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PART I

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HIGHLIGHTS OF THIS ISSUE

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PART 300—PRICE STABILIZATION

Rate Increase Provisions Relating to Insurers

Correction

In F.R. Doc. 72-440, appearing at page 426 of the issue for Tuesday, January 11, 1972, the section number in the third column of page 427 reading "§ 300.57" should read "§ 300.51".

Title 7—AGRICULTURE

Chapter I—Consumer and Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Canned Green Beans and Canned Wax Beans [1]

DRAINED WEIGHT

Notice of a proposal to amend the U.S. Standards for Grades of Canned Green Beans and Canned Wax Beans (7 CFR 52.441-52.456) was published in the FEDERAL REGISTER of July 7, 1971 (36 F.R. 12745). Interested persons were allowed until September 6, 1971 in which to submit written comments concerning the proposed amendment.

These grade standards are issued under the authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended, 7 U.S.C. 1624) which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use by producers, buyers, and consumers. Official grading services are also provided under this Act upon request and upon payment of a fee to cover the cost of such services.

Statement of consideration leading to the amendment of the standards. The purpose of this amendment is to lower slightly—from 59.0 to 57.5 ounces—the recommended minimum drained weight for No. 10 cans of whole green or wax beans.

Studies indicate that the reduced drained weight would still reflect well-filled containers but which would be more consistently attainable under current good commercial practices. An improvement in the quality of the product is noted through a reduction in the number of broken bean pods that were observed when the cans were slightly over-filled in order to attain the former higher drained weight.

No objections were received concerning the amendment. One letter gives full support for the amendment as published in the FEDERAL REGISTER of July 7, 1971. Therefore, the amendment to the U.S. Standards for Grades of Canned Green Beans and Canned Wax Beans as proposed on July 7, 1971, is hereby adopted without change and is set forth below.

The amendment is as follows:

In Table I of this subpart, the first two left-hand columns only are revised to read as follows:

Container size or designation:	*Whole Ounces*
8 oz. tall	4.0
8 oz. glass	3.9
No. 1 (picnic)	5.6
No. 300	8.2
No. 300 glass	8.2
No. 1 tall	8.5
No. 303	8.5
No. 303 glass	9.0
No. 2	10.5
No. 2½	16.0
No. 2½ glass	15.8
No. 3 cylinder	26.6
No. 10	57.5

(Sec. 205, 60 Stat. 1090, as amended 7 U.S.C. 1624)

Effective date. The amendment to the U.S. Standards for Grades of Canned Green Beans and Canned Wax Beans (which is the seventh issue) contained in this subpart, shall become effective 30 days after publication hereof in the FEDERAL REGISTER.

Dated: January 10, 1972.

G. R. GRANGE,
Acting Administrator,
Consumer and Marketing Service.

[FR Doc.72-599 Filed 1-13-72;8:50 am]

[1] Compliance with the provisions of the standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable State laws and regulations.

Chapter III—Animal and Plant Health Service, Department of Agriculture

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

The following amendments are made pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine Programs by 7 CFR 354.1, as amended May 1, 1971, September 1, 1971, and December 24, 1971 (36 F.R. 8235, 17484, 24917) concerning overtime services relating to imports and exports. The administrative instructions appearing at 7 CFR 354.2, as amended January 19, 1971, April 7, 1971, and May 25, 1971 (36 F.R. 823, 6559, 9437) prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are hereby amended by adding to or deleting from the "lists" therein as follows:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

WITHIN METROPOLITAN AREA

ONE HOUR

Add: Coos Bay, Oreg. (including North Bend, Oreg.).
Delete: Providence, R.I.
Delete: San Juan, P.R.
Add: Warwick, R.I.
Delete: Wilmington, Del.
Add: Wilmington, Del. (includes the Marine Terminal and Airport).

TWO HOURS

Add: San Juan, P.R.
Delete: Tecate, Calif.

OUTSIDE METROPOLITAN AREA

ONE HOUR

Add: Chester, Pa. (served from Wilmington, Del.).
Add: Claymont, Del. (served from Wilmington, Del.).
Add: Marcus Hook, Pa. (served from Wilmington, Del.).

TWO HOURS

Add: Bucksport, Maine (served from Bangor, Maine).
Add: Delaware City, Del. (served from Wilmington, Del.).
Add: Providence, R.I. (served from Warwick, R.I.).
Add: Searsport, Maine (served from Bangor, Maine).
Add: Tecate, Calif. (served from San Diego, Calif.).

THREE HOURS

Add: Davisville NSD, R.I. (served from Warwick, R.I.).
Delete: Fall River, Mass. (served from Boston, Mass.).
Add: Fall River, Mass. (served from Warwick, R.I.).
Add: Melville, R.I. (served from Warwick, R.I.).
Add: Philadelphia, Pa. (served from Wilmington, Del.).
Add: Portsmouth, N.H. (served from Portland, Maine).
Add: Portsmouth, R.I. (served from Warwick, R.I.).
Add: Quonset Point, R.I. (served from Warwick, R.I.).
Add: Saunderstown, R.I. (served from Warwick, R.I.).
Add: Any undesignated Alaskan port served from Anchorage, Alaska.
Add: Any undesignated Connecticut, Massachusetts, or Rhode Island port served from Warwick, R.I.
Add: Any undesignated Oregon port served from Coos Bay, Oreg.

FOUR HOURS

Delete: New Bedford, Mass. (served from Boston, Mass.).
Add: New Bedford, Mass. (served from Warwick, R.I.).
Add: New London, Conn. (served from Warwick, R.I.).
Add: Newport, Oreg. (served from Coos Bay, Oreg.).
Add: Newport, R.I. (served from Warwick, R.I.).
Add: Plymouth, Mass. (served from Warwick, R.I.).
Add: Tiverton, R.I. (served from Warwick, R.I.).

FIVE HOURS

Add: Otis AFB, Mass. (served from Warwick, R.I.).
Add: Sandwich, Mass. (served from Warwick, R.I.).

SIX HOURS

Delete: Windsor Locks, Conn. (served from Boston, Mass.).
Add: Windsor Locks, Conn. (served from Warwick, R.I.).
Add: Woods Hole, Mass. (served from Warwick, R.I.).

