated Declaration, returned to the exporter or his agent by customs, must be delivered to the exporting carrier before departure of the carrier.

(2) *For general license shipments.* (i) A duly executed Declaration must be presented to and authenticated by customs (see § 386.3), and a copy of the authenticated Declaration, returned to the exporter or his agent by customs, must be delivered to the exporting carrier before departure of the carrier.

(ii) If the filing of a Declaration is not required by the Office of Export Control or Bureau of the Census, an oral declaration describing the commodity to be exported and identifying the applicable general license shall be made to customs.

(iii) A shipment to Country Group T, V, or X does not require a Declaration if the shipment is valued at $250 or less. As used here "shipment" means all commodities classified under a single seven-digit Schedule B Number, shipped on the same carrier, from one exporter to one importer.

(iv) Other exceptions to the requirement for a Declaration are set forth in this Part 386 and in Part 371 of this chapter. A complete list of such exceptions is set forth in Subpart D of the Census Bureau Foreign Trade Statistics Regulations.

(3) *For shipments requiring no export license.* Unless otherwise set forth specifically in the Export Control Regulations or in the Bureau of the Census Foreign Trade Statistics Regulations (see Subpart D), a Declaration is required for exports to Canada or to any other destination not requiring either a validated or a general export license. The Declaration in such cases, however, need not be authenticated or returned to the exporter or carrier.

NOTE: Section 386.1(d) places the responsibility on the exporter or his agent to deliver a required Shipper's Export Declaration to the exporting carrier prior to the departure of the carrier. If an exporting carrier finds that a required Declaration has not been filed by the time of the carrier's scheduled departure, the exporting carrier is not, solely as the result of such failure, obligated to delay departure or to offload the cargo. This does not, of course, limit the authority of the Office of Export Control and customs offices to require the unloading or return of cargo under the circumstances set forth in §§ 386.9 and 386.10.

13. In § 386.3, paragraph (a) is amended to read as set forth below:

§ 386.3 Shipper's Export Declaration.

(a) *Authentication requirement.* All copies of Shipper's Export Declarations that are required to be presented for authentication to a customs office shall be authenticated by the customs office at the port of export or port of origin, unless the shipment is eligible for, and the exporter chooses to use, the alternate procedure set forth in paragraph (v) of this section, or unless the shipment requires neither as validated nor a general export license. (See § 386.1(d)(3). No customs officer shall authenticate a Declaration unless he is satisfied, after comparing it with the applicable validated license or general license and with such other relevant information as he may have that:

(1) Export of the commodity(ies) described in the Declaration is authorized under the license;

(2) Statements in the Declaration are identical in all respects with the contents of the validated license, or with the terms, provisions, and conditions of the general license;

(3) Statements in the Declaration are set forth in a manner that permits customs officers (or other authorized persons to whom the Declaration may be shown or delivered) to determine whether the export complies with the contents of the validated license, or the terms, provisions, and conditions of the general license; and

(4) The shipment is or will be available for inspection.

* * * * *

14. In § 386.8(f), subparagraph (2) is amended to read as set forth below:

§ 386.8 Customs clearance at ports of origin.

* * * * *

(f) *Procedure at port of export.* * * *

(2) *Examination of shipments.* Notwithstanding any other provision of this § 386.8, the customs office at the port of export or an official of the Office of Export Control is authorized to detain any shipment held for review of the Declaration or for physical examination of the goods, whenever such action is deemed to be necessary to assure compliance with the Export Control Regulations.

* * * * *

[FR Doc.71-16844 Filed 11-17-71;8:52 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 33-5209]

PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

Definitive Guide Relating to "Insurance Premium Funding" Programs

The Securities and Exchange Commission has authorized publication of the following registration guide which sets forth the position of the Commission's Division of Corporation Finance of requiring in registration statements under the Securities Act of 1933 certain disclosure involved in the offering of programs for the funding of life insurance premiums.

These programs which are discussed in Securities Act Release No. 4491, dated May 22, 1962 (27 F.R. 5190) involve the offering of securities, usually mutual fund shares, and the use of such shares as collateral for a loan, the proceeds of which are then used to pay the premium on a life insurance policy which is sold to the customer at or about the same time. The Commission has taken the position that such a program involves an investment contract which is a security under the Securities Act of 1933.

The text of the guide follows:

57. *Registration Statements Relating to "Insurance Premium Funding" Programs.* 1. The calculation of the registration fee for registration statements relating to insurance premium funding programs should be based on all elements of the program, including the cost of the mutual fund shares plus the cost of life insurance premiums.

2. The introductory section of the prospectus should indicate prominently, preferably as the first item discussed, that the effect of a decline in the value of mutual fund shares pledged as collateral, would be a call to furnish additional shares as collateral, which if not furnished would result in the termination of the program and the sale of the collateral.

3. The registrant's prospectus must be accompanied by a prospectus of each mutual fund used in any hypothetical tabular illustration of the 10-year results of a program. If the tabular data is not shown for all funds offered, the mutual funds so illustrated should include the lowest performer among those offered. The name of the fund or funds should be stated. If during the past 3 years the registrant has discontinued offering a fund whose performance has been less than the lowest now shown, this fact should be disclosed.

4. The tabular data showing performance of mutual funds should be based on a funding program of the smallest size offered.

5. In the tabular illustration of program results, a column should be included reflecting the net value of the program to a participant upon termination (value of the program to participant upon termination minus the accumulated debt for insurance premium and interest). If the table includes a column showing the difference between cost of investment (including borrowings) and value at termination then the foregoing column need not be included.

6. In the forepart of the prospectus, preferably under the introductory statement, there should be set forth a summary, as described below, with an appropriate cross reference to the applicable hypothetical tables referred to contained elsewhere in the prospectus.

SUMMARY

	Plan A	Plan B	Plan C
Total payments made during the period set forth in the hypothetical table	$......	$......	$......
Total liquidating value of mutual fund shares upon termination			
Plus: Cash surrender value of life insurance			
Less: Amount needed for repayment of loan for insurance premium and interest			
Net value			
Net gain or (loss) if program liquidated			

NOTE: If the issuer has been selling programs for a period less than that covered by the hypothetical tables and if the results for such shorter period would not be as favorable, the table should be supplemented with a statement of what the results would have been for the shorter period.

By the Commission, November 8, 1971.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.71-16706 Filed 11-17-71;8:45 am]

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 300—PRICE AND RENT STABILIZATION

Regulated Public Utilities

The purpose of the amendment contained in item 1 is to change § 300.16 of Title 6, Chapter III, Code of Federal Regulations, to provide that a regulated public utility which had gross receipts of $100 million or more during its most recent fiscal year shall inform the Price Commission of all requests for rate increases. The amendment contained in item 1 further provides that the Price Commission reserves the right to review and limit the amount of any such requested increase, and to review and limit the amount of any increase approved by a regulatory agency or other appropriate legal authority, or other authorized increase, for regulated public utilities which

had revenues between $50 and $100 million during its most recent fiscal year.

1. Paragraph (a) of § 300.016 of Title 6, Chapter III, Code of Federal Regulations, is hereby amended to read as follows:

§ 300.016 **Regulated public utilities.**

(a) *In general.* A person which is a regulated public utility as defined in section 7701(a)(33) of the Internal Revenue Code of 1954 (26 U.S.C. sec. 7701(a)(33)) may charge a price, rate, or tariff in excess of the base price if such increase has been approved by a regulatory agency or other appropriate legal authority. A regulated person who had revenues of $100 million or more during its most recent fiscal year shall inform the Price Commission of all requests for rate increases and immediately notify the Commission in writing of any agency order granting an increase and of any other authorized increase. A regulated person who had revenues between $50 and $100 million during its most recent fiscal year shall immediately notify the Commission in writing of any agency order granting an increase and of any other authorized increase. In order to insure that the goals of the economic stabilization program are attained, the Price Commission reserves the right to review and limit the amount of any such requested increase, ordered increase, or other authorized increase.

* * * * *

Because the purpose of this Price Commission amendment is to provide immediate guidance as to price stabilization rules applicable after November 13, 1971, it is hereby found impracticable to issue this Price Commission regulation with notice and public procedure thereon under 5 U.S.C., sec. 553(b), or subject to the effective date limitation of 5 U.S.C., sec. 553(d).

This amendment shall become effective as of November 14, 1971.

Dated: November 17, 1971.

C. JACKSON GRAYSON, Jr.,
Chairman of the Price Commission.

[FR Doc.71-16988 Filed 11-17-71;12:11 pm]

Proposed Rule Making

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 63]

[Docket No. 10380; Notice 71-37]

FLIGHT ENGINEER AERONAUTICAL EXPERIENCE REQUIREMENTS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Appendix C to Part 63 of the Federal Aviation Regulations to allow, as to a student in an approved flight engineer course who holds at least a commercial pilot certificate with an instrument rating, the substitution of airplane simulator time, or flight engineer training device time (no more than 15 hours), for all 10 hours of flight instruction time in an airplane now required by paragraph (a) (3) (i).

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before January 17, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

By letter of April 24, 1970, American Airlines requested an exemption from certain provisions of Part 63 including paragraph (a) (3) (i) and (iv) of Appendix C. On May 22, 1970, the petitioner requested that its request as to paragraphs (a) (3) (i) and (iv) be treated as a petition for rule making. This notice of proposed rule making is responsive thereto.

One method by which an applicant for a flight engineer certificate may satisfy the aeronautical experience requirements of § 63.37 is successful completion of an approved flight engineer ground and flight course of instruction as provided in Appendix C to that Part. Paragraph (a) (3) (i) of Appendix C provides that the flight training curriculum in a flight engineer training course must include at least 10 hours of flight instruction in an aircraft specified in § 63.37(a). Paragraph (a) (3) (iv) of Appendix C provides that this flight training time may be reduced at a ratio of 1 hour of flight time to 2 hours of airplane simulator time or to 3 hours of flight engineer training device time (but not to less than 5 hours of flight time) if the Administrator finds the simulator or flight engineer training device accurately reproduces the design, function, and control characteristics, as pertaining to the duties and responsibilities of a flight engineer on the type of airplane to be flown. Several exemptions from paragraphs (a) (3) (i) and (iv) have been granted to air carriers.

A flight engineer student holding at least a commercial pilot certificate with an instrument rating has passed written tests on general operating and air traffic rules, meteorology, theory of flight, operating and maintaining aircraft, and emergency procedures; and he must have logged at least 200 hours of flight time, including at least 100 hours as pilot in command and at least 40 hours of instrument time. This extensive flight experience indicates knowledge of the various conditions and phenomena associated with flight, with little need for further experiencing the conditions of noise, vibrations, and other environmental conditions associated with actual flight. It is considered that in such a case the substitution of airplane flight simulator time for all or a portion of the 5 hours now required as a minimum of actual flight instruction time, will be appropriate for the purpose of satisfying aeronautical experience requirements for a flight engineer certificate.

It is proposed, therefore, to allow, as to a student in an approved flight engineer course who holds at least a commerical pilot certificate with an instrument rating, the substitution of airplane simulator or flight engineer training device time, at the existing ratios, for all 10 hours of flight instruction training time now required by paragraph (a) (3) (i) of Appendix C. In such a case, however, the substitution of flight engineer training device time would be limited to 15 hours at the ratio of 3 to 1. In effect, this means that the additional substitution that would be allowed by this proposal would be the substitution of only airplane simulator time for actual flight instruction time. This limitation is proposed because, unlike a flight engineer training device, the airplane simulator provides training on the broader scale of an entire "crew concept" basis.

In consideration of the foregoing, it is proposed to amend paragraph (a) (3) (iv) of Appendix C to Part 63 of the Federal Aviation regulations to read as follows:

APPENDIX C

FLIGHT ENGINEER TRAINING COURSE REQUIREMENTS

(a) *Training course outline.* * * *

(3) *Flight course outline.* * * *

(iv) If the Administrator finds a simulator or flight engineer training device to accurately reproduce the design, function, and control characteristics, as pertaining to the duties and responsibilities of a flight engineer on the type of airplane to be flown, the flight training time may be reduced by a ratio of 1 hour of flight time to 2 hours of airplane simulator time, or 3 hours of flight engineer training device time, as the case may be, subject to the following limitations:

(*a*) Except as provided in subdivision (*b*) of this subparagraph, the required flight instruction time in an airplane may be not less than 5 hours.

(*b*) As to a flight engineer student holding at least a commercial pilot certificate with an instrument rating, airplane simulator or a combination of airplane simulator and flight engineer training device time may be substituted for up to all 10 hours of the required flight instruction time in an airplane. However, flight engineer training device time alone may not be substituted for more than 5 of those hours.

* * * * *

These amendments are proposed under the authority of sections 313(a), 601, and 602 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on November 11, 1971.

R. S. SLIFF,
Acting Director,
Flight Standards Service.

[FR Doc.71-16796 Filed 11-17-71;8:46 am]

Federal Railroad Administration

[49 CFR Parts 233, 234]

[Docket No. FRA Signal-4, Notice 1]

SIGNAL REPORTS

Notice of Proposed Rule Making

The Federal Railroad Administration (FRA) is considering amending Parts 233 and 234 of Title 49, Code of Federal Regulations.

The proposed revision would:

(1) Consolidate both parts into a single part;

(2) Simplify annual reports by replacing the three separate forms now required with a single form;

(3) Require signal failures to be reported within 5 days of occurrence, instead of 30 days after the end of the calendar month in which the failure occurred;

(4) Add a new requirement that "no failure" months be reported within 10

days after the end of each calendar month in which no signal failure occurs;

(5) Set forth the applicable statutory penalties for violations.

FRA believes that these changes will bring about more effective administration of section 25 of the Interstate Commerce Act, 49 U.S.C. 27, commonly referred to as the Signal Inspection Act.

Interested persons are invited to participate by submitting written data, views, or comments. Communications should identify the regulatory docket number and notice number, and should be submitted in triplicate to the Docket Clerk, Office of Hearings and Proceedings, Federal Railroad Administration, Attention: Docket No. FRA Signal-4, 400 Seventh Street SW., Washington, DC 20590. Communications received before December 15, 1971, will be considered by the Federal Railroad Administrator before taking final action. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5100, Nassif Building, 400 Seventh Street SW., Washington, DC. The proposals contained in this notice may be changed in light of comment received.

In consideration of the foregoing, it is proposed to amend Part 233 and revoke Part 234 as set forth below.

Issued in Washington, D.C., on November 11, 1971.

JOHN W. INGRAM,
Federal Railroad Administrator.

PART 233—SIGNAL SYSTEMS REPORTING REQUIREMENTS

Sec.
233.1 Scope.
233.3 Application.
233.5 Accidents resulting from signal failure.
233.7 Signal failure reports.
233.9 Annual reports.
233.11 Civil penalty.
233.13 Criminal penalty.

AUTHORITY: The provisions of this Part 233 issued under secs. 12, 20, 24 Stat. 383, 386, as amended, sec. 441, 41 Stat. 498, as amended, sec. 6 (e), (f), 80 Stat. 939, 49 U.S.C. 12, 20, 27, 1655.

§ 233.1 Scope.

This part prescribes reporting requirements with respect to methods of train operation, interlocking and controlled points, automatic train stop, train control and cab signal systems, and other similar appliances, devices, methods and systems.

§ 233.3 Application.

This part applies to each common carrier by railroad subject to section 25 of the Interstate Commerce Act, 49 U.S.C. 27.

§ 233.5 Accidents resulting from signal failure.

Each carrier shall immediately report by telegram to the Director, Bureau of Railroad Safety, Federal Railroad Administration, Washington, D.C. 20591, each accident described in § 225.14 of this chapter in which an appliance, method, or system subject to this part fails to indicate or function as intended. This notice should describe the failure and the role it played in the accident.

§ 233.7 Signal failure reports.

(a) Each carrier shall report, within 5 days, each appliance, device, method or system subject to this part which fails to indicate or function as intended. Form FRA F6180-14, Signal Failure Report,[1] must be used for this report and must be completed in accordance with instructions printed on the form.

(b) Whenever there have been no failures of the nature described in paragraph (a) of this section, on the line of a carrier in a calendar month, the carrier shall report this fact on Form FRA 6180-14 within 10 days after the end of that calendar month.

§ 233.9 Annual reports.

Before January 16 of each year, each carrier shall file a report for the preceding calendar year on Form FRA F6180-47, Signal Systems Annual Report,[1] in accordance with instructions and definitions printed on the form.

§ 233.11 Civil penalty.

Each carrier that fails or refuses to file reports required by this part is liable to a civil penalty of $100 for each offense, as prescribed by section 25 of the Interstate Commerce Act, 49 U.S.C. 27. Each day a failure or refusal continues is a separate offense.

§ 233.13 Criminal penalty.

Whoever knowingly and willfully—

(a) Makes, causes to be made, or participates in the making of a false entry in reports required to be filed by this part; or

(b) files a false report or other document required to be filed by this part;

Is subject to a $5,000 fine and two years imprisonment as prescribed by section 20 of the Interstate Commerce Act, 49 U.S.C. 20.

[1] Filed as part of original document.

[FR Doc.71-16788 Filed 11-17-71;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 21]

[Docket No 19309; File Nos. 19393-19415-LJ-60X]

MICROWAVE RADIO FACILITIES

Grant of Applications; Extension of Time

Order. In the matter of Preston Trucking Co., Inc., Preston, Md., on reconsideration of grant of applications for microwave radio facilities in the motor carrier radio service. Inquiry into certain arrangements for cooperative use of private microwave systems.

1. On November 11, 1971, Transportation Microwave Corp. filed a petition for extension of time for filing reply comments in this proceeding. It asks that the time for replies be extended from November 15, 1971, to November 29, 1971. In support, it states the additional time is needed because of the number of comments which have been filed and the inherent complexity of the subject matter of the rule making.

2. Because of the importance of this proceeding and the desire to see that all parties have a full opportunity to formulate and present their views on the issues, and, further, in view of the fact that petitioner asks only eight additional working days for the purpose, its request will be granted.

3. Accordingly, pursuant to the provisions of §§ 1.45(e) and 0.331(a)(4) of the Commission's rules: *It is ordered,* That the time for filing reply comments in the above-entitled proceeding is extended to November 29, 1971.

Adopted and released; November 12, 1971.

[SEAL] VERNON A. SPRING,
Acting Chief, Safety and Special Radio Services Bureau.

[FR Doc.71-16856 Filed 11-17-71;8:52 am]

Notices

DEPARTMENT OF THE INTERIOR

Office of the Secretary

HAROLD M. McCLURE, JR.

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

(1) None.
(2) None.
(3) None.
(4) None.

This statement is made as of November 5, 1971.

Dated: November 5, 1971.

HAROLD M. McCLURE, Jr.

[FR Doc.71-16843 Filed 11-17-71;8:50 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. S-566]

THEODORE C. BALLEW

Notice of Loan Application

NOVEMBER 11, 1971.

Theodore C. Ballew, 528 Southwest 294th Street, Federal Way, Washington 98002, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 32 feet in length, to engage in the fishery for salmon.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.71-16830 Filed 11-17-71;8:49 am]

LOANS TO COMMERCIAL FISHERMEN

Intent To Request Proposals for Master Hull Policies

NOVEMBER 11, 1971.

Under the terms of the mortgages utilized in connection with loans to commercial fishermen authorized in section 4 of the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742c) and Reorganization Plan No. 4 of 1970 (35 F.R. 15627), a mortgagor is required to obtain, among other things, hull insurance satisfactory to the Secretary of Commerce. Some of the basic requirements as respects the hull insurance coverage are that (a) the United States of America be the sole loss payee; (b) the vessel be insured for its full commercial value but in no event less than 110 percent of the outstanding balance of the note secured by the mortgage; and (c) the policy contain satisfactory Inchmaree and Breach of Warranty Clauses. In the past, as a service to our borrowers and to potential borrowers, the interested public was notified that the Commercial Fishermen's Inter-Insurance Exchange had a Master Hull Policy which, both in form and substance, met the requirements of our mortgage. This notice was merely informational and did not require the utilization of said Master Hull Policy. This Master Hull Policy expires on January 1, 1972.

The National Marine Fisheries Service in fulfilling its obligations under the Fish and Wildlife Act of 1956, as amended and Reorganization Plan No. 4 of 1970, desires to again notify the interested public of the existence of any Master Hull Policies which may be available to commercial fishing vessel owners or operators whose vessels serve as collateral for fisheries loans. The name of any qualifying insurance company submitting a Master Hull Policy, found acceptable for use in connection with the National Marine Fisheries Service lending program, will be placed in an informational release along with the applicable premium charges. While this release will be distributed to the interested public there will be no compulsion that a borrower utilize any Master Hull Policy listed in such release.

Notice is hereby given of the intent to issue a request for such proposals. Interested persons may submit written comments, suggestions or objections with respect to this request for proposals to the Director, National Marine Fisheries Service, Department of Commerce, Interior Building, Washington, D.C. 20235, by December 15, 1971.

ROBERT W. SCHONING,
Acting Director.

[FR Doc.71-16831 Filed 11-17-71;8:49 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

PUBLIC HEALTH SERVICE; HEALTH SERVICES AND MENTAL HEALTH ADMINISTRATION

Statement of Organization, Functions, and Delegations of Authority

The Secretary, upon the recommendation of the Administrator, HSMHA, has reorganized the offices within the Office of the Administrator and has created a new component entitled Comprehensive Health Planning Service (3000). The reorganization created the following offices or positions:

Office of Special Projects (3A0107).
Office of Equal Employment Opportunity (3A0108).
Deputy Administrator for Prevention and Consumer Services (3A06).
Deputy Administrator for Health Services Delivery (3A07).
Deputy Administrator for Development (3A08).
Deputy Administrator for Mental Health (3A09).
Office of Operational Analysis (3A3104).
Associate Administrator for Regional Offices (3A37).

The reorganization also affects the following offices or positions:

(a) The Assistant Administrator for Management (2019) now is Associate Administrator for Management (3A19).

(b) The Assistant Administrator for Program Planning and Evaluation (2031) now is Associate Administrator for Program Planning and Evaluation (3A31).

(c) The Assistant Administrator for Resource Development (3A03) and the Assistant Administrator for Agency Goals (3A05) now are placed under the direction of the Associate Administrator for Program Planning and Evaluation (3A31).

(d) The Office of the Assistant Administrator for Organization Development (3A04) is abolished.

The Office of the Assistant Administrator for Information (3A17), the Office of the Assistant Administrator for Legislation (3A35), and the Office of Personnel remain unchanged.

The organization and functions statement to execute the above reorganization of the Office of the Administrator, HSMHA, and the creation of a new organization component, the Comprehensive Health Planning Service (3Q00), are introduced by and follow the next paragraph.

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-B, *Organization*, as follows:

Delete the following three paragraphs:

Office of Resource Development (3A03)

Office of Organization Development (3A04)

Office of Agency Goals (3A05)

Insert the following six paragraphs:

Office of Special Projects (3A0107). (1) Plans and directs on behalf of the Administrator such special programs as International Health and Appalachian Health which cut across organizational and program lines or which require the coordination of HSMHA-wide resources and efforts; (2) directs and coordinates the provision of expert program consultation and technical assistance to grant applicants with proposals requiring conjoint program and financial participation by two or more HSMHA operating programs; (3) initiates and maintains liaison with other Government agencies with which HSMHA has program relationships (such as OEO and the Departments of Labor and Agriculture) in order to ensure that their policy formulation and program development are compatible with HSMHA goals and to provide a formal channel to the Administrator by which interagency policy issues can be resolved; (4) monitors progress and resolves problems that may arise in connection with continuing intra-HSMHA activities requiring cooperation by two or more HSMHA operating programs; (5) provides a direct communication link between the public and the Office of the Administrator on problems or complaints about matters for which HSMHA has responsibility; and (6) provides staff services for the Office of the Administrator with respect to the designation of Special Projects as well as the assignment of project monitors and project managers for such projects.

Office of Equal Employment Opportunity (3A0108). (1) Plans, directs, and coordinates equal employment opportunity programs covering Headquarters and field employees; (2) provides staff advice to the Administrator, and other key officials throughout the Health Services and Mental Health Administration with respect to policies, plans, procedures, regulations, and reports pertaining to the general equal employment opportunity policy of the Federal Government and the Department's programs established under Executive Order 11246; (3) plans and develops programs and procedures designed to eliminate discriminatory employment practices; (4) receives and provides for the investigation of complaints of alleged discrimination; and (5) maintains liaison with the Office of the Secretary, the Civil Service Commission, and other organizations outside HSMHA concerned with equal employment opportunity.

Office of the Deputy Administrator for Prevention and Consumer Services (3A06). Under the direction of the Deputy Administrator for Prevention and Consumer Services—who serves as deputy to the Administrator in his assigned program area—plans, coordinates, evaluates, and provides leadership on a HSMHA-wide basis to prevention and consumer services activities: (1) Serves as advisor to the Administrator within his functional area, advising on program goals, objectives, fiscal priorities, and key issues; (2) in cooperation with the Associate Administrator for Management, reviews and coordinates the formulation and execution of program budgets to assure that they reflect current plans and strategy; (3) provides HSMHA-wide program leadership, acting as the representative of the Administrator in coordinating disease prevention, occupational health, and community environmental health activities; (4) monitors progress toward meeting individual program goals and recommends changes as appropriate; (5) in cooperation with the Associate Administrator for Program Planning and Evaluation evaluates program activities for mission effectiveness within both Headquarters and Regional Offices, and assesses total national effort in this regard; and (6) represents the Administrator within this functional area in relationships with the Office of the Secretary, and other authorities outside HSMHA.

Office of the Deputy Administrator for Health Services Delivery (3A07). Under the direction of the Deputy Administrator for Health Services Delivery—who serves as deputy to the Administrator in his assigned program area—plans, coordinates, evaluates, and provides leadership on a HSMHA-wide basis to health services delivery activities: (1) Serves as advisor to the Administrator within his functional area, advising on program goals, objectives, fiscal priorities, and key issues; (2) in cooperation with the Associate Administrator for Management, reviews and coordinates the formulation and execution of program budgets to assure that they reflect current plans and strategy; (3) provides HSMHA-wide program leadership, acting as the representative of the Administrator in coordinating health services delivery activities; (4) monitors progress toward meeting goals and recommends changes as appropriate; (5) in cooperation with the Associate Administrator for Program Planning and Evaluation evaluates these activities for mission effectiveness within both Headquarters and Regional Offices, and assesses total national effort in this regard; (6) and represents the Administrator within this functional area in relationships with the Office of the Secretary, and other authorities outside HSMHA.

Office of the Deputy Administrator for Development (3A08). Under the direction of the Deputy Administrator for Development—who serves as deputy to the Administrator in his assigned program area—plans, coordinates, evaluates, and provides leadership on a HSMHA-wide basis to health services development activities: (1) Serves as advisor to the Administrator within his functional area, advising on program goals, objectives, fiscal priorities, and key issues; (2) in cooperation with the Associate Administrator for Management, reviews and coordinates the formulation and execution of program budgets to assure that they reflect current plans and strategy; (3) provides HSMHA-wide program leadership, acting as the representative of the Administrator in coordinating health services research and development activities; (4) monitors progress toward meeting individual program goals and recommends changes as appropriate; (5) in cooperation with the Associate Administrator for Program Planning and Evaluation evaluates program activities for mission effectiveness within both Headquarters and Regional Offices, and assesses total national effort in this regard; (6) seeks to establish methods of testing those activities which come about as a result of research and development efforts in individual HSMHA programs; and (7) represents the Administrator within this functional area in relationships with the Office of the Secretary, and other authorities outside HSMHA.

Office of the Deputy Administrator for Mental Health (3A09). Under the direction of the Deputy Administrator for Mental Health—who serves as deputy to the Administrator in his assigned program area—plans, coordinates, evaluates, and provides leadership on a HSMHA-wide basis to mental health activities: (1) Serves as advisor to the Administrator within his functional area, advising on program goals, objectives, fiscal priorities, and key issues; (2) in cooperation with the Assistant Administrator for Management, reviews and coordinates the formulation and execution of program budgets to assure that they reflect current plans and strategy; (3) provides HSMHA-wide program leadership, acting as the representative of the Administrator in coordinating mental health activities; (4) monitors progress toward meeting goals and recommends changes as appropriate; (5) in cooperation with the Associate Administrator for Program Planning and Evaluation, evaluates these activities for mission effectiveness within both headquarters and regional offices, and assesses total national effort in this regard; and (6) represents the Administrator within this functional area in relationships with the Office of the Secretary, and other authorities outside HSMHA.

Also, after the paragraph entitled "Office of Information (3A17)," in lieu of the paragraph entitled "Office of the Assistant Administrator for Management (2019)," insert the following paragraph:

Office of the Associate Administrator for Management (3A19). Under the direction of the Associate Administrator for Management, who is a member of the Administrator's immediate staff: (1) serves as the Administrator's principal staff arm for providing Administration-wide leadership in all phases of management; (2) participates in executive policy formulation and execution; (3) advises on management implications of Administration plans and programs; (4) directs and coordinates the Administration's activities in the areas of management policy, systems management, financial management, procurement and materiel

management, grants management, engineering consultation, HSMHA library, and PHS claims activities; (5) collaborates with the Associate Administrator for Program Planning and Evaluation in the development and implementation of the 5-year program and financial plan for the Administration's Program Planning and Budgeting System; and (6) assures coordination and liaison in these areas between the Administrator and the operating program offices.

Also, after the paragraph entitled "Office of Grants Management (20198)," in lieu of the paragraph entitled "Office of Program Planning and Evaluation (2031)," insert the following paragraphs:

Office of the Associate Administrator for Program Planning and Evaluation (3A31). Under the direction of the Associate Administrator for Program Planning and Evaluation who is a member of the Administrator's immediate staff: (1) Serves as the Administrator's principal staff arm for program planning, coordination, and evaluation, including the development of program alternatives and policy positions; (2) oversees planning, reporting, and analytical and evaluation functions in support of policy formulation and program implementation; (3) advises the Administrator and his immediate staff on program policy, and operational implications arising from activities of the Office; (4) collaborates with the Office of the Associate Administrator for Management in the development and implementation of the 5-year program and financial plan for the Administration's Program Planning and Budgeting System; (5) maintains liaison with other Federal and non-Federal health agencies; (6) coordinates and provides service to the Administrator's Office regarding HSMHA-wide programs of operations analysis (methods and applications), goal-oriented planning and program structure control, and related data management; (7) coordinates a continuing evaluation of HSMHA goals for improving health services to include analysis of trends and developments in this area and derivation of long-term projections for HSMHA activities; (8) plans and coordinates HSMHA-wide programs for the development of human and technological resources necessary to carry out the objectives and programs of HSMHA; and (9) assures program coordination and liaison in these areas between the Administrator and the operating program offices.

Office of Operational Analysis (3A3104). (1) Plans, develops, implements, and monitors an operations analysis program, involving the coordinated application of scientific methods to the solution of planning, programing, budgeting, and operational execution problems; (2) identifies for the Administrator the need for information and data for use in decisionmaking and management of HSMHA programs; (3) fosters improved use of management information and data utilizing existing information sources, or new information and data sources, and develops—in cooperation with the Office of Systems Management, other parts of the Office of the Administrator, the National Center for Health Statistics, or other HSMHA programs—such information and data sources to encompass HSMHA programs, related Federal activities, health services and resources, and health status; and (4) presents data and analyses for use in HSMHA decisionmaking at all organization levels, headquarters and field, in relationships with the Office of the Secretary, the Office of Management and Budget, other Federal agencies, the Congress, and State and local governments and instrumentalities, and for use by the professional and general public in understanding and utilizing HSMHA program resources.

Office of the Assistant Administrator for Resource Development (3A3106). Under the direction of the Assistant Administrator for Resource Development, plans and coordinates HSMHA-wide programs for the development of the human and technological resources needed to improve the delivery of health care: (1) Plans and conducts programs to generate optimum use of resources; (2) identifies and evaluates technological and social changes as they impact on the health care system; (3) examines potential for increased automation and mechanization in public health programs and health care delivery; (4) arranges and evaluates the results of studies of new and different health career patterns; and (5) develops plans for and coordinates the implementation of improved techniques in resource utilization.

Office of the Assistant Administrator for Agency Goals (3A3108). Under the direction of the Assistant Administrator for Agency Goals, placing special emphasis upon direct participation by youth, directs a continuing evaluation and reevaluation of long-range objectives in terms of the health services needs and resources of the Nation: (1) Conducts long-range studies to identify national health services needs; (2) advises the Administrator on appropriate role of the Health Services and Mental Health Administration in meeting these needs, taking into account the proper functions and responsibilities of other Federal agencies, State and local governments, the views of medical and other student community organizations, and total available resources both public and private; (3) formulates and recommends the adoption of Administration goals necessary to fulfillment of its role; and (4) continually evaluates the appropriateness of existing objectives and progress toward achieving broad goals.

Office of the Associate Administrator for Regional Offices (3A37). Under the direction of the Associate Administrator for Regional Offices, who serves as a member of the Administrator's immediate staff, advises the Administrator on Regional Office matters affecting the mission of HSMHA, and acts as the representative of the Administrator in coordinating and monitoring Regional programs. Specifically: (1) Provides Administration-wide leadership in all phases of Regional Office activity; (2) assists in resolving policy problems and priorities between regions and between Regional Offices and Headquarters components; (3) in cooperation with the Deputy and Associate Administrators, reviews and coordinates Regional goals, objectives, and priorities, and monitors the budget formulation and execution for Regional activities; (4) in cooperation with the Associate Administrator for Management, coordinates and expedites recommendations on staffing and budgetary needs of Regional Offices, both their central and program staffs; (5) coordinates recruitment and career development activities for Regional positions and employees; (6) evaluates total Regional operations in terms of program accomplishment and delegations of authority, recommending changes in program priorities or regionalization efforts as appropriate; and (7) represents the Administrator on Regional matters in relationships with the Office of the Secretary and other authorities outside HSMHA.

Also, after the paragraph entitled "Division of Research (3N51)," delete the center head "Community Health Service (3P00)" and substitute the following center head and succeeding paragraph:

COMMUNITY HEALTH SERVICE (3P00)

Stimulates, conducts, supports, and evaluates programs designed to increase the effectiveness and efficiency of allocating and utilizing health resources for quality preventive and curative health services obtainable and acceptable to the American people. To this end, the Service promotes, develops, and supports: (1) Programs of comprehensive health care focused on the needs of individuals and families wherever they live; (2) standards and evaluative activities as means of increasing the Nation's capacity for delivering quality health services; and (3) activities designed to increase the scope and adequacy of balanced resources for the provision of comprehensive personal health services.

Also, after the paragraph entitled "Division of Health Care Services (3P55)," insert the following new center head and succeeding paragraph:

COMPREHENSIVE HEALTH PLANNING SERVICE (3Q00)

(1) Provides leadership in the development and operation of programs to provide grants to State and local agencies for the conduct and improvement of comprehensive State and area health planning; (2) develops policy issuances and program guidelines for the conduct of comprehensive health planning under section 314 of the Public Health Service Act; (3) establishes and maintains a system of pertinent communication and information exchange with other Federal agencies and national organizations concerned with planning or having related health interests; (4) stimulates and participates in the development of projects and administers a grant program for studies, training and demonstrations looking toward the improvement of comprehensive health planning techniques; (5) recommends funding for training; (6) provides technical assistance to Regional Offices and participates at their request in providing consultation and in-

formation on comprehensive health planning to States and communities; and (7) conducts analyses and comparisons of the progress of State and areawide planning programs with particular attention to their implications for Federal policy.

RODNEY H. BRADY,
Assistant Secretary for Administration and Management.

NOVEMBER 12, 1971.

[FR Doc.71-16842 Filed 11-17-71;8:50 am]

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board

[Docket No. SA-430]

AIRCRAFT ACCIDENT AT PEORIA, ILL.

Notice of Accident Investigation Hearing

In the matter of investigation of accident involving Chicago and Southern Airlines, Inc., Beech E-18S (ATECO Westwind II) of U.S. registry N51CS, near Peoria, Ill., October 21, 1971, Docket No. SA-430.

Notice is hereby given that an Accident Investigation Hearing on the above matter will be held commencing at 9:30 a.m., local time on December 15, 1971, in the El Cid Room of the Ramada Inn, Peoria, Ill.

Dated this 12th day of November 1971.

[SEAL] JAMES W. KUEHL,
Hearing Officer.

[FR Doc.71-16841 Filed 11-17-71;8:50 am]

Office of Pipeline Safety

[Waiver No. 3; Docket No. OPS-12]

UNITED GAS PIPELINE CO.