These commuted traveltime periods have been established as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which the employee performs such overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Service. It is to the benefit of the public that these amendments be made effective at the earliest practicable date. Accordingly, pursuant to the provisions of 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

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

Effective date. The foregoing amendments shall become effective upon publication in the FEDERAL REGISTER (1–14–72).

Done at Washington, D.C., this 11th day of January 1972.

D. R. SHEPHERD,
Acting Deputy Administrator, Plant Protection and Quarantine Programs.

[FR Doc.72–558 Filed 1–13–72;8:46 am]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

[S.D. 857.21]

PART 857—SUGARCANE; PUERTO RICO

Proportionate Shares for Farms—1972–73 Crop

The following regulation is issued pursuant to the provisions of section 302 of the Sugar Act of 1948, as amended.

§ 857.21 Proportionate shares for the 1972–73 crop of sugarcane not required.

It is determined for the 1972–73 crop of sugarcane that, in the absence of proportionate shares, the production of sugar from such crop will not be greater than the quantity needed to enable the area to meet its quota for 1973, the calendar year during which the larger part of the sugar from such crop normally will be marketed, and to provide a normal carryover inventory. Consequently, proportionate shares will not be in effect in Puerto Rico for the 1972–73 crop of sugarcane.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153, secs. 301, 61 Stat. 929, 930, as amended, 7 U.S.C. 1131, 1132)

Statement of bases and considerations. Section 302 of the Sugar Act, as amended, provides, in part that the Secretary shall determine for each crop year whether the production of sugar from any crop of sugarcane will, in the absence of proportionate shares, be greater than the quantity needed to enable the area to meet its quota and provide a normal carryover inventory, as estimated by the Secretary for such area for the calendar year during which the larger part of the sugar from such crop normally would be marketed. Such determination may be made only after due notice and opportunity for an informal public hearing.

In accordance with this provision of the Act, an informal public hearing was held in Washington, D.C., on December 22, 1971. Interested persons were invited to submit views and recommendations concerning the possible establishment of proportionate shares for the 1972–73 crop of sugarcane.

The spokesman for the Association of Sugar Producers of Puerto Rico recommended that proportionate shares not be established for the 1972–73 crop. He stated that only 324,000 tons of sugar were produced in Puerto Rico in 1971, as compared to a marketing opportunity of 1,270,000 tons, and resulted in a declared deficit of 990,000 tons for the year. He said that prospects for the 1971–72 crop indicate that sugar production will again fall substantially short of marketing opportunities in calender year 1972; and that there is no necessity, therefore, to establish proportionate shares for the 1972–73 crop of Puerto Rican sugarcane. No other interested persons offered testimony.

Accordingly, I hereby find and conclude that the foregoing regulation will effectuate the applicable provisions of the Act.

Effective date: Date of publication in the FEDERAL REGISTER (1–14–72).

Signed at Washington, D.C., on January 10, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72–596 Filed 1–13–72;8:50 am]

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

PART 982—FILBERTS GROWN IN OREGON AND WASHINGTON

Order Amending the Order, as Amended, Regulating Handling

It is hereby ordered that on and after the effective date hereof all handling of filberts grown in Oregon and Washington shall be in conformity to, and in compliance with, the Order Regulating the Handling of Filberts Grown in Oregon and Washington, as amended (Order No. 982, as amended; 7 CFR Part 982) and as further amended by the "Order Amending the Order, as Amended, Regulating the Handling of Filberts Grown in Oregon and Washington" which was annexed to and made a part of the decision of the Secretary of Agriculture, issued December 2, 1971 (F.R. Doc. 71-17898; 36 F.R. 23304) with respect to proposed amendment of the marketing agreement, as amended, and order as amended, regulating the handling of such filberts. All of the findings, determinations, terms, and conditions of the aforesaid amendatory order shall be, and the same hereby are, the findings, determinations, terms, and conditions of this order as if set forth in full herein. It is hereby further ordered that, for convenient reference, there be set forth hereinafter the aforesaid amendatory order, together with the aforesaid findings and determinations as herein supplemented.

§ 982.0 Findings and determinations.

(a) *Previous findings and determinations.* The findings and determinations hereinafter set forth are supplementary, and in addition, to the findings and determinations made in connection with the issuance of the order and the previously issued amendments thereto; and all of said prior findings and determinations are hereby ratified and affirmed except insofar as such prior findings and determinations may be in conflict with the findings and determinations set forth herein. (For prior findings and determinations see 14 F.R. 5964; 19 F.R. 1163; 24 F.R. 6185.)

(b) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held in Portland, Oreg., on July 8, 1971, on a proposed amendment of the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington. On the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended and as hereby further amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended and as hereby further amended, regulates the handling of filberts grown in Oregon and Washington in the same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The said order, as amended and as hereby further amended, is limited in application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the area of production would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of filberts in the area of production covered by the order, as amended and as hereby further amended, which require different terms applicable to different parts of such area; and

(5) All handling of filberts grown in Oregon and Washington is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

(c) *Additional findings.* It is hereby further found, for the reasons hereinafter set forth, that good cause exists for making the provisions of this amendatory order effective on the date hereinafter specified rather than postponing the effective date thereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553). The amendatory order permits a handler to transfer any or all excess restricted credits (credits in excess of his restricted obligation) to another handler for crediting against his restricted obligation, subject to issuance of appropriate administrative rules. Handlers desire to utilize this provision because of a record 11,500-ton filbert crop. Some handlers have little or no export or shelling business (eligible restricted outlets) and could be forced to have their filberts custom shelled in order to meet their restricted obligation. By permitting handlers with excess dispositions in restricted outlets to transfer such credits to handlers who have not met their restricted obligation, these handlers could utilize the credits to fulfill their restricted obligation and could ship additional filberts to higher return in shell markets. No advance preparation by handlers will be necessary to comply with the amended order. Hence, to permit compliance with, and maximum benefit from, the new or revised provisions, it is necessary that the amendatory order become effective as hereinafter specified.