Grant of Waiver of Certain Requirements

By petition received July 13, 1971, the United Gas Pipeline Company of Shreveport, La., petitioned for a waiver from the requirements of § 192.55 of the Federal safety standards for gas pipelines (49 CFR 192.55). Section 192.55 establishes the qualifications for steel pipe used in gas pipeline facilities. The petitioner has 4,778 tons of 20" O.D. API 5LX 60 pipe in storage that was manufactured in accordance with the 1963 edition of API 5LX, an edition of that specification which is not listed in section I of Appendix B to Part 192. In order for the petitioner's pipe to be used in a gas pipeline facility it would have to meet the requirements of section II of Appendix B, requirements that petitioner alleges are neither applicable, appropriate, nor necessary.

In support of its position that the pipe meets an equivalent level of safety to that required by section II of Appendix B the petitioner submitted detailed information and documentation. This detailed safety justification for the requested waiver is set forth in a notice of hearing published in the FEDERAL REGISTER on September 23, 1971, 36 F.R. 18899.

A public hearing was held at the Office of Pipeline Safety on October 21, 1971. The only persons appearing at the hearing were representatives of the petitioner in support of petitioner's position and two industry association observers.

Based upon the information and data supplied with the petition and as a result of testimony at the public hearing, it appears that the pipe in question substantially meets the requirements of the listed specifications API 5XL 1967 edition for pipe of this size and grade. It was further established in the hearing that the use of the pipe would not derogate safety and that the storage of the pipe was in accordance with acceptable practices to preserve the integrity of the pipe.

In consideration of the foregoing, I find that permitting the petitioner to use the 4778 tons of 20" O.D. API 5XL 60 pipe that was manufactured in accordance with the 1963 edition of API 5XL would not adversely affect safety and would be in the public interest. Therefore, pursuant to the authority contained in the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. 1671 et seq.), Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1), and the delegation of authority to the Director, Office of Pipeline Safety (33 F.R. 16468), United Gas Pipeline Co. is hereby granted a waiver from the provisions of 49 CFR 192.55 to permit it to use the aforementioned pipe in its gas pipeline facilities.

Issued in Washington, D.C., on November 12, 1971.

JOSEPH C. CALDWELL,
Acting Director,
Office of Pipeline Safety.

[FR Doc.71-16827 Filed 11-17-71;8:49 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-344]

PORTLAND GENERAL ELECTRIC CO. ET AL.

Determination Not To Suspend Construction Activities at Trojan Nuclear Plant Pending Completion of NEPA Environmental Review

The Portland General Electric Co., the city of Eugene, Oreg., and Pacific Power and Light Co. (the licensees) are the holders of Construction Permit No. CPPR-79 (the construction permit), issued by the Atomic Energy Commission on February 8, 1971. The construction permit authorizes the licensees to construct a pressurized water nuclear power reactor designated as the Trojan Nuclear Plant, at a site adjacent to the Columbia River in Columbia County, Oreg. The facility is designed for initial operation at approximately 3,423 megawatts (thermal).

In accordance with section E.3 of the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), Appendix D of 10 CFR Part 50 (Appendix D), the licensees have furnished to the Commission a written statement of reasons, with supporting factual submission, why the construction permit should not be suspended, in whole or in part, pending completion of the NEPA environmental review. This statement of reasons was furnished to the Commission on September 27, 1971.

The Director of Regulation has considered the licensee's submission in the light of the criteria set out in section E.2 of Appendix D, and has determined, after considering and balancing the criteria in section E.2 of Appendix D, that construction activities at the Trojan Nuclear Plant authorized pursuant to CPPR-79 should not be suspended pending completion of the NEPA environmental review.

Further details of this determination are set forth in a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Trojan Nuclear Plant, AEC Docket No. 50-344, November 11, 1971."

Pending completion of the full NEPA review, the holders of Construction Permit No. CPPR-79 proceed with construction at their own risk. The determination herein and the discussion and findings hereinabove referred to do not preclude the Commission, as a result of its ongoing environmental review, from continuing, modifying or terminating the construction permit or from appropriately conditioning the permit to protect environmental values.

Any person whose interest may be affected by this proceeding, other than the licensees, may file a request for a hearing within thirty (30) days after publication of this determination in the FEDERAL REGISTER. Such a request shall set forth the matters, with reference to the factors set out in section E.2 of Appendix D, alleged to warrant a determination other than that made by the Director of Regulation and shall set forth the factual basis for the request. If the Commission determines that the matters stated in such request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

The licensees' statement of reasons, furnished pursuant to section E.3 of Appendix D, as to why the construction permit should not be suspended pending completion of the NEPA environmental review, and the document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Construction Permit for the Trojan Nuclear Plant, AEC Docket No. 50-344, November 11, 1971,"

are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Columbia County Courthouse, Law Library, Circuit Courtroom, St. Helens, Oreg. 97501. Copies of the "Discussion and Findings" document may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Director of Reactor Licensing.

Dated at Bethesda, Md., this 12th day of November 1971.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.71-16829 Filed 11-17-71;8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report 570]

COMMON CARRIER SERVICES INFORMATION [1]

Domestic Public Radio Services Applications Accepted for Filing [2]

NOVEMBER 15, 1971.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previosly filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

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

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

APPENDIX

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

2635-C2-AL-72—Alexandria Telephone Co., Consent to assignment of license from Alexandria Telephone Co., Assignor, to Pioneer-United Telephone Co., Assignee. Station KFL953, Alexandria, Minn.

2636-C2-P-72—Miami Valley Radiotelephone (New), For a new one-way station to be located at water tower on Mack Road, 0.5 mile west of Ross Road, Fairfield, Ohio, to operate on 158.70 MHz.

2637-C2-P-72—AAA Telephone Answering Service (KLB781), For additional facilities to operate on 454.250 MHz at a new site described as location No. 3: Louisiana National Bank Building, Baton Rouge, La.

2638-C2-P-72—Southern Message Service, Inc. (New), For a new one-way station to be located on Knoe Road, 0.4 mile north of Highway No. 80, Monroe, La., to operate on 152.24 MHz.

2639-C2-P-72—The Conestoga Telephone & Telegraph Co. (KGI771), For additional facilities to operate on 454.625 MHz at a new site described as location No. 2: 3.5 miles west of Boyerton, Pa.

2640-C2-P-72—Monroe Radiotelephone Co. (KKM574), Change the antenna system and power for facilities operating on 152.12 MHz at location No. 2: 1.5 miles east of junction of Highways No. 15 and No. 84, Laurel, Miss.

2723-C2-AL-72—Mobile Telephone Co. of Alabama, Consent to assignment of license from Joe Cameron, doing business as Mobile Telephone Co. of Alabama, Assignor, to Mobile Telephone Co. of Alabama, Assignee. Station KQZ778 Dora, Ala.

2747-C2-P-72—Telecom (KLB502), Relocate facilities operating on 152.210 MHz to 5 miles north of Sherman, Tex., on Highway No. 75.

2748-C2-P-72—Evans Telephone Answering Service (KIY760), Change the antenna system operating on 35.22 MHz located at 1400 Main Street, Columbia, SC.

2765-C2-P-(8)72—Kidd's Communications, Inc. (KMA257), Location No. 2: 215 East 18th Street, Bakersfield, CA, change the antenna system, replace transmitters, delete control frequencies 72.26, 72.34, 73.62, 73.14, 459.15, and 459.325 MHz and one 459.125 frequency and transmitters, and add frequencies 2162 and 2178 MHz control. Location No. 3: 105 Asher Street, Taft, CA, relocate 72.26 MHz control facilities from location No. 2: Location No. 4: Paleto Hill, Calif., change the repeater frequency to 2128 MHz and change the antenna system. Location No. 5: Granite Station Hill, Calif., add base frequency 454.175 MHz, change repeater frequency from 72.70 MHz to 2112 MHz, replace transmitters operating on 75.78 and 75.92 MHz and change the antenna system.

2766-C2-P-(2)72—Southeastern Telephone Co. (KIY73), Change the antenna system and relocate facilities operating on 152.63 and 152.66 MHz to: 305 Hollywood Boulevard, Fort Walton Beach, FL.

2783-C2-P-72—Instant Communications, Inc. (KQD303), Change the antenna system and relocate facilities operating on 152.24 MHz to: 10 Witherall Street, Detroit, MI.

2784-C2-P-72—Answer Iowa, Inc. (New) (Resubmitted), For a new one-way station to be located on 13th Avenue North, Clinton, IA, to operate on 158.70 MHz.

Major Amendments

1974-C2-P-(2)-70—RCC of Virginia, Inc. (KIY394), Amended to read: To operate on frequencies 152.06 and 152.18 MHz. See public notice dated Oct. 27, 1969, Report No. 463.

6322-C2-P-(6)-71—Kidd's Communications, Inc. (KMA257), Amended to: Delete the control facilities on 75.62 and 75.68 MHz at location No. 2 and the repeater facilities on 72.10 and 72.20 MHz at location No. 4. Substitute control facilities to operate on 2178 MHz at location No. 2 and repeater facilities to operate on 2128 MHz at location No. 4. See public notice dated May 17, 1971, Report No. 544.

2166-C2-P-72—Ratel Communication Co. (New), Amended to change base frequency to 152.24 MHz. See public notice dated Oct. 26, 1971, Report No. 567.

Correction

2269-C2-P-72—Liberty Communication (KCI310), Correct to read: Replace transmitter operating on 35.58 MHz and change the transmission line located at 20 Yarmich Drive, Bridgeport (Fairfield), CT. See public notice dated Nov. 1, 1971, Report No. 568.

RURAL RADIO SERVICE

2724-C1-P-72—RCA Alaska Communications, Inc. (WGF50), Change the antenna system on 85.1 MHz communicating with station WGF70, Boswell Bay, Alaska. Location: Valdez, Alaska.

2725-C1-P-72—RCA Alaska Communications, Inc. (WGF70), Change the antenna system on 77.1 MHz communicating with station WGF50, Valdez, Alaska. Location: Hinchenbrook Island, Boswell Bay, Alaska.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)

2785-C1-P-72—The Mountain States Telephone & Telegraph Co. (WDD47), Location: Bear Spring, 12 miles northwest of Huachuca Village, Ariz., latitude 31°46′08″ N., longitude 110°27′58″ W. To add frequency 2178.0 MHz toward Mount Lemmon, Ariz.

POINT-TO-POINT MICROWAVE RADIO SERVICE (TELEPHONE CARRIER)—Continued

2786-C1-P-72—The Mountain States Telephone & Telegraph Co. (KPN80), Location: Mount Lemmon, 18.4 miles north-northeast of Tucson, Ariz., latitude 32°26'21" N., longitude 110°47'14" W. To add frequencies 2120.0 MHz toward Kelvin, Ariz. and 2128.0 MHz toward Bear Spring, Ariz.

2787-C1-P-72—The Mountain States Telephone & Telegraph Co. (New), A new station located at 5.6 miles west-southwest of Kelvin, Ariz., latitude 33°04'10" N., longitude 111°03'13" W. Frequency: 2170.0 MHz toward Mount Lemmon, Ariz.

2788-C1-P-72—American Telephone & Telegraph Co. (KEA77), Location: 0.8 mile north of Cherryville, N.J. Latitude 40°34'18" N., longitude 74°54'22" W. Frequency: 4170 MHz directed toward Sayreville, N.J., added.

2789-C1-P-72—American Telephone & Telegraph Co. (KEM72), Location: Sayreville, 1.75 miles west of South Amboy, N.J. Latitude 40°27'18" N., longitude 74°17'46" W. Frequency 4130 MHz toward Cherryville and Newark, N.J., added.

2790-C1-P-72—American Telephone & Telegraph Co. (KEG63), Location: 95 William Street, Newark, N.J. Latitude 40°44'04" N., longitude 74°10'42" W. To add frequency 4170 MHz toward Sayreville, N.J.

2791-C1-P/L-72—The Mountain States Telephone & Telegraph Co. (New), A new station located at 7.5 miles northwest of Apache Junction, Ariz. Latitude 33°29'39" N., longitude 111°38'26" W. Frequencies: 5945.2 MHz and 6063.8 MHz toward Kelvin, Ariz.

2792-C1-P/L-72—The Mountain States Telephone & Telegraph Co. (New), A new station located 5.6 miles west-southwest of Kelvin, Ariz. Latitude 33°04'10" N., longitude 111°-03'13" W. Frequencies 6197.2 and 6315.9 MHz toward Apache Junction, Ariz.

1460-C1-P/ML-72—American Telephone & Telegraph Co. (KQA83), Location: 1365 Cass Avenue, Detroit, MI. Latitude 42°19'57" N., longitude 83°03'14" W. To increase power to 5 watts, and modifying the authorized TD-2 transmitters to Type TD-2-5W.

Major Amendments; Corrections

6289-C1-P-70—Nebraska Consolidated Communications Corp., Sand Springs, Mo., Site No. 105. Correct location to read: Sand Springs, Okla. All other terms same as indicated in Report No. 559 dated Aug. 30, 1971.

889-C1-P-72—Nebraska Consolidated Communications Corp., Correct reference report No. to read No. 559. See correction on Report No. 564 dated Oct. 4, 1971.

POINT-TO-POINT MICROWAVE RADIO SERVICE (NONTELEPHONE)

2751-C1-P-72—Microwave Service Co. (WHA77), Location: 4.4 miles east of Modjeska, Calif., at latitude 32°42'41" N., longitude 117°33'16" W. To add frequency 10,855 MHz on azimuth 62°15'. Applicant proposes to pick up the signal of KMEX(TV) of Los Angeles at a point which is closer to that station in order to improve the signal quality on their system.

2819-C1-P-72—Mountain Microwave Corp. (KZI52), Application to reinstate that portion of expired construction permit No. 2196-C1-P-69 that authorized the transmission of frequencies 6256.5, 6315.9, and 6375.2 MHz, via power-split, toward Redfield, S. Dak., on azimuth 31°35', for delivery of three Denver television signals (KWGN-TV/KBTV(TV)/KOA-TV) to CATV system in Redfield, S. Dak. Station location: Spring Lake, 9.5 miles west-northwest of Danforth, S. Dak.

The following applicants propose to establish omnidirectional facilities for the provision of common carrier "Subscriber-Programed" television service.

2814-C1-P-72—Microwave Transmission Corp. (New), A new station to be located at 921 J Street, Sacramento, CA. Latitude 38°34'49" N., longitude 121°29'26" W. Frequencies: 2152.325V (visual) and 2150.20 MHz (aural) directed toward various receiving points of system and 2158.50 (visual) and 2154.00 MHz (aural) directed toward various receiving points of system.

2815-C1-P-72—Microwave Transmission Corp. (New), A new station located at 530 B Street, Portland, OR. Latitude 45°27'12" N., longitude 122°32'49" W. Frequencies: 2152.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

2816-C1-P-72—Microwave Transmission Corp. (New), A new station located at 1001 Fourth Avenue, Seattle, WA. Latitude 47°36'21" N., longitude 122°19'58" W. Frequencies: 2152.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

2817-C1-P-72—Microwave Transmission Corp. (New), A new station located at 4103 South Regal Street, Spokane, WA. Latitude 47°37'00" N., longitude 117°121'55" W. Frequencies: 2152.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

2818-C1-P-72—Microwave Transmission Corp. (New), A new station located at 1 Hotel Way, Anaheim, CA. Latitude 33°48'25" N., longitude 117°54'35" W. Frequencies: 2152.325 MHz (visual) and 2150.20 MHz (aural) toward various receiving points of system and 2158.50 MHz (visual) and 2154.00 MHz (aural) toward various receiving points of system.

[FR Doc.71-16854 Filed 11-17-71;8:51 am]

FEDERAL MARITIME COMMISSION

AMERICAN MAIL LINE, LTD., AND EVERETT ORIENT LINE, INC.

Notice of Agreement Filed

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

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

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

Notice of agreement filed by:

Mr. W. R. Purnell, District Manager, American Mail Line, Ltd., 601 California Street, Suite 610, San Francisco, CA 94108.

Agreement No. 9825-1 reflects a request from American Mail Line, Ltd. (AML) and Everett Orient Line, Inc. (Everett) to revise the division of through rates and the cost of cargo transfer expenses from their transshipment operations. Article 5 will permit the through rates to be apportioned 75 percent to AML and 25 percent to Everett. Article 6, the expenses of transshipment on all cargo will be on the basis of 75 percent to AML and 25 percent to Everett.

Dated: November 12, 1971.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16849 Filed 11-17-71;8:51 am]

D. C. ANDREWS AND CO., INC., AND D. C. ANDREWS INTERNATIONAL, INC.

Notice of Agreement Filed

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

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

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

Notice of agreement filed for approval by:

Hakon Olsson, D. C. Andrews & Co., Inc., One Whitehall Street, New York, NY 10004.

Agreement No. FF 71-10 is a memorandum of understanding to merge between D. C. Andrews & Co., Inc., FMC-922 and its wholly owned subsidiaries, D. C. Andrews & Co. of Louisiana, Inc., FMC-606, D. C. Andrews & Co. of Maryland, Inc., FMC-586, D. C. Andrews & Co. of Massachusetts, FMC-659, and D. C. Andrews International, Inc., FMC-666. The surviving corporation is to be the already existing subsidiary, D. C. Andrews International, Inc., which will operate the previous companies as branch offices under their present management. Independent Ocean Freight Forwarder Licenses 922, 606, 586, and 659 will be surrendered to the Federal Maritime Commission for revocation upon approval of the subject agreement.

Dated: November 12, 1971.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16850 Filed 11-17-71;8:51 am]

HELLENIC CRUISES, S.A.

Notice of Application for Casualty Certificate

Security for the protection of the Public; financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Hellenic Cruises, S.A., Akti Miaouli 33, Piraeus, Greece.

Dated: November 15, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16845 Filed 11-17-71;8:50 am]

HELLENIC CRUISES (MONROVIA), S.A.

Notice of Application for Casualty Certificate

Security for the protection of the public, financial responsibility to meet liability incurred from death or injury to passengers or other persons on voyages.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages pursuant to the provisions of section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Hellenic Cruises (Monrovia) S.A., Akti Miaouli 33, Piraeus, Greece.

Dated: November 15, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16846 Filed 11-17-71;8:50 am]

HELLENIC CRUISES, S.A.

Notice of Application for Performance Certificate

Security for the protection of the public; indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Hellenic Cruises, S.A., Akti Miaouli 33, Piraeus, Greece.

Dated: November 15, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16847 Filed 11-17-71;8:50 am]

LIBERTY TRAVEL SERVICE, INC., AND HELLENIC CRUISES (MONROVIA), S.A.

Notice of Application for Performance Certificate

Security for the protection of the public; indemnification of passengers for nonperformance of transportation.

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation pursuant to the provisions of section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Liberty Travel Service, Inc., 135 West 41 Street, New York, NY, and Hellenic Cruises (Monrovia) S.A., Akti Miaouli 33, Piraeus, Greece.

Dated: November 15, 1971.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.71-16848 Filed 11-17-71;8:50 am]

DOMINION NAVIGATION CO. LTD.

Order of Revocation

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-42 and Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages No. C-1,007.

Whereas, Dominion Navigation Co. Ltd., c/o H. C. Sleigh Ltd., 160 Queen Street, Melbourne, Australia, has ceased to operate the passenger vessels George Anson and Francis Drake; and

Whereas, Dominion Navigation Co. Ltd., has returned Certificate (Performance) No. P-42 and Certificate (Casualty) No. C-1,007 for revocation.

It is ordered, That Certificate (Performance) No. P-42 and Certificate (Casualty) No. C-1,007 covering the George Anson and Francis Drake be and are hereby revoked effective November 12, 1971.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served on the Certificant.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 71-16852 Filed 11-17-71;8:51 am]

WISCONSIN & MICHIGAN STEAMSHIP CO.

Order of Revocation

Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation No. P-45 and Certificate of Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages No. C-1,045.

Whereas, Wisconsin & Michigan Steamship Co., 500 North Harbor Drive, Milwaukee, Wis. 53202, has ceased to operate the passenger vessel Milwaukee Clipper; and

Whereas, Wisconsin & Michigan Steamship Co. has returned Certificate (Performance) No. P-45 and Certificate (Casualty) No. C-1,045 for revocation.

It is ordered, That Certificate (Performance) No. P-45 and Certificate (Casualty) No. C-1,045 covering the Milwaukee Clipper be and are hereby revoked effective November 12, 1971.

It is further ordered, That a copy of this order be published in the Federal Register and served on the Certificant.

By the Commission.

Francis C. Hurney,
Secretary.

[FR Doc.71-16851 Filed 11-17-71;8:51 am]

FEDERAL POWER COMMISSION

[Docket No. CS71-945, etc.]

CAULKINS OIL CO., ET AL.

Findings and Order

November 5, 1971.

Findings and order after statutory hearing issuing small producer certificates of public convenience and necessity, terminating certificates, canceling FPC gas rate schedules, terminating rate proceedings, and dismissing application.

Each applicant herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for small producer certificates of public convenience and necessity authorizing sales of natural gas in interstate commerce, all as more fully set forth in the applications and the Appendix below.

Certain applicants are presently authorized to sell natural gas pursuant to FPC gas rate schedules on file with the Commission. The temporary and permanent certificates authorizing said sales will be terminated and the related rate schedules will be canceled. Some sales made pursuant to the certificates terminated herein and the canceled FPC gas rate schedules were made at rates in effect subject to refund. There are other rate increases which are suspended or have been collected subject to refund by any of these applicants and were equal to or below area ceiling rates will be terminated.

After due notice by publication in the Federal Register, no petition to intervene or notice of intervention has been filed. On July 9, 1971, James M. Forgotson, Sr., filed a protest to the granting of the authorization sought by all applicants listed in our notice of small producer applications issued on June 29, 1971, in Docket No. CS69-19, et al., some of whom are included in the instant order.

The Commission's staff has reviewed the applications and having considered the protest, recommends each action ordered as consistent with all substantive Commission policies and required by the public convenience and necessity.

At a hearing held on October 8, 1971, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds:

(1) Each applicant is or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission and is, therefore, a "natural-gas company" or will be when the initial delivery is made, within the meaning of the Natural Gas Act.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications herein, will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by applicants are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Each applicant is an independent producer of natural gas which is not affiliated with a natural gas pipeline company and whose total jurisdictional sales on a nationwide basis, together with sales of affiliated producers, were not in excess of 10 million Mcf at 14.65 psia during the preceding calendar year.

(5) The sales of natural gas by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and small producer certificates of public convenience and necessity therefore should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates of public convenience and necessity heretofore issued to applicants should be terminated and that the related FPC gas rate schedules should be canceled.

(7) The application pending in Docket No. CI69-521 is moot.

The Commission orders:

(A) Small producer certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing the sale for resale and delivery of natural gas in interstate commerce by applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications in this proceeding.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as applicant continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission and particularly:

(1) The subject certificates shall be applicable only to all small producer sales as defined in § 157.40(a)(3) of the regulations under the Natural Gas Act; and

(2) Applicants shall file annual statements pursuant to § 154.104 of the regulations under the Natural Gas Act.

(C) The certificates granted in paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificates because applicants no longer qualify as small producers or fail to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificates. Upon such termination, applicants will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificates will still be effective as to sales already included thereunder.

(D) The grant of the certificates in paragraph(A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or Part 157 of the regulations thereunder and is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against applicants. Further, our action in this proceeding shall not foreclose any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved, shall not imply approval of all of the terms of the contracts particularly as to the cessation of service upon the termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales subject to said certificates.

(E) The temporary and permanent certificates heretofore issued to applicants for sales proposed to be continued under small producer certificates are terminated and the related FPC gas rate schedules are canceled as indicated in the appendix below.

(F) The proceedings in which applicants' increased rates have not been made effective and certain proceedings in which increased rates have been made effective subject to refund and are equal to or below the applicable area base rate

are terminated as indicated in the appendix below.

(G) The application pending in Docket No. CI69-521 is dismissed.

(H) This order does not relieve any of the applicants herein of any responsibility imposed by, and is expressly subject to, the Commission's statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), including such amendments as the Commission may require, and Executive Order No. 11615.

By the Commission.

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

APPENDIX

Docket No. and filing date	Applicant	Canceled FPC gas rate schedule	Terminated certificate docket No.	Terminated rate increase docket No.
CS71-945 5-17-71	Caulkins Oil Co. (Operator) et al.	1	G-16852.	
	do.	2	G-6934.	
	do.	3	G-12462.	
	do.	4	G-19043.	RI64-695. RI70-119.
	do.	5	CI61-234.	
	do.	7	CI62-455.	RI67-249.
	do.	8	CI62-595.	RI64-181.
	do.	9	G-14484.	
	do.	10	CI63-1428.	
	do.	11	CI64-200.	
CS71-1007 5-27-71	Ruthe H. Greenewald.		G-8587.	
CS71-1109 6-21-71	Estate of Roger H. Ogden.	1	CI69-521	
CS71-1123 6-24-71	Douglas Weatherston and George Weatherston.	1	CI67-1060.	
CS71-1131 6-25-71	W. M. Laughlin et al.	1	G-10938.	
	do.	2	G-18069.	
	do.	3	CI60-44.	RI68-476.
	do.	4	G-10937.	RI71-612.
CS72-18 7-8-71	Caddo Pine Island Corp. (Operator) et al.	1	G-11392.	
CS72-39 7-15-71	R. S. Baker, (Operator) et al.	1	CI64-89.	RI70-31.
CS72-40 7-15-71	Beacon Resources Corp. (Operator) et al.	1	CI69-980.	RI70-1309.
	do.	2	CI70-830.	
	do.	3	CI70-1015.	
	do.	4	CI70-1141.	
CS72-41 7-16-71	Marvin J. Coles.	1	CI61-1443.	
	do.	2	CI64-64.	
CS72-42 7-16-71	Elizabeth Perkins et al.	1	G-14838.	
CS72-43 7-16-71	J. R. Perkins and F. L. Parham d.b.a. Perkins Production Co. et al.	[2] 2	CI66-679 [2].	
	do.	[2] 3	CI69-455 [2].	
	do.	[2] 4	CI65-71 [2].	
	do.	[2] 5	CI66-607 [2].	RI71-532.
CS72-47 7-16-71	Glen A. Martin et al.	1	G-14141.	
	do.	2	G-18639.	RI65-315. RI70-1635. RI70-1660.
	do.	3	CI61-142.	
	do.	5	CI61-1013.	
CS72-48 7-16-71	James Robert Hill, Emma E. Hill, and Virginia Glen Hill Lattimore, d.b.a. Houston Hill Estate.	[3] 1	CI70-1142 [3].	
	do.	[3] 2	CI70-1142 [3].	
CS72-49 7-16-71	Mary Agnes Power Shay.			
CS72-50 7-19-71	Price Exploration Co.			
CS72-74 7-27-71	George W. Graham.			
CS72-76 7-28-71	Barbara Oil Co.	1	G-7191.	RI62-1.
	do.	3	G-8898.	RI60-52. RI65-603. RI70-1572.
CS72-77 7-28-71	E. B. McMurtry.	2	G-8814.	RI60-221. RI65-275.
CS72-79 7-29-71	Charles B. and Melanie M. Carpenter.			
CS72-82 7-29-71	N. L. McCain.			
CS72-83 7-29-71	Patrick Oil & Royalty Co., Inc.			
CS72-86 7-30-71	R. H. Hedge.			
CS72-87 7-30-71	Bob L. Herd.			

[1] Temporary certificate.
[2] Certificate and rate schedule on file as J. R. Perkins.
[3] Certificate and rate schedule on file as James R. Hill doing business as Houston Hill Estate.

[FR Doc.71-16686 Filed 11-17-71;8:45 am]

[Docket No. CS66-71, etc.]

MARJORIE CONE KASTMAN, ET AL.

Notice of Applications for "Small Producer" Certificates [1]

NOVEMBER 8, 1971.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 29, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 applicants to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

Docket No.	Date filed	Name of applicant
CS66-71	10-19-71	Marjorie Cone Kastman et al. (successor to S. E. Cone et al.), Post Office Box 1180, Roswell, NM 88201.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Name of applicant
CS72-366...	10-20-71	D. W. Hamilton, 203 Bryant Petroleum Building, Tyler, Tex. 75701.
CS72-367...	10-20-71	Vernon G. Hunt, Post Office Box 3152, Tyler, TX 75701.
CS72-368...	10-20-71	Ray Carlton Muirhead, 1220 Southwest Tower, Houston, Tex. 77002.
CS72-369...	10-20-71	ProChemco Exploration Co., 400 West 15th, Amarillo, TX 79101.
CS72-370...	10-18-71	R & S Services, 406 Wilson Building, Corpus Christi, Tex. 78401.
CS72-371...	10-21-71	John P. Booth Interests, 1365 First National Center, Oklahoma, City, Okla. 73102.
CS72-372...	10-22-71	Consolidated Oil & Gas, Inc., Suite 1300, 1860 Lincoln St., Denver, CO 80203.
CS72-373...	10-26-71	Perry Lynn Larson, 2107-A Kern Dr., Victoria, TX 77901.
CS72-374...	10-26-71	Gibraltar Oil Corp., 1912 The 600 Building, Corpus Christi, Tex. 78401.
CS72-375...	10-26-71	Hershberger Explorations, Inc., Suite 230, 200 West Douglas, Wichita, KS 67202.
CS72-376...	10-22-71	Ruth P. Madden, Box 1257, Boulder, CO 80302.
CS72-377...	10-26-71	Penn Resources, Inc. 71, Suite 230, 1 Decker Sq., Bala Cynwyd, PA 19004.

[FR Doc.71-16687 Filed 11-17-71;8:45 am]

FEDERAL RESERVE SYSTEM

BOATMEN'S BANCSHARES, INC.

Proposed Acquisition of Williams, Kurrus and Co.

Boatmen's Bancshares, Inc., St. Louis, Mo., has applied, pursuant to section 4 (c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(a)(8)) and § 222.4 (b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Williams, Kurrus and Co., St. Louis, Mo. Notice of the application was published on November 4, 1971, in the St. Louis Post-Dispatch, a newspaper circulated in St. Louis, Mo.

The proposed activities of the proposed subsidiary are mortgage lending, servicing loans and other extensions of credit, sale of credit-related insurance to customers of the applicant (and to others to the extent permitted by § 222.4(a)(9)(ii)(c)), and real estate brokerage. With the exception of real estate brokerage, such activities have been specified by the Board in § 222.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 222.4(b).

The activity of real estate brokerage is in issue with respect to this application, to which interested persons may express their views on whether such activity is so closely related to banking or managing or controlling banks as to be a proper incident thereto.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question or on the issue of whether real estate brokerage is an activity so closely related to banking or managing or controlling banks as to be a proper incident thereto, should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 13, 1971.

Board of Governors of the Federal Reserve System, November 11, 1971.

[SEAL] TYNAN SMITH,
Secretary.

[FR Doc.71-16832 Filed 11-17-71;8:49 am]

FIRST BANCORP OF N.H., INC.

Formation of One-Bank Holding Company

First Bancorp of N.H., Inc., Exeter, N.H., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842 (a)(1) of action whereby applicant would become a bank holding company through acquisition of 80 percent of the voting shares of The Exeter Banking Company, Exeter, N.H.

The application may be inspected at the Federal Reserve Bank of Boston.

Section 3(c) of the Act requires that the Board consider the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the bank concerned, and the convenience and needs of the communities to be served.

Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than December 6, 1971.

Pursuant to § 222.3(b) of Regulation Y, this application shall be deemed to be approved on December 20, 1971, unless the applicant is notified to the contrary before that time, or is granted approval at an earlier date.

Board of Governors of the Federal Reserve System, November 11, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16835 Filed 11-17-71;8:49 am]

FIRST CITY BANCORPORATION OF TEXAS, 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 First City Bancorporation of Texas, Inc., which is a bank holding company located in Houston, Tex., for prior approval by the Board of Governors of the acquisition by applicant of 24.5 percent of the voting shares of United Bank Shares, Inc., El Paso, Tex., which owns 100 percent of the voting shares of Southwest National Bank of El Paso, El Paso, Tex.

Section 3(c) of the Act provides that the Board shall not approve:

(1) Any acquisition or merger or consolidation under section 3 which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) Any other proposed acquisition or merger or consolidation under section 3 whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless the Board finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

Section 3(c) further provides that, in every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

Not later than thirty (30) days after the publication of this notice in the FEDERAL REGISTER, comments and views regarding the proposed acquisition may be filed with the Board. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Dallas.

Board of Governors of the Federal Reserve System, November 11, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16833 Filed 11-17-71;8:49 am]

GREATER JERSEY BANCORP.

Formation of One-Bank Holding Company

Greater Jersey Bancorp., Clifton, N.J., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of action whereby Applicant would become a bank holding company through acquisition of 100 percent of the voting shares of New Jersey Bank (National Association), Clifton, N.J.

The application may be inspected at the Federal Reserve Bank of New York.

Section 3(c) of the Act requires that the Board consider the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the bank concerned, and the conven-

lence and needs of the communities to be served.

Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than December 9, 1971.

Pursuant to § 222.3(b) of Regulation Y, this application shall be deemed to be approved on December 24, 1971, unless the applicant is notified to the contrary before that time, or is granted approval at an earlier date.

Board of Governors of the Federal Reserve System, November 11, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16834 Filed 11-17-71;8:49 am]

HARRIS BANKCORP, INC.

Formation of One-Bank Holding Company

Harris Bankcorp., Inc., Chicago, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of action whereby applicant would become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Harris Trust and Savings Bank, Chicago, Ill.

The application may be inspected at the office of the Board of Governors or the Federal Reserve Bank of Chicago.

Section 3(c) of the Act requires that the Board consider the effect of the proposed acquisition on competition, the financial and managerial resources and future prospects of the applicant and the bank concerned, and the convenience and needs of the communities to be served.

Any person wishing to comment on the application should submit his views in writing to the Board to be received not later than December 13, 1971. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Board of Governors of the Federal Reserve System, November 11, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16836 Filed 11-17-71;8:49 am]

MID AMERICA BANCORPORATION, INC.

Order Approving Acquisition of Bank Stock by Bank Holding Company

In the matter of the application of Mid America Bancorporation, Inc., St. Paul, Minn., for approval of acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The First National Bank of Hutchinson, Hutchinson, Minn.

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 Mid America Bancorporation, Inc., St. Paul, Minn., a registered bank holding company, for the Board's prior approval of the acquisition of 100 percent of the voting shares (less directors' qualifying shares) of The First National Bank of Hutchinson (Bank), Hutchinson, Minn.

As required by section 3(b) of the Act, the Board gave written notice of receipt of the application to the Comptroller of the Currency and requested his views and recommendation. The Board also gave notice to the Commissioner of Banks of the State of Minnesota. The Comptroller recommended approval of the application. The Commissioner advised that he had no objection to the proposed acquisition.

Notice of receipt of the application was published in the FEDERAL REGISTER on September 14, 1971 (36 F.R. 18439), 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 controls four banks with aggregate deposits of approximately $35 million representing 0.4 percent of the total commercial bank deposits in the State, and is the sixth largest bank holding company in Minnesota.[1] (All banking data are as of December 31, 1970, and reflect holding company formations and acquisitions approved through September 30, 1971.) Applicant's acquisition of Bank ($11 million in deposits) would increase applicant's share of deposits in the State by 0.1 percentage point. Bank is the smaller of the two banks located in the city of Hutchinson, is the second largest of nine independent banks in McLeod County, the relevant market, and holds 16.4 percent of deposits in the market. Applicant's subsidiary located closest to Bank is approximately 70 miles distant; and it appears that approval of this application would eliminate no existing competition. On the facts of record, notably, the distances involved, the number of banks in the intervening areas between Bank and applicant's subsidiaries, and Minnesota's prohibitive branching law, there appears to be little likelihood that significant competition between Bank and applicant would develop in the future. 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.

Affiliation with applicant would increase the lending capability of Bank through participation arrangements with other subsidiaries of applicant and would enable Bank to benefit from certain internal efficiencies resulting from a holding company structure. Considerations relating to the convenience and needs of the communities to be served are consistent with approval.

Considerations relating to financial and managerial resources and future prospects as they relate to applicant, its subsidiaries and Bank, are regarded as satisfactory. Applicant's stated intention to contribute additional capital funds to Bank, as well as management expertise, lend weight toward approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

It is hereby ordered, On the basis of the record, that said application be and hereby is approved for the reasons summarized above: *Provided*, That the action so approved shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,[2] November 11, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16838 Filed 11-17-71;8:50 am]

[1] Applicant has received Board approval for the acquisition of a proposed new bank in Mendota Heights, Minn. Consummation has not taken place.

[2] Voting for this action: Governors Daane, Maisel, Brimmer, and Sherrill. Absent and not voting: Chairman Burns and Governors Robertson and Mitchell.