(d) *Determinations.* It is hereby determined that: (1) The "Marketing Agreement, as Amended, Regulating the Handling of Filberts Grown in Oregon and Washington," upon which the aforesaid public hearing was held, has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping filberts covered by the said order, as amended and as hereby further amended) who during the period August 1, 1970, through July 31, 1971, handled not less than 50 percent of the volume of such filberts covered by the said order, as amended and as hereby further amended; and

(2) The issuance of this amendatory order, amending the aforesaid order, as amended, is favored or approved by at least two-thirds of the producers who participated in a referendum on the question of its approval and who during the period August 1, 1970, through July 21, 1971 (which has been determined to be a representative period), have been engaged, within the States of Oregon and Washington, in the production for market of filberts, such producers having also produced for market at least two-thirds of the volume of such commodity represented in the referendum.

It is therefore ordered, That on and after the effective date hereof, all handling of filberts grown in Oregon and Washington shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended as follows:

§§ 982.45, 982.51 [Amended]

1. Sections 982.45(a) and 982.51 are amended by revising the parenthetical references therein "(as defined in the Oregon Grades and Standards for Walnuts and Filberts)" to read "(as defined in the Oregon Grade Standards Filberts In Shell)".

2. A new paragraph (d) is added to § 982.52 to read:

§ 982.52 Disposition of restricted filberts.

* * * * *

(d) *Restricted credits.* During any fiscal year, handlers who dispose of a quantity of certified merchantable filberts, in restricted outlets, in excess of their restricted obligation, may transfer such excess credits to another handler or handlers. Upon a handler's written request to the Board during a fiscal year, the Board shall transfer any or all of such excess restricted credits to such other handler or handlers as he may designate. The Board, with the approval of the Secretary, shall establish rules and regulations for the transfer of excess restricted credits.

§ 982.61 [Amended]

3. Section 982.61 is revised by adding the following sentences after the last sentence: "The Board shall impose a late payment charge on any handler who fails to pay his assessment within the time prescribed by the Board. In the event the handler thereafter fails to pay the amount outstanding, including the late payment charge, within the prescribed time, the Board shall impose an additional charge in the form of interest on such outstanding amount. The rate of such charges shall be prescribed by the Board, with the approval of the Secretary."

§ 982.69 [Amended]

4. Section 982.69 is revised by inserting in the first sentence in lieu of "the Board", the words "the Secretary, and the Board" and by inserting in the second sentence immediately prior to the words "the Board" the words "the Secretary or".

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

Dated January 10, 1972, to become effective upon publication in the FEDERAL REGISTER (1–14–72).

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-556 Filed 1-13-72;8:46 am]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Animal and Plant Health Service, Department of Agriculture

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS AND POULTRY

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Quarantined

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, the introductory portion of paragraph (a) is amended by adding thereto the name of The Commonwealth of Puerto Rico, after the reference to "New Mexico," and a new paragraph (a)(4) relating to The Commonwealth of Puerto Rico is added to read:

§ 82.3 Areas quarantined.

(a) * * *

(4) *Puerto Rico.* The entire Commonwealth.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 29 F.R. 16210, as amended, 36 F.R. 20707)

Effective date. The foregoing amendment shall become effective upon issuance.

The amendment quarantines the entire Commonwealth of Puerto Rico because of the existence of exotic Newcastle disease. The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish its purpose in the public

interest. Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 11th day of January 1972.

F. J. MULHERN,
Administrator,
Animal and Plant Health Service.

[FR Doc.72-559 Filed 1-13-72;8:46 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-SO-135]

PART 73—SPECIAL USE AIRSPACE

Designation of Restricted Area

On October 30, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 20895) stating that the Federal Aviation Administration was considering an amendment to Part 73 of the Federal Aviation Regulations that would designate a restricted area in the vicinity of Macon, Miss.

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

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., March 2, 1972, as hereinafter set forth.

Section 73.44 (36 F.R. 2346) is amended by adding the following:

R-4404 MACON, MISS.

Boundaries: 1. Beginning at lat. 33°02'39" N., long. 88°42'37" W.; to lat. 33°04'30" N., long. 88°40'18" W.; to lat. 33°03'34" N., long. 88°39'08" W.; to lat. 33°01'43" N., long. 88° 41'23" W.; to point of beginning.

2. A circle with a 5-nautical-mile radius centered at lat. 33°03'11" N., long. 88°40'-41" W.

Designated altitudes: Surface to 11,500 feet MSL, within the area described in Item 1; from 1,200 feet above the surface to 11,500 feet MSL, within the area described in Item 2.

Time of designation: Sunrise to Sunset, Monday through Saturday.

Controlling agency: Federal Aviation Administration Memphis ARTC Center.

Using agency: Commander, Training Wing 1 NAS Meridian, Miss.

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

Issued in Washington, D.C., on January 7, 1972.

H. B. HELSTROM,
Chief, Airspace and Air Traffic Rules Division.

[FR Doc.72-535 Filed 1-13-72;8:45 am]

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

[Release No. 33-5224]

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

PART 239—FORMS PRESCRIBED UNDER SECURITIES ACT OF 1933

Small Offering Exemption

The Securities and Exchange Commission has adopted a new rule, designated Rule 237 (17 CFR 230.237) under section 3(b) of the Securities Act of 1933. That section authorizes the Commission to exempt from the registration provisions of the Act limited amounts of securities where the Commission finds such registration is not necessary in the public interest and for the protection of investors by reason of the small amount involved or the limited character of the public offering. The proposed rule is being adopted in connection with Rule 144 (17 CFR 230.144) and certain other related proposals.

Rule 237 exempts from registration outstanding securities held by persons, other than the issuer, control persons or brokers or dealers, if the following conditions are met:

The issuer is a domestic issuer and has been actively engaged in business as a going concern for at least 5 years;

The securities have been beneficially owned and paid for by the seller for at least 5 years and are bona fide sold in negotiated transactions otherwise than through a broker or dealer.

The amount of securities of the issuer, its predecessors, and all of its affiliates which can be sold during any period of one year cannot exceed the lesser of the gross proceeds from the sale of 1 percent of the securities of the class outstanding or $50,000 in aggregate gross proceeds. If during such year the person selling the securities has sold securities under any other exemption under section 3(b) of the Act or under Rule 144 the amount sold must be deducted from the amount sold under Rule 237. In computing such amounts sales by certain family members and related interests must be taken into consideration.