NORTHWEST BANCORPORATION

Order for Oral Presentation

In the matter of the application of Northwest Bancorporation, Minneapolis, Minn., for approval of acquisition of 90 percent or more of the voting shares of Farmers and Merchants State Bank of Stillwater, Stillwater, Minn.

On August 3, 1971, there was published in the FEDERAL REGISTER (36 F.R. 14285) a notice of receipt by the Board of Governors of an application filed pursuant to section 3(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)) by Northwest Bancorporation, Minneapolis, Minn., for prior approval by the Board of action whereby applicant would acquire 90 percent or more of the voting shares of Farmers and Merchants State Bank of Stillwater, Stillwater, Minn. The aforesaid published notice advised that the application was available for study at the office of the Board of Governors and the Federal Reserve Bank of Minneapolis, and designated a period within which comments and views on the proposed acquisition could be filed with the Board.

In view of the numerous comments on the proposal received, it appears to the Board that it is appropriate in the public

interest that there be conducted before the Board a public oral presentation at which views and comments with respect to this application might be presented. Accordingly,

It is hereby ordered, That pursuant to § 262.3(f) of the Board's rules of procedure (12 CFR 262.3(f)) a public oral presentation be held with respect to this application commencing at 9 a.m. on December 15, 1971, at the Federal Reserve Bank of Minneapolis, 73 South Fifth Avenue, Minneapolis, MN. Oral testimony at the public oral presentation will be limited to the statutory criteria specified in section 3 of the Act.

It is further ordered, That any person desiring to present comments and views at the scheduled oral presentation should file with the Secretary of the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, no later than December 1, 1971, written request to appear before the Board at said oral presentation, including a brief summary of the statement which will be presented at the oral presentation, and the name of the person who proposes to appear.

By order of the Board of Governors, November 12, 1971.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.71-16837 Filed 11-17-71;8:50 am]

RAILROAD RETIREMENT BOARD

RAILROAD UNEMPLOYMENT INSURANCE ACCOUNT

Pursuant to section 8(a) of the Railroad Unemployment Insurance Act, as amended, the Railroad Retirement Board had determined, and hereby proclaims, that as of the close of business on September 30, 1971, there was a deficit of $46,123,149.58 in the railroad unemployment insurance account. The underlying figures relating to the computation of this deficit follow:

Unexpended amount in the railroad unemployment insurance account	$1,156,400.28
Deduct:	
Amounts borrowed from the Railroad Retirement Account which have not been repaid	−52,500,000.00
Accrued interest on such borrowed amounts	−702,180.36
Deficit in railroad unemployment insurance account proper	52,045,780.08 (D)
Add:	
Balance in railroad unemployment insurance administration fund	+5,922,630.50
Deficit in railroad unemployment insurance account	46,123,149.58 (D)

In witness whereof the members of the Railroad Retirement Board have hereunto set their hands and caused its seal to be affixed.

Done at Chicago, Ill., this 11th day of November 1971.

[SEAL] HOWARD W. HABERMEYER,
Chairman.
NEIL P. SPEIRS,
Member.
WYTHE D. QUARLES, Jr.,
Member.

By the Railroad Retirement Board:

R. F. BUTLER,
Secretary of the Board.

[FR Doc.71-16797 Filed 11-17-71;8:46 am]

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 4.1 (Rev. 2) Amdt. 1]

DEPUTY ASSOCIATE ADMINISTRATOR FOR FINANCIAL ASSISTANCE

Delegation of Authority

Delegation of Authority No. 4.1 (Revision 2) (35 F.R. 18493), is hereby amended by revising paragraph G to read as follows:

G. To approve or decline any application to the Small Business Administration for a guarantee of the payment of rent under a lease; and to guarantee sureties of small businesses against portions of losses resulting from the breach of bid, payment, or performance bonds on contracts up to $500,000.

Effective date: October 15, 1971.

JACK EACHON, Jr.,
Associate Administrator for Financial Assistance.

[FR Doc.71-16799 Filed 11-17-71;8:46 am]

[Delegation of Authority No. 4.1-1 (Rev. 3), Amdt. 1]

DIRECTOR, OFFICE OF COMMUNITY DEVELOPMENT

Delegation on Financial Assistance

Delegation of authority No. 4.1-1 (Revision 3) (36 F.R. 302), is hereby amended by revising paragraph G.4 to read as follows:

G. *Director, Office of Community Development.* * * *

4. To approve or decline applications for the guarantee of the payment or rent under a lease where the aggregate rentals do not exceed $2,500,000; and to guarantee sureties of small businesses against portions of losses resulting from the breach of bid, payment, or performance bonds on contracts up to $500,000.

Effective date: October 15, 1971.

ANTHONY S. STASIO,
Deputy Associate Administrator for Financial Assistance.

[FR Doc.71-16800 Filed 11-17-71;8:46 am]

[License No. 02/02-5291]

PUERTO RICAN FORUM CAPITAL 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 Puerto Rican Forum Capital 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:

Victor M. Rivera, 7023 Louise Terrace, Brooklyn, NY 11209, Chairman of the Board.
Hector I. Vazquez, 147-23 84th Drive, Jamaica, NY 11435, President, Director.
Blanca Cedeno, 196-35 Pompeii Avenue, Holliswod, NY 11423, First Vice President, Director.
Ivan Irizarry, 24 Musket Road, Tappan, NY 10983, Treasurer, Director.
Francisco Trilla, 110-55 67th Drive, Forest Hills, NY 11375, Secretary, Director.
Roland De Diego, 145 Grant Street, Massapequa Park, NY 11762, Director.

The applicant, a New York corporation with its principal place of business located at 156 Fifth Avenue, New York, NY 10010, will begin operations with $150,000 of paid-in capital, consisting of 50 shares of common stock. All of the issued and outstanding stock of the applicant will be owned by the National Puerto Rican Forum, Inc. (formerly known as the Puerto Rican Forum, Inc.), a nonprofit organization located at 156 Fifth Avenue, New York, NY 10010.

Applicant will not concentrate its investments in any particular industry. According to the company's stated investment policy, its investments will be made solely for the purpose of providing assistance which will contribute to a well-balanced national economy by facilitating the acquisition or maintenance of ownership of small business concerns by individuals 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 acordance 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 Administra-

tion, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York City.

Dated: November 3, 1971.

STEPHEN H. BEDWELL,
Acting Associate Administrator for Operations and Investment.

[FR Doc.71-16798 Filed 11-17-71;8:46 am]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Area Wage Determination Decisions and Modifications; New Determinations

Correction

In F.R. Doc. 71-16416 appearing at page 21720 in the issue for Friday, November 12, 1971, the center heading "Modifications" which appears in the tables on pages 21721, 21723, 21725, 21733, 21736, and 21737 should be deleted.

Office of the Secretary

HAWAII

Notice of Availability of Extended Unemployment Compensation

The Federal-State Extended Unemployment Compensation Act of 1970, Title II of Public Law 91-373, establishes a program of extended unemployment compensation payable when unemployment is high (according to indicators set forth in the law) to unemployed workers who have received all of the regular compensation to which they are entitled. Pursuant to section 203(b)(2) of the Act, notice is hereby given that Robert K. Hasegawa, Director of the Hawaii Department of Labor and Industrial Relations, has determined that there was a State "on" indicator in Hawaii for the week beginning September 19, 1971, and that an extended benefit period began in the State with the week beginning October 10, 1971.

Signed at Washington, D.C., this 11th day of November 1971.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.71-16840 Filed 11-17-71;8:50 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

NOVEMBER 15, 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 135574, Parthurst Motor Freight Co., assigned February 7, 1972, at Nashville, Tenn., in a hearing room to be later designated.

MC 68078 Sub 34, Central Motor Express, Inc., assigned January 31, 1972, at Nashville, Tenn., in a hearing room to be later designated.

MC 133436 Sub 10, Dudden Elevator, now assigned December 3, 1971, in Room 106, Federal Office Building, 106 South 15th Street, Omaha, NE.

MC 124211 Sub 199, Hilt Truck Line, now assigned December 8, 1971, at Denver, Colo., in Room 1430, Federal Building, 1961 Stout Street, Denver, CO.

MC 59680 Sub 190, Strickland Transportation Co., Inc., now being assigned hearing January 27, 1972, at Memphis, Tenn., in a hearing room to be later designated.

MC 61592 Sub 222, Jenkins Truck Line, Inc., now being assigned hearing January 24, 1972, at Memphis, Tenn., in a hearing room to be later designated.

MC 115841 Sub 410, Colonial Refrigerated Transportation, now being assigned hearing January 26, 1972, at Memphis, Tenn., in a hearing room to be later designated.

MC 119700 Sub 17, Steel Haulers, Inc., now being assigned hearing at Memphis, Tenn., in a hearing room to be later designated.

MC 111729 Sub 310, American Courier Corp., assigned January 17, 1972, at Chicago, Ill., application dismissed, hearing canceled.

MC 61592 Sub 199, Jenkins Truck Line, now assigned January 17, 1972, Offices of Interstate Commerce Commission, Washington, D.C.

MC 14321 Sub 5, Engel Brothers, now assigned January 17, 1972, Offices of Interstate Commerce Commission, Washington, D.C.

MC 135141 Sub 1, H & H Expediting Service, now assigned January 5, 1972, Offices of Interstate Commerce Commission, Washington, D.C.

MC 135312, Floyd W. Mensch, now assigned January 5, 1972, at Offices of Interstate Commerce Commission, Washington, D.C.

MC 109540 Sub 24, Yeary Transfer Co., now being assigned hearing February 1, 1972, at Louisville, Ky., in a hearing room to be later designated.

MC 119777 Sub 207, Ligon Specialized Haulers, Inc., now being assigned hearing February 3, 1972, at Louisville, Ky., in a hearing room to be later designated.

MC 129708 Sub 1, McRay Truck Line, Inc., Common Carrier Application now being assigned hearing January 31, 1972, at Louisville, Ky., in a hearing room to be later designated.

MC 116763 Sub 190, Carl Subler Trucking, Inc., assigned January 13, 1972, at Miami, Fla., hearing room to be designated later.

MC 115331 Sub 318, Truck Transport, now assigned January 17, 1972, at Chicago, Ill., in Room 1738A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 128383 Sub 9, Pinto Trucking Service, Inc., assigned December 6, 1971, is postponed to December 12, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 116763 Sub 196, Carl Subler Trucking, Inc., now assigned January 13, 1972, at Miami, Fla., is canceled and application dismissed.

MC 2860 Sub 96, National Freight, now assigned February 3, 1972, at Jacksonville, Fla., hearing room to be designated later.

MC 105813 Sub 177, Belford Trucking Co., now assigned January 31, 1972, at Jacksonville, Fla., hearing room to be designated later.

MC 111729 Sub 306, American Courier Corp., now assigned January 25, 1972, at Jacksonville, Fla., hearing room to be designated later.

MC 119777 Sub 206, Ligon Specialized Hauler, now assigned January 24, 1972, at Jacksonville, Fla., hearing room to be designated later.

MC 135257 Sub 1, The Big E Corp., now assigned January 27, 1972, at Jacksonville, Fla., hearing room to be designated later.

MC 531 Sub 268, Younger Brothers, Inc., and MC 107403 Sub 806, Matlack, Inc., assigned January 24, 1972, at New Orleans, La.

MC 123407 Sub 82, Sawyer Transport, Inc., assigned January 28, 1972, at New Orleans, La.

MC 135413, Henry's Transfer, Inc., assigned January 10, 1972, at Miami, Fla., postponed to January 12, 1972, in Room 1510, Federal Building, 51 Southwest First Avenue, Miami, Fla.

MC 135232, Crown Metal & Salvage, now assigned November 18, 1971, at Columbus, Ohio, postponed indefinitely.

MC 134886 Sub 2, U & Me Transfer, Inc., assigned January 17, 1972, at Miami, Fla., is postponed to January 19, 1972, at Miami, in a hearing room to be designated later.

MC-C-7348, Hirschbach Motor Lines, Inc., et al. v. Refrigerated Transport Co., Inc., et al., assigned January 26, 1972, at New Orleans, La.

MC 51146 Sub 210, Schneider Transport & Storage, Inc., assigned December 13, 1971, at Washington, D.C., postponed to February 28, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 126102 Sub 6, Anderson Motor Lines, now assigned January 19, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 135109, Seco, Inc., now assigned January 17, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16859 Filed 11-17-71;8:51 am]

[No. 35480]

COLORADO INTRASTATE FREIGHT RATES AND CHARGES

Order Instituting Investigation

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 4th day of November 1971.

By petition filed September 2, 1971, the Atchison, Topeka and Santa Fe Railway Co., Burlington Northern Inc., Chicago, Rock Island and Pacific Railroad Co., the Colorado and Southern Railway Co., the Colorado and Wyoming Railway Co., the Denver and Rio Grande Western Railroad Co., the Great Western Railway, Missouri Pacific Railroad Co., San Luis Central Railroad, Southern San Luis Valley Railroad Co., and Union Pacific Railroad Co. on their own behalf and on behalf of all common carriers by rail-

road engaged in the transportation of property to, from, and within the State of Colorado, state that the Public Utilities Commission of the State of Colorado is delaying action on their application to increase the Colorado intrastate rates and charges; that they have no reason to believe that the Colorado commission will authorize increases on intrastate traffic corresponding to those authorized by this Commission on traffic moving in interstate or foreign commerce to, from, or through the State of Colorado, in Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970 and 1971, 339 I.C.C. 125; and that the Colorado commission has arbitrarily adopted a special rule of practice governing procedure in this and similar petitions of common carriers by railroad, which rule violates the provisions of the Interstate Commerce Act, as amended, and more particularly sections 3, 13, and 15(a) thereof; and

It appearing, that the petitioners contend that interstate and intrastate traffic is generally comingled and handled in the same trains; that the transportation conditions affecting intrastate movements within Colorado are not different from those affecting interstate movements and do not justify the present differences in the interstate and intrastate rates and charges; that the full cost per unit of transporting the intrastate traffic within Colorado is as great as or greater than the cost of transporting similar traffic in interstate commerce from or to points in Colorado; that the rates and charges now in effect upon commodities moving in intrastate commerce within Colorado do not produce a fair share of the revenues required to meet maintenance and operating costs of petitioners and to yield a fair return on the value of their property devoted to transportation service both interstate and intrastate, and do not contribute fairly and fully to the need, in the public interest of adequate and efficient railway transportation service at the lowest cost consistent with the furnishing of such service, and to the need of revenues sufficient to enable petitioners, under honest, economical and efficient management, to provide such service; that this Commission's findings in Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970 and 1971, supra, justifying the increases authorized in interstate rates and charges equally apply to Colorado intrastate rates and charges; and that those increases are also required on the Colorado intrastate traffic;

It further appearing, that petitioners allege that without the increases in intrastate rates and charges authorized by this Commission on interstate commerce in Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970 and 1971, supra, the shippers and receivers of freight transported in intrastate commerce within the State of Colorado are not bearing their just and proper portion of the national transportation burden, are enjoying privileges and immunities denied to shippers and receivers of like traffic moving in interstate or foreign commerce, and that thus the intrastate rates and charges cause undue and unreasonable advantage and preference to persons and localities in Colorado intrastate commerce, and undue prejudice to persons and localities in interstate commerce, and cause undue, unreasonable, and unjust discrimination against and cast an undue burden on interstate commerce; and that, therefore, the Commission should institute an investigation under sections 3, 13, and 15a of the Interstate Commerce Act into the Colorado intrastate rates and charges;

It further appearing, that the petitioners request that all carriers by railroad subject to the Interstate Commerce Act and operating in the State of Colorado be made respondents;

And it further appearing, that there have been brought in issue by the railroads' petition matters sufficient to require an investigation into the lawfulness of intrastate rates and charges made or imposed by the State of Colorado; therefore,

It is ordered, That the petition be, and it is hereby granted.

It is further ordered, That an investigation be, and it is hereby, instituted under sections 13 and 15a of the Interstate Commerce Act to determine whether the intrastate rates and charges of the carriers by railroads, or any of them, operating in the State of Colorado, for the intrastate transportation of property, made or imposed by the State of Colorado, as previously indicated, cause or will cause, by reason of the failure of such rates and charges to include increases corresponding to those authorized on interstate traffic by this Commission in Ex Parte Nos. 265 and 267, Increased Freight Rates, 1970 and 1971, supra, any undue or unreasonable advantage, preference, or prejudice, as between persons or localities in intrastate commerce, on the one hand, and those in interstate or foreign commerce, on the other, or any undue, unreasonable, or unjust discrimination against, or undue burden on, interstate or foreign commerce, and to determine what rates and charges, if any, or what maximum, or minimum, or maximum and minimum, rates and charges should be prescribed to remove the unlawful advantage, preference, discrimination or undue burden, if any, that may be found to exist.

It is further ordered, That all carriers by railroad operating within the State of Colorado, subject to the jurisdiction of this Commission, be, and they are hereby, made respondents to this proceeding.

It is further ordered, That all persons who wish actively to participate in this proceeding, and to file and receive copies of pleadings shall make known that fact by notifying the Commission within 30 days from the date of publication of this order in the FEDERAL REGISTER. Although individual participation is not precluded, to conserve time and avoid unnecessary expense, persons having common interests shall endeavor to consolidate their presentation to the greatest extent possible.

It is further ordered, That as soon as practicable after the date for indicating a desire to participate in the proceeding has passed, the Commission's Office of Proceedings will serve a list of the names and addresses of all persons upon whom service of all pleadings must be made.

It is further ordered, That a copy of this order be served upon each of the said petitioners, and that the State of Colorado be notified by sending copies of this order and the said petition by certified mail to the Governor of Colorado, Denver, Colo., and to the Public Utilities Commission of the State of Colorado, Denver, Colo.

And it is further ordered, That notice of this proceeding be given to the public by depositing a copy of this order 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, for publication therein. Interested persons shall be afforded the opportunity to inspect pleadings at the Office of the Secretary of the Commission in Washington, D.C.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16858 Filed 11-17-71;8:51 am]

FOURTH SECTION APPLICATIONS FOR RELIEF

NOVEMBER 15, 1971.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42304—*Liquefied chlorine from Midland, Mich.* Filed by Traffic Executive Association-Eastern Railroads, agent (E.R. No. 3009), for interested rail carriers. Rates on chlorine, liquefied, in tank carloads, as described in the application, from Midland, Michigan, to Doctortown and Rosser, Georgia.

Grounds for relief—Market competition.

Tariff—Supplement 136 to Traffic Executive Association-Eastern Railroads, agent, tariff ICC C-611. Rates are published to become effective on December 15, 1971.

FSA No. 42305—*Sulphuric acid from Copperhill, Tenn.* Filed by M. B. Hart, Jr., agent (No. A6288), for interested rail carriers. Rates on acid, sulphuric, in tank carloads, as described in the application, from Copperhill, Tennessee, to Calvert, Kentucky.

Grounds for relief—Market competition.

Tariff—Supplement 57 to Southern Freight Association, agent, tariff ICC S-881. Rates are published to become effective on December 16, 1971.

FSA No. 42306—*Mineral mixtures and feed supplements to points in WTL Territory.* Filed by Western Trunk Line Committee, agent (No. A-2652), for interested rail carriers. Rates on mineral mixtures and feed supplements in mixed carloads with salt, as described in the application, from points in Utah, to points in western trunk-line territory.

Grounds for relief—Rate relationship.

Tariffs—Supplement 44 to Denver & Rio Grande Western Railroad Co. tariff ICC 1079, and supplement 1 to Union Pacific Railroad Co. tariff ICC 5695. Rates are published to become effective on December 20, 1971.

By the Commission.

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

[FR Doc.71-16861 Filed 11-17-71;8:51 am]

[Notice 81]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

Correction

In F.R. Doc. 71-15015 appearing at page 20005 in the issue of Thursday, October 14, 1971, under "Motor Carriers of Property" delete the fifth line in application No. MC-F-11330.

[Notice 397]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

NOVEMBER 12, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office in which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2228 (Sub-No. 63 TA), filed November 3, 1971. Applicant: MERCHANTS FAST MOTOR LINES, INC., East Highway 80, Post Office Drawer 270, Abilene, TX 79604. Applicant's representative: Leroy Hallman, 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and those injurious or contaminating to other lading) (1) between Dallas, Tex., and Beaumont, Tex., serving all intermediate points: From Dallas over U.S. Highway 175 to Jacksonville, thence over U.S. Highway 9 to Beaumont; and (2) between Lufkin, Tex., and Houston, Tex., serving all intermediate points: From Lufkin over U.S. Highway 59 to Houston, for 180 days. NOTE: Applicant intends to tack the authority here applied for to all authority in MC-2228; interline proposed at Dallas, Houston, and Beaumont. Supported by: There are approximately 191 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: H. C. Morrison, Sr., Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

No. MC 115841 (Sub-No. 419 TA), filed November 5, 1971. Applicant: COLONIAL REFRIGERATED TRANSPORTATION INC., 1215 Bankhead Highway, Post Office Box 10327, 35202, Birmingham, AL 35204. Applicant's representative: Roger M. Shaner, Post Office Box 168, Concord, TN 37720. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and warehouse facilities of Chef Pierre, Inc., at Traverse City, Mich., to points in Indiana, Kentucky, Ohio, Virginia, West Virginia, Arkansas, Kansas, Iowa, Illinois, Missouri, Nebraska, Oklahoma, and Texas, for 180 days. Supporting shipper: Chef Pierre, Inc., Post Office Box 544, Traverse City, MI 49684. Attention: Stephen P. Mikowski, Traffic Manager. Send protests to: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814 O, 2121 Building, Birmingham, AL 35203.

No. MC 123503 (Sub-No. 5 TA), filed November 8, 1971. Applicant: KRAUS TRANSPORT LIMITED, 1211 Martingrove Road, Rexdale 603, ON, Canada. Applicant's representative: William J. Hirsch, 35 Court Street, Buffalo, NY 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl clad moldings*, from Marion, Va., to ports of entry on the international boundary line between the United States and Canada located in New York, for 150 days. Supporting shipper: Mr. Plywood of Canada, Ltd., 293 Eddystone Avenue, Downsview, ON, Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Office Building, 121 Ellicott Street, Buffalo, NY 14203.

No. MC 124775 (Sub-No. 6 TA), filed November 8, 1971. Applicant: HRIBAR TRUCKING, INC., 1521 Waukesha Road, Caledonia, WI 53108. Applicant's representative: Leo Hribar (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk from LaCrosse, Wis., to points in Minnesota; and from Minneapolis, Minn., to points in Wisconsin, for 180 days. Supporting shipper: International Salt Co., O'Hara International Center, 6300 North River Road, Rosemont, IL 60018 (Robert J. Casey, Midwest Distribution Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

By the Commission.

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

[FR Doc.71-16860 Filed 11-17-71;8:51 am]

[Ex Parte No. 271]

RAILROAD NET INVESTMENT

Rate Base and Rate of Return

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 5th day of November 1971.

It appearing, that by order dated December 11, 1970, the Commission instituted a proceeding to determine whether the railroads' net investment in transportation property plus the original cost of the land and an allowance for working capital should be used to measure the rate of return, as heretofore, or whether some other rate base should be utilized in the future;

It further appearing, that by notice of January 19, 1971, the date for giving notification of intent to participate was extended from January 18, 1971, to February 8, 1971, and it was noted that the order would be served on numerous consumer interests for the purpose of securing as wide a public participation as possible;

It further appearing, that in accordance with the said order and notice, numerous parties notified the Commission that they intended to actively participate in the proceeding;

It further appearing, that in the preliminary report entered on this date, it was concluded to investigate also the matter of determining what constitutes a reasonable rate of return, including the various factors set forth in said report;

It further appearing, that since the order of December 11, 1970, instituting this investigation did not include the matter of determination of a reasonable rate of return, notice of its inclusion herein will be given by publication of this order in the FEDERAL REGISTER, to afford all persons interested an opportunity to participate and to assure an adequate record;

And it further appearing, that the order of December 11, 1970, provided that the nature of further proceedings would be later designated; therefore,

It is ordered, That on or before 30 days from the date of publication hereof in the FEDERAL REGISTER, all persons who have not previously become parties hereto by responding to the order of December 11, 1970, and who are interested in participating in the matter of determining a reasonable rate of return shall so notify the Office of Proceedings,

Room 5354, Interstate Commerce Commission, Washington, D.C. 20423. As soon as practicable thereafter, a list of the names and addresses of those so responding, as well as those who are presently parties, will be served on all parties.

It is further ordered, That on or before January 31, 1972, an original and 15 copies of initial verified statements of fact and argument, (1) in support of or in opposition to, in whole or in part, the present method of determining the railroad rate base, and/or (2) with respect to the matter of determining a reasonable rate of return, shall be filed with the Commission, and at the same time a copy thereof shall be served upon each party named in the list to be furnished as provided above.

It is further ordered, That on or before March 1, 1972, an original and 15 copies of verified reply statements are to be filed with the Commission, and at the same time a copy thereof shall be served upon each party named in the list to be furnished as provided above.

And it is further ordered, That no oral hearings are contemplated unless a need therefor should later appear.

By the Commission.

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

[FR Doc.71-16902 Filed 11-17-71;9:18 am]

[Notice 91]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

NOVEMBER 12, 1971.

The following applications are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record.

The publications hereinafter set forth reflect the scope of the applications as filed by applicants, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the pharaseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

No. MC 531 (Sub-No. 275), filed October 15, 1971. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, Post Office Box 14048, Houston, TX 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from Atchison, Kans., to Portland, Oreg. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 2368 (Sub-No. 31), filed October 21, 1971. Applicant: BRALLEY-WILLETT TANK LINES, INC., 2212 Deepwater Terminal Road, Post Office Box 495, Richmond, VA 23204. Applicant's representative: E. Stephen Heisley, 705 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and vegetable oil and fats*, in bulk, between points in Rockingham County, Va., on the other hand, and, on the other, points in North Carolina and South Carolina. NOTE: Applicant states that it presently holds out to perform much of the service by operating through Richmond, Va. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 15735 (Sub-No. 23), filed October 12, 1971. Applicant: ALLIED VAN LINES, INC., 25th Avenue and Roosevelt Road, Broadview, Ill. Mail: Post Office Box 4403, Chicago, IL 60680. Applicant's representative: Patrick H. Smyth, Legal Department, Post Office Box 4403, Chicago, IL 60680. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cooling boxes* uncrated, from Orange, Calif., to Denver, Colo. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Washington, D.C., or Los Angeles, Calif.

No. MC 20783 (Sub-No. 86), filed October 12, 1971. Applicant: TOMPKINS MOTOR LINES, INC., 638 Langley Place, Decatur, GA 30030. Applicant's representative: Archie B. Culbreth, Suite 417, 1252 West Peachtree Street NW., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Mattoon, Ill., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee, restricted to traffic originating at Mattoon, Ill., and destined to points in the States named above. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 31600 (Sub-No. 654) (Amendment), filed September 20, 1971, published in the FEDERAL REGISTER issue of October 29, 1971, and republished as amended this issue. Applicant: P. B. MUTRIE MOTOR TRANSPORTATION, INC., Calvary Street, Waltham, Mass. 02154. Applicant's representative: Harry C. Ames, 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal or poultry feed ingredients*, dry, in bulk, in tank vehicles, from points in Illinois, Iowa, Minnesota, Nebraska, New York, North Dakota, South Dakota, and Wisconsin, to points in Massachusetts. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. The purpose of this republication is to include the States of New York and South Dakota as origin States, and the State of Massachusetts as a des-

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[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

tination State. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Washington, D.C.

No. MC 32882 (Sub-No. 60) (Amendment), filed June 14, 1971, published in the FEDERAL REGISTER issue of July 22, 1971, and republished as amended, this issue. Applicant: MITCHELL BROS. TRUCK LINES, a corporation, 3841 North Columbia Boulevard, Portland, OR 97217. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* which, by reason of size or weight, require special handling or the use of special equipment, and *commodities* which do not require handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; (2) *self-propelled articles, transported on trailers, and related machinery, tools, parts, and supplies*, moving in connection therewith; (3) *iron and steel articles* as described in appendix 5 to the Commission's report in *Descriptions in Motor Carrier Certificates*, ex parte, MC 45, 61 M.C.C. 209 and 766; and (4) *pipe* other than iron or steel, together with fittings; and (5) *construction materials*, between points in California, on the one hand, and, on the other, points in Oregon, Washington, Idaho, Nevada, Utah, Colorado, Wyoming, and Arizona. NOTE: Applicant will tack between Oregon, Washington, Nevada, and Utah and also between California and Montana. The purpose of this republication is to add the destination States of Colorado, Wyoming, and Arizona. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or San Francisco, Calif.

No. MC 33641 (Sub-No. 98), filed October 14, 1971. Applicant: IML FREIGHT, INC., 2175 South 3270 West, Salt Lake City, UT 80217. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of PPG Industries, Inc., at or near Mount Holly Springs, Pa., as an off-route point in connection with applicant's regular route authority. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant did not specify a location.

No. MC 35072 (Sub-No. 7), filed October 25, 1971. Applicant: EDWIN L. ELLOR & SON, INC., 29 Mountain Boulevard, Warren, NJ 07060. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hydrants, castings, valves, and machinery* and (2) *equipment, materials, and supplies* used or useful in the manufacture, sale, and installation thereof, except commodities in bulk, between the plantsite of U.S. Pipe & Foundry Co., Burlington, N.J., on the one hand, and, on the other, points in New Jersey, New York, Connecticut, Massachusetts, Manchester, N.H., Rhode Island, Pennsylvania, Delaware, Maryland, and the District of Columbia, under a continuing contract with U.S. Pipe & Foundry Co. of Burlington, N.J. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 41347 (Sub-No. 7), filed August 17, 1971. Applicant: DE BACK CARTAGE CO., INC., 4841 West Burnham Street, Milwaukee, WI 53219. Applicant's representative: William C. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sea coal*, in bags, from Dolton, Ill., to West Allis, Wis., for the account of Milchap Products Division, S. C. I. NOTE: If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 44639 (Sub-No. 45), filed October 21, 1971. Applicant: L. & M. EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Applicant's representative: Herman B. J. Weckstein, 60 Park Place, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel, and materials, and supplies* used in the manufacture of wearing apparel, between Crewe, Va., on the one hand, and, on the other, Lynchburg, Va. NOTE: Applicant states that the requested authority can be tacked at Crewe, Va., with its authority under MC 44639, wherein applicant is authorized to serve points in Virginia, North Carolina, New Jersey, New York, and Maryland. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Lynchburg, Va.

No. MC 50493 (Sub-No. 47), filed October 13, 1971. Applicant: P.C.M. TRUCKING, INC., 1063 Main Street, Orefield, PA 18609. Applicant's representative: J. William Cain, Jr., 2001 Massachusetts Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients* (1) between Essex, Bergen, Hudson, and Union Counties, N.J., on the one hand, and, on the other, points in Pennsylvania (except Allentown, Pa.) and points in New York west of U.S. Highway 81 and (2) between New York, N.Y., on the one hand, and, on the other, points in Pennsylvania west of the Susquehanna River and points in New York west of U.S. Highway 81. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Person interested in the tacking possibilities are cautioned that failure to oppose the applicant may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. 69833 (Sub-No. 100), filed October 21, 1971. Applicant: ASSOCIATED TRUCK LINES, INC., Vandenberg Center, Grand Rapids, Mich. 49502. Applicant's representative: Earl E. Meisenbach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Columbus, Ohio, and Pittsburgh, Pa., from Columbus, Ohio, over Interstate Highway 70 to junction with U.S. Highway 19, thence over U.S. Highway 19 to Pittsburgh and return over the same route, serving no intermediate points, as an alternate route for operating convenience only.

No. MC 73688 (Sub-No. 50), filed October 19, 1971. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, Post Office Box 7182, Memphis, TN 38107. Applicant's representative: Charles H. Hudson, Jr., 601 Stahlman Building, Nashville, Tenn. 37201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum, aluminum products, aluminum articles*, and *iron and steel articles*, between the plantsite of Planet Corp. at Birmingham, Ala., on the one hand, and, on the other, points in the United States in and east of Texas, Oklahoma, Kansas, Nebraska, South Dakota, and North Dakota (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 89684 (Sub-No. 77) (Amendment), filed August 16, 1971, published in the FEDERAL REGISTER issue of October 17, 1971, and republished as amended, this issue. Applicant: WYCOFF COMPANY, INCORPORATED, 560 South Second West, Salt Lake City, UT 84110. Applicant's representative: Harry D. Pugsley, 400 El Paso Gas Building, Salt Lake City, Utah 84111. NOTE: The purpose of this republication is to show that Salt Lake County, Davis County, Weber County, and Utah County are all located in the State of Utah. The rest of the application remains as previously published.

No. MC 100666 (Sub-No. 202), filed October 18, 1971. Applicant: MELTON TRUCK LINES, INC., Post Office Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life, 3535 Northwest 58th, Oklahoma City, OK 73112. Authority sought to operate as

a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic conduit, vinyl plastic siding, and extruded plastic products*, from Pittsburg, Kans., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states it knows of no feasible tacking operation. If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla., or Wichita, Kans.

No. MC 103435 (Sub-No. 216), filed October 18, 1971. Applicant: UNITED-BUCKINGHAM FREIGHT LINES, INC., 5773 South Prince Street, Post Office Box 192, Littleton, CO 80120. Applicant's representative: Robert P. Tyler, Post Office Box 192, Littleton, CO 80120. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Winner and Hot Springs, S. Dak., serving the intermediate points of Junction U.S. Highway 183, Junction U.S. Highway 83, Junction South Dakota Highway 73, Junction South Dakota Highway 75, Junction U.S. Highway 385, and Junction South Dakota Highway 79 and serving the termini for joinder only: From Winner over U.S. Highway 18 to Hot Springs, S. Dak., and return over the same route with service at Junction U.S. Highway 183, Junction U.S. Highway 83, Junction South Dakota Highway 73, Junction South Dakota Highway 75, Junction U.S. Highway 385, and Junction South Dakota Highway 79 for purpose of joinder only, as an alternate route for operating convenience only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 107012 (Sub-No. 133), filed October 18, 1971. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road (Post Office Box 988), Fort Wayne, IN 46801. Applicant's representative: Terry G. Fewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rug cushioning* from Richmond, Va., to points in West Virginia, Pennsylvania, Maryland, Delaware, New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont, North Carolina, South Carolina, and Washington, D.C. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Richmond, Va.

No. MC 107295 (Sub-No. 564), filed October 21, 1971. Applicant: PRE-FAB TRANSIT CO., a corporation, Post Office Box 146, Farmer City, IL 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel studding; steel faced plasterboard; suspension ceiling systems and accompanying-fittings, fixtures and hardware for installation*, from Westlake, Ohio to points in Alabama, Delaware, District of Columbia, Florida, Georgia, Indiana, Maryland, Michigan, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, and Tennessee. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the applicant may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio or Washington, D.C.

No. MC 107403 (Sub-No. 825), filed October 20, 1971. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, PA 19050. Applicant's representative: Harry C. Ames, Jr., 666 11th Street NW., Washington, DC 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyvinyl chloride resin*, in bulk, in tank vehicles, from Plaquemine, La., to points in Alabama, Arkansas, Florida, Georgia, Kansas, Kentucky, North Carolina, Ohio, Tennessee, and Texas. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no *present* intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Washington, D.C.

No. MC 108393 (Sub-No. 53), filed October 21, 1971. Applicant: SIGNAL DELIVERY SERVICE, INC., 930 North York Road, Hinsdale, IL 60521. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise, articles and commodities as are dealt in by mail-order houses and retail stores*, and in connection therewith, *such equipment, materials and supplies used in the conduct of such business*, between Chicago, Ill., and Pittsburgh, Pa., under continuing contract or contracts with Sears, Roebuck & Company. NOTE: Dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109365 (Sub-No. 36), filed October 15, 1971. Applicant: RONALD A. PATTERSON, doing business as ANTHONY & PATTERSON TRUCK LINE, Post Office Box 15, Ashdown, AR 71822. Applicant's representative: Louis Tarlowski, 914 Pyramid Life Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products and materials and supplies* used in the manufacture or distribution of paper and paper products (except commodities in bulk and commodities which because of size or weight require the use of special equipment), between the plantsites and/or storage facilities of Nekoosa Edwards Paper Co., Inc., in Little River County, Ark., on the one hand, and, on the other, points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, and Vermont. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 109397 (Sub-No. 263), filed October 14, 1971. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, Post Office Box 113, East on Interstate Business Route 44, Joplin, MO 64801. Applicant's representative: A. N. Jacobs, Post Office Box 113, Joplin, MO 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heat exchangers and equalizers for air, gas, or liquids; machinery and equipment* for heating, cooling, conditioning, humidifying, dehumidifying, and moving of air, gas, or liquids; and *parts, attachments and accessories* for use in the installation and operation of the abovenamed items, between Jackson, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. Applicant now holds contract carrier authority under its No. MC 128814 and subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 109708 (Sub-No. 55), filed October 18, 1971. Applicant: INDIAN RIVER TRANSPORT CO., a corporation, doing business as INDIAN RIVER TRANSPORT, INC., Box 1749, Fort Pierce, FL 33450. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cider stock*, in bulk, in tank vehicles, from North Rose, N.Y., to St. Paul, Minn.; Kansas City, and Marionville, Mo.; and Paris, Tex. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Miami, Fla., or Washington, D.C.