Any person intending to sell securities under Rule 237 is required to file a notice, on a form prescribed therefor, with the appropriate Regional Office of the Commission 10 business days before the sale. A copy of the notice would have to be sent or given to the issuer at the same time.

The purpose of the rule is to provide a means whereby persons who have held securities for 5 years or more may dispose of them otherwise than in the trading market without requiring the purchasers to take them under the limitations of a private placement. While the rule provides an exemption from registration under the Act, it does not provide an exemption from the antifraud provisions of the securities acts.

The following are the principal changes which have been made in the provisions of the rule as published for comment in Securities Act Release No. 5187 (36 F.R. 18592):

Manner of sale. Paragraph (a)(4) of the rule requires that the securities be bona fide sold in negotiated transactions otherwise than through a broker or dealer. This was implicit in this provision, but it was deemed preferable to expressly so state.

Amount of securities exempted. Paragraph (b) of the rule places certain quantity limitations on the number of shares or other securities of the issuer, its predecessors, and all of its affiliates which may be sold under the rule during any one-year period. The language covering predecessors and affiliates of the issuer is similar to that used in Regulation A (17 CFR 230.151-230.163) and was added to the proposed rule in order to prevent possible evasions of the rule.

Notice provisions. Item 9 of the notice requires a statement of the approximate total number of shares or other units (or if debt securities, the aggregate face amount) of the class, of which the securities to be sold are a part, outstanding as shown by a recent published report of the issuer or by a letter from the issuer setting forth the number outstanding as of a recent date. Compliance with the provision in the proposed rule that such information be stated as of a specified date within 10 days prior to the date of filing of the notice would have been difficult, particularly for persons desiring to sell securities of issuers which have not published such information.

Definition of terms. The definition of person has been changed to conform with that used in Rule 144.

Commission action:

I. Part 230 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding thereunder a new § 230.237 reading as follows:

§ 230.237 Exemption of certain securities owned for five years.

(a) *Securities exempted.* Subject to the terms and conditions of this section, securities sold by any person, other than the issuer of the securities, an affiliate of such issuer or a broker or dealer, shall be exempt from registration under the Act, provided all of the following conditions are met:

(1) The issuer is incorporated or organized under the laws of the United States or any State or Territory or the District of Columbia and has its principal business operations in the United States.

(2) The issuer has been actively engaged in business as a going concern during a period of at least the last 5 years.

(3) The securities sold have been beneficially owned by the person for a period of at least 5 years prior to the sale and, if the securities were purchased,

the full purchase price or other consideration shall have been paid or given at least 5 years prior to the sale. Giving the person from whom the securities were purchased a promissory note or other obligation to pay the purchase price shall not be deemed to be payment of the purchase price until the note or other obligation has been discharged by payment in full.

(4) The securities are bona fide sold in negotiated transactions otherwise than through a broker or dealer.

(b) *Amount of securities exempted.* The number of shares or other securities of the issuer, its predecessors, and all of its affiliates, sold under this section by any person during any period of 1 year shall not exceed the lesser of the gross proceeds from the sale of 1 percent of the securities of the class outstanding or $50,000 in aggregate gross proceeds. Such amounts shall be reduced by the amount of any securities sold during such year pursuant to any other exemption under section 3(b) of the Act and the amount of securities of the same class sold in reliance upon § 230.144.

(c) *Filing of notice.* At least 10 days (Saturdays, Sundays, and holidays excluded) prior to the sale of the securities there shall be filed with the Regional Office of the Commission for the region in which the issuer's principal business operations are conducted three copies of a notice on Form 237 (§ 239.145 of this chapter) which shall be signed by the selling security holder. A copy of such notice shall also be sent or given, at the same time, to the issuer of the securities.

(d) *Definition of terms.* The definitions contained in the Act and in § 230.405 shall apply to the terms in this section. The following definition shall also apply:

Person. The term "person" when used with reference to a person who sells securities in reliance upon the exemption provided by this section includes, in addition to such person, all of the following persons:

(1) Any relative or spouse of such person, or any relative of such spouse, anyone of whom has the same home as such person;

(2) Any trust or estate in which such person or any of the persons specified in (1) collectively own 10 percent or more of the total beneficial interest or of which any of such persons serve as trustee, executor or in any similar capacity; and

(3) Any corporation or other organization (other than the issuer) in which such person or any of the persons specified in (1) are the beneficial owners collectively of 10 percent or more of any class of equity securities or 10 percent or more of the equity interest.

II. Part 239 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding thereunder a new § 239.145 reading as follows:

§ 239.145 Form 237, for notice of proposed sale of securities pursuant to § 230.237 of this chapter.

(a) Three copies of this form shall be completed and filed with the regional office of the Commission for the region in which the issuer of the securities in question has its principal business operations, by each person desiring to make an offering of restricted securities in reliance upon § 230.237 of this chapter: *Provided,* That such person is not in a control relationship with the issuer of such securities as defined in § 230.405(f) of this chapter. Such filing shall be made at least 10 days (Saturdays, Sundays, and holidays excluded) prior to the sale of such securities.

(b) A copy of the notice on Form 237[1] shall also be sent or given by such person to the issuer of the securities in question at the same time that it is so filed.

The foregoing action, which was taken pursuant to the Securities Act of 1933, particularly sections 3(b) and 19(a) thereof, shall become effective April 15, 1972.

(Secs. 3(b), 19(a), 48 Stat. 75, 85; secs. 202, 209, 48 Stat. 906, 908; sec. 214, 49 Stat. 557; sec. 15, 52 Stat. 1240; 59 Stat. 167; 84 Stat. 1480; 15 U.S.C. 77c(b), 77s(a))

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

JANUARY 10, 1972.