No. MC 110525 (Sub-No. 1018), filed October 15, 1971. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, PA 19335. Applicant's representatives: Thomas J. O'Brien, (same address as applicant) and Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Wash-

ington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pellets, and/or plastic resin*, dry, in bulk, in tank vehicles, from the plantsite of Marbon Division, Borg-Warner Corp., Washington, W. Va., to points in those States east of the Mississippi River (excluding Minnesota), but including points in Louisiana and Missouri. NOTE: Applicant states tacking possibilities exist, but it does not intend to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 111401 (Sub-No. 351), filed October 15, 1971. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Road, Box 632, Enid, OK 73701. Applicant's representative: Alvin L. Hamilton (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Meadville, Pa., and Woodstock/Memphis, Tenn., to those ports of entry on the international boundary line between the United States and Mexico, located in Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or Washington, D.C.

No. MC 112595 (Sub-No. 48), filed October 18, 1971. Applicant: FORD BROTHERS, INC., Box 727, Ironton, OH 45638. Applicant's representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic flakes, granules, pellets, and powder* in bulk, in tank vehicles, from Washington, W. Va., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 112822 (Sub-No. 206), filed July 8, 1971. Applicant: BRAY LINES INCORPORATED, 1401 North Little Street, Post Office Box 1191, Cushing, OK 74023. Applicant's representative: Thos. Lee Allman, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, from Memphis, Tenn., and New Orleans, La., to points in Oklahoma. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla.

No. MC 112989 (Sub-No. 20), filed October 21, 1971. Applicant: WEST COAST TRUCK LINES, INC., Post Office Box 668, Coos Bay, OR 97420. Applicant's representative: John G. McLaughlin, 726 Blue Cross Building, Portland, Oreg. 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities* which, by reason of size or weight, require special handling or the use of special equipment, *and commodities* which do not require special handling or the use of special equipment when moving in the same shipment on the same bill of lading as commodities which by reason of size or weight require special handling or the use of special equipment; (2) *self-propelled articles*, transported on trailers, and *related machinery, tools, parts, and supplies* moving in connection therewith; (3) *iron and steel articles* as described in Appendix 5 to the Commission's report in *Descriptions in Motor Carrier Certificates*, ex parte MC 45, 61 M.C.C. 209 and 766; (4) *pipe* other than iron or steel, together with *fittings;* and, (5) *construction materials*, between points in California, on the one hand, and, on the other, points in Oregon, Washington, Idaho, Nevada, and Utah. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., San Francisco, Calif., and Los Angeles, Calif.

No. MC 113828 (Sub-No. 198), filed October 21, 1971. Applicant: O'BOYLE TANK LINES, INCORPORATED, Post Office Box 3006, Washington, DC 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol and alcoholic liquors*, from Williamson, Pa., to Baltimore, Md. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113855 (Sub-No. 248), filed August 30, 1971. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Alan Foss, 502 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which because of size or weight require the use of special equipment, and *related machinery parts and related contractor's materials and supplies* when their transportation is incidental to the transportation by carrier of commodities which by reason of size or weight require special equipment, and (2) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts and supplies*, moving in connection therewith, restricted to commodities which are transported in trailers, between Minot, N. Dak., and points in Minnesota, and those in that part of North Dakota, south of a line beginning at the Montana-North Dakota State line and extending along U.S. Highway 2 to Lakota, N. Dak., thence along North Dakota Highway 1 to the international boundary line between the United States and Canada (not including points on the indicated portions of the highways specified other than Minot, N. Dak.). NOTE: Applicant states that the requested authority can be tacked with its existing authority under MC 113855 Sub 2 and Sub 84 to serve other western and midwestern States. If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak.

No. MC 114019 (Sub-No. 226), filed October 18, 1971. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, and toilet preparations*, from points in Philadelphia and Montgomery Counties, Pa., to Northville, Mich. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114239 (Sub-No. 28), filed August 15, 1971. Applicant: FARRIS TRUCK LINE, a corporation, Faucett, Mo. 64448. Applicant's representative: Tom B. Kretsinger, 450 Professional Building, Kansas City, Mo. 64106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Feed and feed ingredients*, between points in the Kansas City, Mo.-Kans., commercial zone, on the one hand, and, on the other, points in Texas and Arkansas, and (2) *feed ingredients*, from points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma, South Dakota, and Wyoming, to points in the Kansas City, Mo.-Kans., commercial zone as defined by the Commission, under contract with Albers Milling Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 115603 (Sub-No. 11), filed October 19, 1971. Applicant: TURNER BROS. TRUCKING COMPANY, INC., 5501 South Hattie Street, Post Office Box 94626, Oklahoma City, OK 73109. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel* and *iron and steel articles*, (1) between points in Colorado and Wyoming, on the one hand, and, on the other, points in Illinois, Nebraska, South Dakota, and Missouri; (2) between points in Illinois, Nebraska, South Dakota, Mis-

souri, Oklahoma, Kansas, and Texas; (3) between points in Louisiana and New Mexico; (4) between points in Louisiana and New Mexico, on the one hand, and, on the other, points in Kansas, Oklahoma, and Texas; (5) between points in Oklahoma, on the one hand, and, on the other, points in Mississippi; (6) between points in Texas, on the one hand, and, on the other, points in North Dakota on and west of a line beginning at the United States-Canada boundary line and extending along North Dakota Highway 30 through York and Medina to Lehr, thence along unnumbered highway to Ashley, and thence along North Dakota Highway 3 to the North Dakota-South Dakota State line; (7) between points in Wyoming and Colorado; (8) between points in Wyoming and Colorado, on the one hand, and, on the other, points in Oklahoma; (9) between points in Oklahoma, on the one hand, and, on the other, points in Arkansas; and (10) between points in Arkansas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. No duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Houston or Dallas, Tex., or Oklahoma City, Okla.

No. MC 115826 (Sub-No. 226), filed October 14, 1971. Applicant: W. J. DIGBY, INC., Post Office Box 5088 TA, 1960 31st Street, Denver, CO 80217. Applicant's representative: Ezekial Gomez (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soft drinks and juices*, canned or bottled, or packaged in bags and containers, from points in Colorado to points in New Mexico, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 115826 (Sub-No. 227), filed October 14, 1971. Applicant: W. J. DIGBY, INC., Post Office Box 5088 TA, 1960 31st Street, Denver, CO 80217. Applicant's representative: Ezekial Gomez (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, from Sterling, Colo., to points in Alabama, Florida, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, Texas, West Virginia, Virginia, Maryland, Kentucky, Ohio, and Washington, D.C. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 115826 (Sub-No. 228), filed October 18, 1971. Applicant: W. J. DIGBY, INC., Post Office Box 5088 T.A., 1960 31st Street, Denver, CO 80217. Applicant's representative: Ezekial Gomez (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquor, wines, alcoholic, and nonalcoholic beverage preparation*, from points in Illinois, Kentucky, Tennessee, Ohio, and Indiana to points in Colorado, Arizona, New Mexico, Utah, and Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Cincinnati, Ohio.

No. MC 115840 (Sub-No. 73), filed September 30, 1971. Applicant: COLONIAL FAST FREIGHT LINES, INC., 1215 West Bankhead Highway, Post Office Box 10327, Birmingham, AL 35202. Applicant's representative: C. E. Wesley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) (1) *commodities* the transportation of which because of their size or weight require the use of special equipment, and *related machinery parts and related contractors' materials and supplies* when their transportation is incidental to the transportation by said carrier of commodities which by reason of size or weight require special equipment; (2) *self-propelled articles, and related machinery, tools, parts, and supplies* moving in connection therewith (restricted to commodities which are transported on trailers; (3) *commodities*, which do not require the use of special equipment or handling when moving with commodities the transportation of which because of size or weight require the use of special equipment as part of the same shipment on the same bill of lading and on the same vehicle; (4) *construction, agricultural, maintenance, material handling; and industrial machinery and equipment; pipe; iron and steel articles; lumber;* and (5) *parts, accessories, and attachments* for commodities described in parts (1), (2), and (4) above; between points in Alabama, Louisiana, and Mississippi; and (B) *commodities* the transportation of which because of size or weight require the use of special equipment; between Chattanooga, Tenn., and points in Oconee, Pickens, and Greenville Counties, S.C., points in Alabama in and north of Lee, Tallapoosa, Coosa, Chilton, Bibb, Tuscaloosa, Fayette, and Marion Counties; points in Kentucky on and south of U.S. Highway 80 to its junction with U.S. Highway 68, thence along Highway U.S. 68 to its junction with U.S. Highway 41, thence along U.S. Highway 41 to the Kentucky-Tennessee State line; and points in Georgia in and north of Troop, Meriwether, Pike, Lamar, Monroe, Jones, Jasper, Morgan, Oconee, Clark, Madison, and Franklin Counties. NOTE: Applicant intends to tack the authority sought in A and B with authorities presently held by applicant at points in Alabama, Louisiana, and Mississippi. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 115898 (Sub-No. 2), filed October 14, 1971. Applicant: EVERETT STUBBLEFIELD, doing business as T.S.C.T., 4609 Chandler Avenue, Chattanooga, TN 37410. Applicant's representative: R. Cameron Rollins, 321 East Center Street, Kingsport, TN 37660. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Brick, cinderblocks, concrete blocks, clay products, shale and shale products, concrete and concrete products, and mortar mixes*, (1) between Cordova, Tenn., on the one hand, and, on the other, points in Arkansas, Kentucky, Mississippi, and Missouri; (2) between Huntsville, Ala., on the one hand, and, on the other, points in Tennessee, North Carolina, and Georgia; (3) between Elizabethton, Johnson City, Kingsport, and Knoxville, Tenn., on the one hand, and, on the other, points in Kentucky, Virginia, West Virginia, North Carolina, Georgia, and Alabama; and (4) between Groseclose, and Richlands, Va., on the one hand, and, on the other, points in Kentucky, North Carolina, Tennessee, and West Virginia, under contract with General Shale Products Corp., Johnson City, Tenn. NOTE: Duplicating authority may be involved. If the authority sought is granted, applicant requests that any existing duplicating authority be canceled. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Nashville, Tenn.

No. MC 116063 (Sub-No. 127), filed October 6, 1971. Applicant: WESTERN-COMMERCIAL TRANSPORT, INC., 2400 Cold Springs Road, Post Office Box 270, Fort Worth, TX 76101. Applicant's representative: W. H. Cole (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Starch*, in bulk, from Fort Worth, Tex., to points in Arkansas, Louisiana, and Oklahoma. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Fort Worth or Dallas, Tex.

No. MC 118989 (Sub-No. 68), filed October 21, 1971. Applicant: CONTAINER TRANSIT, INC., 5223 South Ninth Street, Milwaukee, WI 53211. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Jerseyville, Ill., to points in Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Massachusetts, Minnesota, Missouri, New York, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Texas, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 119632 (Sub-No. 47), filed October 14, 1971. Applicant: REED LINES, INC., 634 Ralston Avenue, Defiance, OH 43512. Applicant's representative: John P. McMahon, 100 East Broad Street,

Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Articles*, distributed or dealt in by food distributors or wholesale and retail grocers (except frozen foods and commodities in bulk), (1) from points in Illinois, Indiana, Kentucky, Maryland, the Lower Peninsula of Michigan, New Jersey, New York, Ohio, Pennsylvania, and West Virginia to the plantsite and facilities of Fostoria Distribution Service Co. at or near Fostoria, Ohio, and (2) from the plantsite and facilities of Fostor from the plantsite and facilities of Fostoria Distribution Service Co. at or near Fostoria, Ohio, to points in the Lower Peninsula of Michigan west of U.S. Highway 23. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 119777 (Sub-No. 228), filed October 14, 1971. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Post Office Drawer L, Madisonville, KY 42431. Applicant's representative: William G. Thomas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, equipment, materials, and supplies used in air, water, and sewage systems and installations*, between points in Alabama, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Applicant also holds contract carrier authority under MC 126970 and subs, therefore dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Washington, D.C.

No. MC 119880 (Sub-No. 49), filed October 21, 1971. Applicant: DRUM TRANSPORT, INC., Post Office Box 2056, East Peoria, IL 61611. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, in tank vehicles, from Elizabeth, N.J., Baltimore, Md., and Norfolk, Va., to Colonial Heights, Va. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 120543 (Sub-No. 73), filed October 18, 1971. Applicant: FLORIDA REFRIGERATED SERVICE, INC., U.S. Highway 301N., Post Office Box 1297, Dade City, FL 33525. Applicant's representative: L. D. Fay, 1205 Universal Marion Building, Post Office Box 1086, Jacksonville, FL 32201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water conditioners*, liquid and powder, *water filters and purifiers*, and *fish food*, from Sanford, Fla., to points in California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Orlando or Tampa, Fla.

No. MC 123048 (Sub-No. 203), filed October 14, 1971. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, WI 53403. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors*, (except truck tractors), and *tractor attachments*, in mixed loads with tractors (except commodities which by reason of size or weight require the use of special equipment), from the facilities of Oliver Farm Equipment Co., a division of White Farm Equipment Co., located in De Kalb County, Ga., to points in the United States (except Alaska, Connecticut, Delaware, Georgia, Hawaii, Maryland, Massachusetts, North Carolina, New Jersey, Rhode Island, South Carolina, Virginia, and the District of Columbia). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124236 (Sub-No. 38), filed October 15, 1971. Applicant: CEMENT EXPRESS, INC., 1200 Simons Building, Dallas, Tex. 75201. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *White Portland cement*, from Houston, Tex., to points in Tennessee. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its present authority in the States of Alabama, Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Missisippi, and Texas. If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 124701 (Sub-No. 8), filed October 21, 1971. Applicant: HAYWARD TRANSPORTATION, INC., Main Street, Fairlee, Vt. 05045. Applicant's representative: Frederick T. O'Sullivan, 372 Granite Avenue, Milton, MA 02186. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except petrochemicals and liquified petroleum gas), in bulk, in tank vehicles, from Boston and Braintree, Mass., to points in Chittenden, Lamoille, Washington, Orange, Caledonia, and Essex Counties, Vt., and Grafton and Coos Counties, N.H., under contract with Bradford Oil Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt., or Concord, N.H.

No. MC 124711 (Sub-No. 13), filed October 15, 1971. Applicant: BECKER & SONS, INC., 2643 West Central, El Dorado, KS 67042. Applicant's representative: Erle W. Francis, Suite 719, 700 Kansas Avenue, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, dry, in bulk or in packages; *insecticides, fungicides, and herbicides*, except liquid in bulk, also in mixed shipments with manufactured fertilizer and fertilizer materials, from points on the Arkansas and Verdigris Rivers, in Oklahoma, to points in Arkansas, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, Texas, and Wisconsin. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Topeka, Kans.

No. MC 125000 (Sub-No. 6), filed October 12, 1971. Applicant: LEON LEDBETTER, Post Office Box 277, Vega, TX 79092. Applicant's representative: Maston C. Courtney, Post Office Box 189, Amarillo, TX 79105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water well gravel*, between points in Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler Counties, Tex.; points in Colfax, Curry, De Baca, Guadalupe, Harding, Quay, Roosevelt, San Miguel, and Union Counties, N. Mex.; points in Beaver, Beckham, Cimarron, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Texas, Tillman, Washita, Woods, and Woodward Counties, Okla.; points in Clark, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearney, Meade, Morton, Seward, Stanton, and Stevens Counties, Kans.; and points in Baca, Bent, Crowley, Las Animas, Prowers, Pueblo, and Otero Counties, Colo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Amarillo, Tex.

No. MC 125433 (Sub-No. 29), filed October 14, 1971. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1891 West 2100 South Street, Salt Lake City, UT 84119. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel articles*, as described in Ex Parte No. MC-45, *Descriptions in Motor Carrier Certificates*, Appendix V (61 M.C.C. 276); (2) *pipe other than iron or steel*, between California, on the one hand, and, on the other, points in Arizona, New Mexico, and El Paso, Tex. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed neces-

sary, applicant requests it be held at Los Angeles or San Francisco, Calif.

No. MC 126038 (Sub-No. 7), filed October 20, 1971. Applicant: PENINSULA PRODUCTS, INC., 47 Northeast Middlefield Road, Portland, OR 97211. Applicant's representative: David C. White, 2400 Southwest Fourth Avenue, Portland, OR 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Wine and malt beverages*, except in bulk, from points in California to Bremerton, Wash., under contract with Jennings Corp.; and (b) *wine*, except in bulk, from points in California to Seattle, Wash., under contract with Birkenwald, Inc. NOTE: Applicant states that no duplicating authority is sought. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 126276 (Sub-No. 59), filed October 18, 1971. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, IL 60463. Applicant's representative: Albert A. Andrin, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container ends, and closures*, from the plantsites of Crown Cork & Seal Co., Inc., at Atlanta, Ga., Orlando and Bartow, Fla., Birmingham, Ala., and Spartanburg, S.C., to points in Pennsylvania, Maryland, North Carolina, South Carolina, New Jersey, New York, Kentucky, West Virginia, Tennessee, Arkansas, Illinois, Indiana, and Ohio, under contract with Crown Cork & Seal Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126539 (Sub-No. 7), filed October 14, 1971. Applicant: KATUIN BROS., INC., 102 Terminal Street, Dubuque, IA 52001. Applicant's representative: Carl E. Munson, 469 Fischer Building, Dubuque, Iowa 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from Keokuk, Iowa to points in Illinois, Minnesota, and Missouri. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant now holds contract carrier authority under its No. MC 129135 and subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Dubuque, Iowa, Chicago, Ill., or Des Moines, Iowa.

No. MC 128020 (Sub-No. 32), filed October 8, 1971. Applicant: THE STOUT TRUCKING CO., INC., Post Office Box 177, Rural Route No. 1, Urbana, IL 61801. Applicant's representative: James F. Flanagan, 111 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers and *empty beverage containers*, (1) from Detroit, Mich., to Danville, Ill.; (2) from Evansville, Ind., and Newport, Ky., to Danville and Paris, Ill.; (3) from Louisville, Ky., to Paris, Ill.; (4) from LaCrosse, Wis., to Bloomington and Lincoln, Ill.; (5) from South Bend, Ind., to Danville and Paris, Ill., restricted to site of Haton Distributing Co., Danville and Hiatt Distributing Co., Paris, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Springfield or Chicago, Ill.

No. MC 128273 (Sub-No. 111), filed October 20, 1971. Applicant: MIDWESTERN EXPRESS, INC., Box 189, Fort Scott, KS 66701. Applicant's representative: Danny Ellis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, products produced or distributed by manufacturers and converters of paper and paper products; and materials and supplies* used in the manufacture and distribution of the foregoing commodities (except commodities which, because of size or weight, require the use of special equipment, and except commodities in bulk), between the plantsites and/or storage facilities of Nekoosa Edwards Paper Co., Inc., located in Little River County, Ark., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Washington, D.C.

No. MC 128497 (Sub-No. 13), filed October 18, 1971. Applicant: JACK LINK TRUCK LINE, INC., Post Office Box 127, Dyersville, IA 52040. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Mattoon, Ill., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, South Dakota, and Wisconsin, restricted to the transportation of traffic originating at the plantsite and warehouse facilities of Kraft Foods at Mattoon, Ill., and destined to the named destination points. NOTE: Applicant presently holds contract carrier authority in MC 124807, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128497 (Sub-No. 14), filed October 20, 1971. Applicant: JACK LINK TRUCK LINE, INC., Post Office Box 127, Dyersville, Iowa 52040. Applicant's representative: Jack H. Blanshan, 29 South La Salle Street, Chicago, Ill. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Dairy products*, as described in section B of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (1) from Chippewa Falls, Wis., to points in Indiana, and Illinois (except Chicago, Ill.), and (2) from Bettendorf, Iowa to Chippewa Falls, Wis.; (B) *Dairy Products* (except commodities in bulk), from Chippewa Falls and Westby, Wis.; Dubuque, Iowa; and LeSueur, Minn., to points in Iowa, Missouri, Nebraska, and South Dakota, and (C) *Orange juice*, in containers, from Chippewa Falls, Wis., to points in Iowa, Missouri, Nebraska, South Dakota, Indiana, and Illinois (except Chicago, Ill., and its commercial zone). Restriction: Parts A, B and C above are restricted to the transportation of shipments originating at the facilities of or utilized by Fieldcrest Sales Co. and destined to the named destinations. NOTE: Applicant presently holds contract carrier authority in MC 124807, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129323 (Sub-No. 2), filed August 9, 1971. Applicant: MERCHANTS MOVING COMPANY OF FAYETTEVILLE, INC., 457 Robeson Street, Fayetteville, NC 28302. Applicant's representative: R. J. Gallagher, 1776 Broadway, New York, NY 10019. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in North Carolina. Restriction: The service authorized herein is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applcant requests it be held at Fayetteville, N.C.

No. MC 129341 (Sub-No. 3), filed October 20, 1971. Applicant: SYL-AR TRUCKING, INC., Post Office Box 147, Cleveland, Wis. 53015. Applicant's representative: Edward Solie, Executive Building, Suite 100, 4513 Vernon Boulevard, Madison, WI 53705. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, and *related advertising materials, premiums, and malt beverage dispensing equipment* in mixed loads with malt beverages, (a) from St. Louis, Mo., to Green Bay, Wis., limited to a transportation service performed under a continuing contract, or contracts, with Benkowski Distributing Co., Inc., Manitowoc, Wis.; and (b) from St. Louis, Mo., to Sturgeon Bay, Wis., limited to a transportation service performed under a continuing contract, or contracts, with Ervin Schultz, doing business as Erv's Beer Depot, Sturgeon Bay, Wis. NOTE: If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 129413 (Sub-No. 8), filed October 19, 1971. Applicant: C. B. TRANSPORTATION, INC., 1400 Grand Avenue, Post Office Box 3072, Sioux City, IA 51102. Applicant's representative: J. Max Harding, 605 South 14th Street, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and*

poultry feeds, animal and poultry feed ingredients and animal and poultry health aids, from Worthington, Minn., to points in Lyon, Osceola, Dickinson, Emmet, Sioux, O'Brien, Clay, Palo Alto, Plymouth, Cherokee, Buena Vista, Woodbury, Ida, and Sac Counties, Iowa; Sioux, Dawes, Box Butte, Sheridan, Cherry, Keya Paha, Brown, Rock, Boyd, Holt, Knox, Antelope, Pierce, Cedar, Wayne, Dixon, Dakota, and Thurston Counties, Nebr., and points in South Dakota; (2) *Animal and poultry feed ingredients* from the destination area (1) above to Worthington, Minn., and (3) *animal and poultry feeds, animal and poultry feed ingredients and animal and poultry health aids*, between the plantsites and warehouse facilities of Allied Mills at Worthington, Minn.; Mason City, Iowa, and Omaha, Nebr. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 133574 (Sub-No. 14), filed October 18, 1971. Applicant: TERRILL TRUCKING COMPANY, a corporation, 1016 Geneseo Street, Post Office Box 940, Storm Lake, IA 50588. Applicant's representative: Daryl Terrill (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Wilson Certified Foods, Inc., at Cherokee, Iowa, to points in Mississippi, Georgia, Alabama, Tennessee, Florida, North Carolina, and South Carolina. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Des Moines, Iowa.

No. MC 134282 (Sub-No. 4) (Clarification), filed October 1, 1971, published in the FEDERAL REGISTER issue of November 11, 1971, and republished in part, as clarified, this issue. Applicant: ENNIS TRANSPORTATION CO., INC., Post Office Box 447, Ennis, TX 75119. Applicant's representative: William D. White, Jr., 2505 Republic National Bank Tower, Dallas, Tex. 75201. The purpose of this partial republication is to show the correct origin in Part (2) of the application as: National Gypsum Co. at or near Pryor, Okla., in lieu of National Paper Co., as was erroneously published. The rest of the application remains as previously published.

No. MC 134321 (Sub-No. 2), filed October 15, 1971. Applicant: HAROLD W. HOLT, Route 5, Manchester, TN 37355. Applicant's representative: A. O. Buck, 500 Court Square Building, Nashville, Tenn. 37201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, metal roofing, fencing, fencing equipment, and nails*, from points in Alabama to Tullahoma, Tenn., under contract with Smotherman & Womack Wholesale Co., Tullahoma, Tenn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 134556 (Sub-No. 1), filed October 6, 1971. Applicant: WATCO, INC., Clayton Road, Canaan, Conn. 06018. Applicant's representative: Reubin Kaminsky, Post Office Box 17-067 North Main Street, West Hartford, CT 06117. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cement products, lime and limestone products, silica and silica products, sand and sand products, asphalt and asphalt products, mortar mix, gravel, gravel mix, tar products, marble chip, and calcium chloride* (except in bulk, in tank vehicles), from Canaan, Conn., to points in that part of New York on and west of U.S. Highway 15, under contract with Watta-Crete Co., Inc., of Canaan, Conn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or Albany, N.Y.

No. MC 135730 (Amendment), filed June 18, 1971, published in the FEDERAL REGISTER issue of July 22, 1971, amended and republished as amended, this issue. Applicant: JACKSYL TRANSPORTATION CORPORATION, 97 Freedman Avenue, Nanuet, NY 10954. Applicant's representative: William D. Traub, 10 East 40th Street, New York, NY 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hides and skins, cut fur, fur scrap, hair scrap, wool scrap, and such commodities as are used in or incidental to the processing, manufacture, packing and shipping of leather and leather products*, between the New York, N.Y., commercial zone as defined by the Commission, on the one hand, and Newark, N.J., and Danbury, Norwalk, and Winsted, Conn., and Hudson, N.Y., on the other, and (2) between Newark, N.J., and Hudson, N.Y. The purpose of this republication is to redescribe the territorial scope. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 135796 (Sub-No. 1), filed October 12, 1971. Applicant: ASSELIN TRANSPORT LTEE, a corporation, St. Georges-De-Champlain, Laviolette Co., PQ, Canada. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber*, from the ports of entry on the international boundary line between the United States and Canada at or near Champlain, N.Y., Derby Line and Norton, Vt., and Ashland, Maine, to Ticonderoga, Tonawanda, and Amityville, N.Y.; Orleans, Bellows Falls, Brattleboro, Bennington, Randolph, Newport, and Beecher Falls, Vt.; Athol, Baldwinville, Boston, Gardner, Tewksbury, Winchendon, and Clinton, Mass.; Roxbury, Conn.; Suncook and Merrimack, N.H.; (2) *Concrete porous pipes*, from ports of entry on the international boundary line between the United States and Canada at or near Derby Line, Vt., to points in Massachusetts, Rhode Island, and Connecticut; and (3) *Canoes, boats, and accessories*, from ports of entry on the international boundary line between the United States and Canada at or near Trout River, N.Y., to Malone, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt., or Albany, N.Y.

No. MC 136016, filed August 30, 1971. Applicant: JOHN M. HOLLISON, doing business as DAIRY CARRIERS, 10201 York Lane, Minneapolis, MN 55431. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Empty steel, paper and cardboard containers*, between Minnesota and points in North Dakota, South Dakota, Montana, Nebraska, Iowa, Wisconsin, Illinois, Missouri, Michigan, Indiana, Wyoming, and Kansas, under contract with Industrial Steel Container Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 136035, filed August 25, 1971. Applicant: WALTER S. DUNNING AND WALTER H. DUNNING, a partnership, doing business as W. S. DUNNING & SON, 902 South Chester Road, West Chester, PA 19380. Applicant's representative: Miles Warner, 225 South 15th Street, Philadelphia, PA 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Packaged foods and food products*, in metal, glass, paper, or other containers, included but not limited to *mushrooms, mushroom products, sauces, cereals, and related products*, from West Chester, Pa., to warehouses, customers, or consignees of Grocery Stores Products Co. at points in Massachusetts, New Jersey, Virginia, Delaware, Louisiana, Connecticut, Illinois, North Carolina, Florida, Indiana, New York, Ohio, South Carolina, Missouri, and Michigan; (2) *containers and packaging materials* for use in packaging and containing the products and property set forth in (1) above, including but not limited to *empty steel cans, empty glass and plastic jars, and containers, paper cartons, and paper bags*, (3) *paper or plastic labels* for use in labelling, tagging, or identifying the products and property set forth in (1) above; (4) *empty pallets* for use in loading or unloading the products and property set forth in (1) above; and (5) *salt*, in paper or plastic containers for use in the food products and property set forth in (1) above, from points in New Jersey, Michigan, Maryland, Ohio, Illinois, and New York to the plant of Grocery Stores Products Co. in West Chester, Pa., in connection with (2), (3), (4), and (5) above, under contract with Grocery Stores Products Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 136052 (Sub-No. 2), filed October 26, 1971. Applicant: SECURITY CARRIERS, INC., 4228 West 11th, Post Office Box 3091, Amarillo, TX 79106. Ap-

plicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant and warehouse facilities used by National Beef Packing Co., at or near Liberal, Kans., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, restricted to the plant and warehouse facilities of National Beef Packing Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Kansas City, Mo.

No. MC 136109, filed October 21, 1971. Applicant: HETEM BROS., INC., 601 Commerce Road, Linden, NJ 07036. Applicant's representative: Thomas E. James, Post Office Box 5976, Dallas, TX 75222. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk, from points in Bergen, Essex, Hudson, Middlesex, and Union Counties, N.J., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, under contract with Enjay Chemical Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136111, filed October 18, 1971. Applicant: JOSEPH W. HUNKEN AND ROBERT F. HUGHES, a partnership doing business as H & H TRUCKING COMPANY, 104 Maplewood Drive, Bolingbrook, IL 60439. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Microfoam and plastic air caps*, between the plantsites and warehouse facilities of Tekra Corp. at Milwaukee, Wis., and Minneapolis-St. Paul, Minn., and points in Wisconsin, Iowa, Illinois, South Dakota, North Dakota, Nebraska, Kansas, and Kentucky; (2) *microfoam*, from Wurtland, Ky., to points in Wisconsin, Iowa, Illinois, South Dakota, North Dakota, Nebraska, Kansas, and Kentucky; and (3) *paper wadding*, from Salem, Ill., to points in Wisconsin and Minnesota, under contract with Tekra Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

MOTOR CARRIERS OF PASSENGERS

No. MC 59238 (Sub-No. 66), filed October 6, 1971. Applicant: VIRGINIA STAGE LINES, INCORPORATED, 114 Fourth Street SE., Charlottesville, Va. Applicant's representative: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between the junction of Interstate Highway 64 and Interstate Highway 81 and the junction of Interstate Highway 81 and U.S. Highway 340 at or near Waynesboro, Va., serving the latter junction for the purpose of joinder only. NOTE: Applicant has pending an application for contract carrier authority under its No. MC 135567 Sub-No. 2, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 110616 (Sub-No. 4), filed August 9, 1971. Applicant: CHARTER COACHES INC., 1878 Cold Stream Avenue NE., Cedar Rapids, IA 52402. Applicant's representative: O. W. Lawrence, 522 Higley Building, Cedar Rapids, IA 52401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in the same vehicle, in both charter and special operations, either one way or round trip, from Cedar Rapids, Iowa, and points within 50 miles of Cedar Rapids, to points in the United States (except Hawaii). NOTE: Applicant also holds contract carrier authority under MC 115405. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, Chicago, Ill., or Minneapolis, Minn.

No. MC 127738 (Sub-No. 3), filed August 26, 1971. Applicant: YELLOWSTONE PARK LINES, INC., Gardiner, Mont. 59030. Applicant's representative: Gerald Good (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers, baggage, express, and newspapers*, (1) between Gallatin Airport, located near Belgrade, Mont., and Bozeman, Mont., over U.S. Highway 10 or Interstate Highway 90, serving no intermediate points; and (2) between junction U.S. Highway 191 and unnumbered highway, over unnumbered highway to Big Sky Resort, Mont., serving all intermediate points. NOTE: It is noted that applicant presently transports passengers between Bozeman and West Yellowstone, Mont., over U.S. Highway 191, serving all intermediate points. If a hearing is deemed necessary, applicant requests it be held at Bozeman or West Yellowstone, Mont.

APPLICATION FOR FILING BROKERAGE LICENSE

No. MC 130141 (amendment), filed March 1, 1971, published in the FEDERAL REGISTER issue of April 8, 1971, amended and republished as amended, this issue. Applicant: HOWARD A. SHAFFER, DOROTHY J. LANDIS, AND RUSSELL W. LANDIS, a partnership, doing business as LET'S TRAVEL SERVICE, 926 East 64th Street, Tacoma, WA 98404. For a license (BMC 5) to engage in operations as a *broker* at Tacoma, Wash., in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of *passengers and their baggage*, both as individuals and in groups, beginning and ending at points in Washington and Oregon and extending to points in the United States (including Alaska and Hawaii), and ports of entry on the United States-Canada and the United States-Mexico boundary lines. NOTE: The purpose of this republication is to broaden the scope of authority sought.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 11740 (Sub-No. 6), filed October 14, 1971. Applicant: BLUE & GRAY TRANSPORTATION CO., INCORPORATED, 1111 Commerce Road, Richmond, Va. 23224. Applicant's representative: L. N. Lewis (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, in bulk, between Norfolk, Va., and Colonial Heights, Va. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority.

No. MC 97275 (Sub-No. 25), filed October 18, 1971. Applicant: ESTES EXPRESS LINES, a corporation, 1405 Gordon Avenue, Richmond, VA 23224. Applicant's representative: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between Raleigh and Durham, N.C., over U.S. Highway 70, serving the terminal site of Estes Express Lines, located approximately 8 miles northwest of Raleigh on U.S. Highway 70.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-16756 Filed 11-17-71; 8:45 am]

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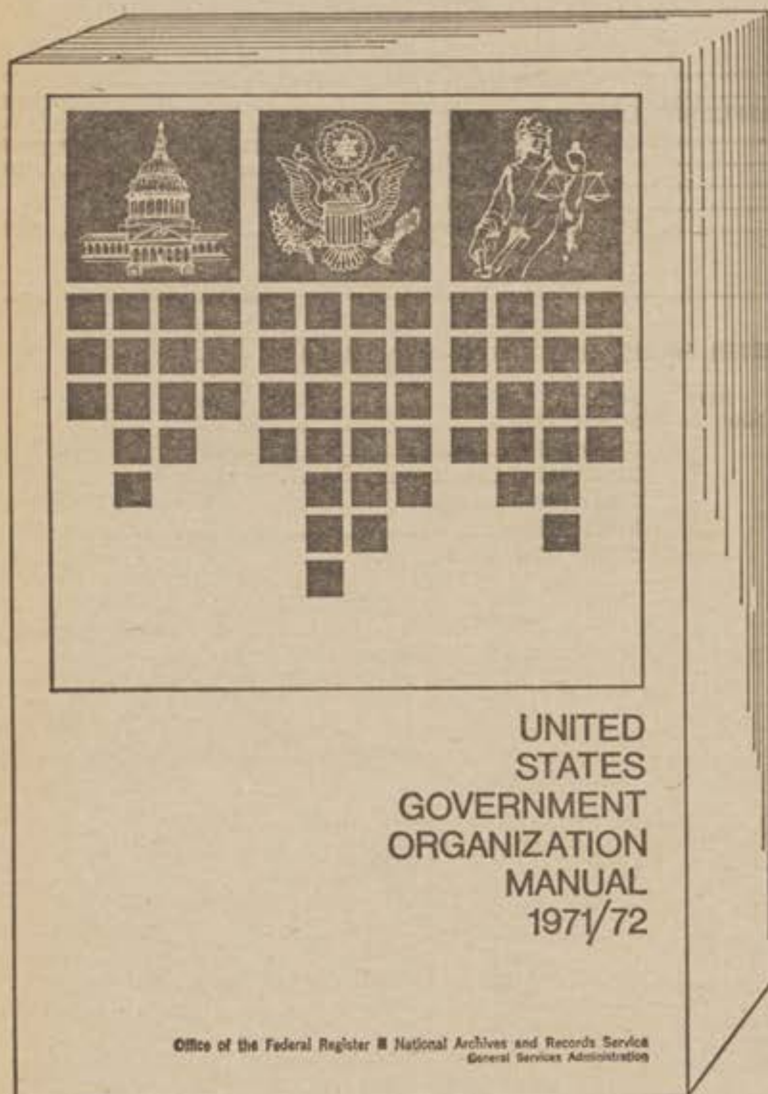

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