[FR Doc.72-563 Filed 1-13-72;8:46 am]

[Release No. 33-5223]

PART 230—GENERAL RULES AND REGULATIONS SECURITIES ACT OF 1933

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

Definition of Terms "Underwriter" and "Brokers' Transactions"

The Securities and Exchange Commission today announced the adoption of Rule 144 (17 CFR 230.144) under the Securities Act of 1933 (the Act). The new rule relates to the application of the registration provisions of the Act to the resale of securities acquired directly or indirectly from issuers or from affiliates of such issuers in transactions not involving any public offerings (restricted securities) and securities held by affiliates. The rule is designed to implement the purposes and policies underlying the Act and is based on the Commission's further reexamination of its interpretations in this area and on the comments received on previous proposals, the "160 Series" rules (Securities Act Release No. 4997; 34 F.R. 14228) and Rule 144 (Securities Act Releases Nos. 5087 and 5186; 35 F.R. 15447 and 36 F.R. 18585). This notice contains a general discussion of the background, purpose and general effect of the rule to assist in a better understanding of it. A brief analysis of each section of the rule is also included. However, attention is directed to the rule itself for a more complete understanding of its provisions. Further, the rule has been adopted in the contest of and in conjunction with several rules and amendments to rules and forms which the Commission has adopted or rescinded including:

1. Form 144 (17 CFR 239.144), Notice of Proposed Sale of Securities Pursuant to Rule 144;

2. Amendments to Forms 10-K (17 CFR 249.310) and 10-Q (17 CFR 249.308a) under the Securities Exchange Act of 1934 (Exchange Act) (Exchange Act Releases Nos. 9442 and 9443; 37 F.R. 600, 601);

3. Amendments to Regulation A (17 CFR 230.251-230.263) under section 3(b) of the Act (Securities Act Release No. 5225; 37 F.R. 599);

4. Rule 15c2-11 (17 CFR 240.15c2-11) under the Exchange Act (Exchange Act Release No. 9310; 36 F.R. 18641);

5. Rescission of Rule 155 (17 CFR 230.155) under the Act;

6. Rescission of Rule 154 (17 CFR 230.154) under the Act;

7. Publication of a release relating to the applicability of the antifraud provisions of the securities acts to certain practices in connection with transactions by issuers and others not involving any public offering (Securities Act Release No. 5226 and Exchange Act Release No. 9444 (37 F.R. 600); and

8. Rule 237 (17 CFR 230.237)—under section 3(b) of the Act (Securities Act Release No. 522 (37 F.R. 590).

The Commission is hereby specifically withdrawing its previously proposed "160 Series" of rules (Securities Act Release No. 4997 (35 F.R. 15447)).

Rule 144 will become effective on and after April 15, 1972.

In brief, the rule provides that any affiliate or other person who sells restricted securities of an issuer for his own account, or any person who sells restricted or any other securities for the account of an affiliate of the issuer, is not deemed to be engaged in a distribution of the securities, and therefore is not an underwriter as defined in section 2(11) of the Act, if the securities are sold in accordance with all the terms and conditions of the rule. The rule requires, among other things, that the restricted securities must have been beneficially owned for a period of at least 2 years by the person for whose account they are sold; that the amount sold shall not exceed 1 percent of the class outstanding, or if traded on an exchange, the lesser of that amount or the average weekly volume on all such exchanges during the 4 weeks preceding the sale; and that the securities must be sold in brokers' transactions. In addition, there must be adequate information available to the public in regard to the issuer of the securities and notice of the sale (Form 144) must be filed with the Commission concurrently with the sale.

A number of persons have commented that it is not clear whether the rule, as proposed, was intended to be the exclusive means for selling restricted securities without registration under the Securities

[1] Copies of Form 237 have been filed as part of this document with the Office of Federal Register and will be available upon request at Securities and Exchange Commission, Washington, D.C. 20549.

Act. In this connection, certain commentators asserted that the Commission does not have the statutory authority to adopt such an exclusive rule while others stated that the Commission had such power and urged it to adopt an exclusive rule. The Commission does not believe it is necessary to reach these questions relating to its statutory authority at this time, since the rule as adopted is not exclusive. However, persons who offer or sell restricted securities without complying with Rule 144 are hereby put on notice by the Commission that in view of the broad remedial purposes of the Act and of public policy which strongly supports registration, they will have a substantial burden of proof in establishing that an exemption from registration is available for such offers or sales and that such persons and the brokers and other persons who participate in the transactions do so at their risk.

Moreover, with respect to restricted securities acquired after the effective date of the rule, the staff will not issue "no-action" letters relating to resales of such securities. Further, in connection with such resales, the Commission hereby puts all persons including brokers and attorneys on notice that the "change in circumstances" concept should no longer be considered as one of the factors in determining whether a person is an underwriter. The Commission recognizes that this concept has been in existence in one form or another for a long period of time. However, administrative agencies as well as courts from time to time change their interpretation of statutory provisions in the light of new considerations and changing conditions which indicate that earlier interpretations of such provisions are no longer in keeping with the statutory objectives. Thus, the "change in circumstances" concept in the Commission's opinion fails to meet the objectives of the Act, since the circumstances of the seller are unrelated to the need of investors for the protections afforded by the registration and other provisions of the Act.

Further, with respect to restricted securities acquired after the effective date of the rule but not sold pursuant to the provisions of the rule, the Commission hereby gives notice that in deciding whether a person is an underwriter, the length of time the securities have been held will be considered but the fact that securities have been held for a particular period of time does not by itself establish the availability of an exemption from registration.

In order to assist in a better understanding of this rule, the release contains a general discussion of its background, purpose and general effect.

Background and Purpose

Congress, in enacting the Federal securities statutes, created a continuous disclosure system designed to protect investors and to assure the maintenance of fair and honest securities markets. The Commission in administering and implementing the objectives of these statutes has sought to coordinate and integrate this disclosure system, and the rule and other related rules and amendments are a further effort in this direction.

Rule 144 is designed to implement the fundamental purposes of the Act as expressed in its preamble:

> "To provide full and fair disclosure of the character of the securities sold in interstate commerce and through the mails, and to prevent fraud in the sale thereof * * *"

The rule would also operate to inhibit the creation of public markets in securities of issuers concerning which adequate current information is not available to the public. At the same time, where adequate current information concerning an issuer is available to the public, the rule would permit the public sale in ordinary trading transactions of limited quantities of securities owned by persons controlling, controlled by or under common control with the issuer (hereinafter "affiliate") and by persons who have acquired restricted securities of the issuer.

This approach is consistent with the philosophy underlying the Act, that a disclosure law would provide the best protection for investors. In other words, if the investor had available to him all the material facts concerning a security, he would then be in a position to make an informed judgment whether or not to buy. In order to provide such information to investors, Congress determined that a distribution of securities requires the filing of a registration statement with the Commission and the delivery to investors of a prospectus containing accurate and current information concerning the issuer and its securities.

Exemptions from the registration requirements were provided for certain types of securities and securities transactions where there was no practical need for registration or where the benefits of registration were too remote.[1]

Among these exemptions is that provided by section 4(2) of the Act for transactions by an issuer not involving any public offering (private placements). This exemption was originally intended to permit an issuer to make a specific or isolated sale of its securities to a particular person,[2] such as an insurance company. The exemption is available for offerings to persons having access to substantially the same information concerning the issuer which registration would provide and who are able to fend for themselves.[3]

Resales of securities acquired in private placements are frequently made under claims of an exemption pursuant to section 4(1) of the Act, that is, a transaction by a person other than an issuer, underwriter, or dealer. This section was intended to exempt only trading transactions between individual investors with respect to securities already issued and not to exempt distributions by issuers or acts of other individuals who engage in steps necessary to such distributions.[4]

Generally, the majority of questions arising under this section have dealt with whether the seller is an "underwriter." The term underwriter is broadly defined in section 2(11) of the Act to mean any person who has purchased from an issuer with a view to, or offers or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking. The interpretation of this definition has traditionally focused on the words "with a view to" in the phrase "purchased from an issuer with a view to * * * distribution." Thus, an investment banking firm which arranges with an issuer for the public sale of its securities is clearly an "underwriter" under that section. Not so well understood is the fact that individual investors who are not professionals in the securities business may be "underwriters" within the meaning of that term as used in the Act if they act as links in a chain of transactions through which securities move from an issuer to the public. It is difficult to ascertain the mental state of the purchaser at the time of his acquisition, and the staff has looked to subsequent acts and circumstances to determine whether such person took with a view to distribution at the time of his acquisition. Emphasis has been placed on factors such as the length of time the person has held the securities (holding period) and whether there has been an unforeseeable change in circumstances of the holder. Experience has shown, however, that reliance upon such factors as the above has not assured adequate protection of investors through the maintenance of informed trading markets and has led to uncertainty in the application of the registration provisions of the Act.

Moreover, the Commission hereby emphasizes and draws attention to the fact that the statutory language of section 2(11) is in the disjunctive. Thus, it is insufficient to conclude that a person is not an underwriter solely because he did not purchase securities from an issuer with a view to their distribution. It must also be established that the person is not offering or selling for an issuer in connection with the distribution of the securities and that the person does not participate or have a participation in any such undertaking, and does not participate or have a participation in the underwriting of any such undertaking.

Rule 144, together with the other related rules and amendments, is designed to provide full and fair disclosure of the character of securities sold in trading

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[1] H. Rep. No. 85, 73d Cong. first sess. (1933) p. 5.

[2] Id. at 15–16.

[3] "SEC v. Ralston Purina Co.," 346 U.S. 119 (1953).

[4] "Securities and Exchange Commission v. Chinese Consol. Benev. Ass'n.," 120 F. 2d 738 (2d Cir. 1941), certiorari denied, 314 U.S. 618.

transactions and to create greater certainty and predictability in the application of the registration provisions of the Act by replacing subjective standards with more objective ones.

Explanation and analysis of the rule. In view of the legislative history, statutory language and judicial interpretations of sections 2(11), 4(1), and 4(2) of the Act, and in light of the many helpful suggestions and comments received on the proposed "160 Series" of rules and thereafter on proposed Rule 144, the Commission is of the view that "distribution" is the significant concept in interpreting the statutory term "underwriter." In determining when a person is deemed not to be engaged in a distribution several factors must be considered.

First, the purpose and underlying policy of the Act to protect investors requires, in the Commission's opinion, that there be adequate current information concerning the issuer, whether the resales of securities by persons result in a distribution or are effected in trading transactions. Accordingly, the availability of the rule is conditioned on the existence of adequate current public information.

Secondly, a holding period prior to resale is essential, among other reasons, to assure that those persons who buy under a claim of a section 4(2) exemption have assumed the economic risks of investment, and therefore, are not acting as conduits for sale to the public of unregistered securities, directly or indirectly, on behalf of an issuer. It should be noted that there is nothing in section 2(11) which places a time limit on a person's status as an underwriter. The public has the same need for protection afforded by registration whether the securities are distributed shortly after their purchase or after a considerable length of time.[5]

[5] The Commission is aware that certain commentators have asserted that the absence of a cutoff period would constitute an unreasonable restraint on the alienation of personal property. Generally speaking, the Commission does not concur in this view. As mentioned below, the rule would operate prospectively and permits limited resales of securities in trading transactions consistent with the purposes of the Act. Such limitation is reasonable since the holder of unregistered securities may resell his securities to persons who have access to adequate and current information concerning the issuer, and who do not need the protection of registration or he may contract for registration or for filing under Regulation A for subsequent resales, if he desires to distribute his restricted securities. In addition, as discussed below, the Commission has adopted Rule 237 (17 CFR 230.237) under section 3(b) of the Act which permits noncontrolling persons who have owned for 5 years or more securities of an issuer, which is actively engaged in business as a going concern, to make offerings of such securities in amounts not exceeding the lesser of the gross proceeds from the sale of 1 percent of the securities of the class outstanding or $50,000 in aggregate gross proceeds during any 12-month period by filing a simple notification with the appropriate regional office of the Commission, provided the securities are sold in negotiated rather than trading transactions.

A third factor, which must be considered in determining what is deemed not to constitute a "distribution," is the impact of the particular transaction or transactions on the trading markets. It is consistent with the rationale of the Act that section 4(1) be interpreted to permit only routine trading transactions as distinguished from distributions. Therefore, a person reselling securities under section 4(1) of the Act must sell the securities in such limited quantities and in such a manner so as not to disrupt the trading markets. The larger the amount of securities involved, the more likely it is that such resales may involve methods of offering and amounts of compensation usually associated with a distribution rather than routine trading transactions. Thus, solicitation of buy orders or the payment of extra compensation are not permitted by the rule.

In summary, if the sale in question is made in accordance with all the provisions of the rule, as outlined below, any person who sells restricted securities shall be deemed not to be engaged in a distribution of such securities and therefore not an underwriter thereof. The rule also provides that any person who sells restricted or other securities on behalf of a person in a control relationship with the issuer shall be deemed not to be engaged in a distribution of such securities and therefore not to be an underwriter thereof, if the sale is made in accordance with all the conditions of the rule.

Synopsis of the Rule

Preliminary note. A preliminary note has been added to the rule in order to provide a convenient reference to assist in understanding and interpreting its provisions.

Definitions. The term "restricted security" is defined to mean securities acquired directly or indirectly from an issuer, or from a person in a control relationship with such an issuer (an affiliate) in a transaction or chain of transactions not involving any public offering.

The definition of the term "person" has been revised in light of comments received on the proposed rule. Broadly speaking, the term "person" is defined to include certain relatives of the seller, certain trusts and estates in which the seller and such relatives collectively own 10 percent or more of the beneficial interest and corporations or other organizations in which the foregoing, collectively, are the beneficial owners of 10 percent or more of any class of the equity securities or 10 percent or more of the equity interest. The specific definition in the rule should be borne in mind in construing the various provisions of the rule and in preparing the required notice on Form 144.

Availability of public information. The rule provides that there shall be available adequate current public information with respect to the issuer of the securities. This provision is deemed satisfied if an issuer has been subject to the reporting requirements of section 13 or 15(d) of the Exchange Act for a period of at least 90 days immediately preceding the sale of the securities and has filed all reports required by that Act and the rules and regulations thereunder and in addition has filed the most recent annual report required to be filed thereunder.

Under concurrently adopted amendments to Forms 10–K (17 CFR 249.308a) and 10–Q (17 CFR 249.310), issuers are required to state in their annual and quarterly reports whether they have filed all the reports required by section 13 or 15(d) of the Exchange Act during the 90-day period preceding the date of the report and in addition have filed the most recent annual report required to be filed. In light of comments received, the rule has been revised to provide that the person proposing to sell securities or the broker through whom they are to be sold shall be entitled to rely upon the issuer's statement in the latest such report that all required reports have been filed or upon a written statement from the issuer that all such reports have been filed, unless he knows or has reason to believe that the issuer has not complied with such requirements.

The Commission recognizes that small companies may experience difficulty in complying with the registration requirements of the Exchange Act, particularly in furnishing audited financial statements for 3 fiscal years as required by Form 10 (17 CFR 249.210). The Commission, however, believes that it would be in the interest of protection of investors for such issuers to be reporting companies under the Exchange Act, and therefore, encourages such issuers to register securities voluntarily, if they are in a position to otherwise comply and continue to comply with the provisions of the Exchange Act. In this regard, Rule 12b–21 (17 CFR 240.12b–21) and Instruction 15 of Instructions to Financial Statements in Form 10 under the Exchange Act permit omission of certain information subject to specified conditions.

In case of companies which are not subject to the reporting requirements of section 13 or 15(d) of the Exchange Act, the information requirement is deemed to be met if there is publicly available with respect to the issuer, the information required by clauses (1) to (14), inclusive, and clause (16) of paragraph (a)(4) of Rule 15c2–11 (17 CFR 240.15c2–11) under the Exchange Act. (Release No. 9310). This infromation includes among other things, the exact name of the issuer, the address of its principal executive offices, the exact title and class of the security, the number of shares or total amount of the security outstanding, the nature and extent of the issuer's facilities and the product or service offered, and financial information concerning the issuer including its most recent balance sheet and profit and loss statement, which shall be reasonably current. In addition, the rule, as adopted, has been revised to provide that in the case of insurance companies which are not subject to the reporting requirements of section 13 or 15(d), the information requirement is deemed to be met if the reports required are filed with the

regulatory authority of the company's state of domicile.

Holding period. Securities sold in reliance upon the rule must have been beneficially owned and fully paid for by the seller for a holding period of at least 2 years prior to his sales as specified below. This condition is designed to assure that the registration provisions of the Act are not circumvented by persons acting, directly or indirectly, as conduits for an issuer in connection with resales of restricted securities. In order to accomplish this, the rule provides that such persons be subject to the full economic risks of investment during the holding period. Accordingly, the rule provides that giving the person from whom the securities were purchased promissory notes or other obligations to pay the purchase price, or entering into an installment purchase contract with such person, will not constitute payment of the purchase price unless certain conditions are met. These conditions are that the promissory note, obligation or contract must provide for full recourse against the purchaser of the securities, must be adequately secured by collateral other than the securities purchased and must have been discharged by payment in full prior to the sale of the securities.

There have been various holding periods provided for in proposed rules and applied over the years by administrative interpretations. After reexamination and reconsideration, the Commission believes, in keeping with the purposes of the Act in preventing the distribution of unregistered securities to the public, that the holding period should be 2 years in the context of the other provisions of the rule. The definitive holding period provided in the rule may be relied on only in connection with sales made pursuant to the rule.

For the purpose of the rule, the doctrine of "fungibility" will not apply. That is, the acquisition during the 2-year period of other securities of the same issuer, whether restricted or nonrestricted, will not start the holding period running anew. However, a new provision has been added to the rule dealing with short sales, puts or other options to sell securities. The provision requires that if the securities sold are equity securities there shall be excluded in determining the holding period any period during which the seller had a short position in, or any put or other option to dispose of, any securities of the same class or any securities convertible into securities of such class. If the securities sold are nonconvertible debt securities, there must be excluded any period during which the seller had a short position in, or any put or other option to dispose of, any nonconvertible debt securities of the same issuer.

Certain securities acquired in connection with, or as a result of, ownership or acquisition of other securities, are deemed to have been acquired when such other securities were acquired. These include stock dividends (including stock dividends on securities initially acquired as stock dividends), stock splits, stock acquired in recapitalizations, conversions or contingent issuances of securities. The rule, as adopted, includes provision for contingent issuance of securities in a stock for stock transaction as well as in the stock for assets transaction provided for in the rule as proposed. In view of the fact that the rule covers resales of restricted convertible securities and the restricted securities issued on their conversion, Rule 155 (17 CFR 230.155) pertaining to convertible securities has been rescinded except with respect to securities acquired prior to the effective date of the rule and not sold in accordance with all the provisions of the rule.

Tacking of holding periods will be permitted for bona fide pledgees, donees, and trusts since it is considered that such persons when they sell the securities stand in the place of their respective pledgors, donors, or settlors. In the case of an estate which is an affiliate, tacking of the holding period will be permitted; but as set forth below, there would be a limitation on the amount resold. In the event the estate is not an affiliate, there will be no holding period requirement and no limitation on the amount, but provisions of the rule relating to current public information, manner of sale, notice of sale and bona fide intention to sell shall apply.

A purchaser in a private placement or series of private placements would not be permitted to tack the holding period of the prior owner. In addition, there would be limitations on the amount of restricted securities resold as indicated below.

Limitation on amount of securities sold. If the securities are traded on a registered national securities exchange, the amount which may be sold in any 6-month period shall not exceed the lesser of 1 percent of the amount of the class outstanding as shown in the most recent report or statement published by the issuer, or the average weekly reported volume of trading on all such exchanges over the 4-week period prior to the date of the required notice of sale described below. The average weekly reported volume standard has been selected for purposes of computing the amount rather than the largest aggregate reported volume during any week within the 4 calendar weeks preceding the receipt of the order which is the standard in Rule 154. This standard was selected because the Commission believes that the increase in reported "block" trades may result in substantial fluctuations in reported volume in any 1 week of a 4-week period. Accordingly, one week's trading volume would not necessarily provide a meaningful indication of regular trading volume. If the securities are not traded on an exchange, the amount which may be sold in any 6-month period shall not exceed 1 percent of the amount of the class outstanding as shown in the most recent report or statement published by the issuer. In computing the limitation on the amount, the securities sold in private placements or covered by a registration statement under the Act or pursuant to an exemption under Regulation A under the Act are not included. However, any sales pursuant to Rule 237, discussed below, would be aggregated.

In light of the comments received on the provisions of the rule, as proposed, relating to aggregation of the sales of restricted securities by various persons, the aggregation provisions of the rule, as adopted, have been revised. The rule provides that, if a holder of restricted securities sells such securities in a private placement, the purchaser's resales can only be made following a new 2-year holding period and need not be aggregated with any amount of securities sold by the seller after that period. However, resales of restricted securities by all persons agreeing to act in concert shall be aggregated. Amounts sold by a donee or trust, during any period of 6 months within 2 years after the acquisition of the securities by the donee or trust, shall be aggregated with those sold by the donor or settlor. Amounts of securities sold for the account of a pledgee or purchaser of pledged securities during any period of 6 months within 2 years after a default in the obligation secured by the pledge, shall be aggregated with the amount of securities sold by the pledgor. Since the donee, trust and pledgee stands in the "shoes" of the donor, settlor, and pledgor, the former persons are subject to the latter persons' limitations under the rule. The purpose of limited aggregation is consistent with the objectives of the Act, for otherwise a distribution or redistribution may be effectuated by such means as gifts, pledges, and trusts.

In computing the amount of securities an affiliate may sell pursuant to the rule, sales of nonrestricted securities would be aggregated with sales of restricted securities. Further, resales of securities by affiliates who agree to act in concert with respect to such securities shall be aggregated.

Should reliable volume figures become publicly available through the automated quotation service of NASD, Inc. (NASDAQ), the Commission will consider amending the rule relating to over-the-counter companies to base the amount of securities which may be sold on such volume, as in the case of securities listed on exchanges.

The rule permits sales within successive 6-month periods, but no accumulation would be permitted. For example, the holder of restricted securities of an over-the-counter company may sell up to one percent in every successive 6 months, subject to the aggregation provisions where applicable, but he cannot skip 6 months and then sell an accumulated 2 percent in the following 6 months.

Manner of sale. The rule provides that the securities shall be sold in brokers' transactions within the meaning of section 4(4) of the Act, and that the person selling the securities shall not solicit or arrange for the solicitation of buy orders or make any payment in connection with the sale other than to the broker who executes the sell order.

Brokers' transactions are defined in the rule to include transactions in which a broker does no more than execute a

sell order as agent and receives no more than the usual and customary commission. The broker may not solicit buy orders, but he may inquire of other brokers or dealers who have indicated an interest in the securities within the preceding 60 days.[6]

In addition, the rule provides that the broker shall make a reasonable inquiry to ascertain whether the seller is engaged in a distribution. Reasonable inquiry should include, among other matters, inquiry as to the length of time the seller has held the securities; the amount of securities the seller and "chargeable" person have sold in the past six months; whether he intends to sell securities of the same class through any other means; the number of shares of the class outstanding or the relevant trading volume; and whether the seller has solicited or made any arrangement for the solicitation of buy orders, or has made any payment to any other person in connection with the proposed transaction.

Because Rule 144 covers "brokers' transactions" in section 4(4) of the Act, Rule 154 (17 CFR 230.154) has been rescinded.

Notice of offering. The rule requires that a person desiring to sell securities in reliance upon the rule must file with the Commission a notice to that effect. The notice must be transmitted to the Commission concurrently with the placing with a broker of an order for the sale of the securities. A form of notice is attached. If all of the securities mentioned in the notice are not sold within 90 days after the filing of the notice, an amended notice must be transmitted to the Commission concurrently with the commencement of any further sales of the securities. The notice will be a public document. A notice is not required to be filed with respect to transactions during any period of 6 months involving not more than 500 shares or other units or $10,000 whichever is less.

Bona fide intention to sell. In order to avoid persons filing any notice of offering "for the shelf," the rule provides that a person shall have a bona fide intention to sell the securities within a reasonable time after the filing of the notice.

Operation of the Rule

The rule will apply on a prospective basis to transactions in restricted securities acquired after the effective date of the rule. With respect to restricted securities acquired by a noncontrolling person prior to the effective date of the rule, such persons would have the choice of complying with the new rule or the administrative interpretations in effect at the time of his resale. Brokers who act as agents for controlling persons in connection with the sale of restricted and other securities acquired prior to the effective date of the rule, will be required to comply with the provisions of the new rule in order for their transactions to be exempt from registration pursuant to section 4(4) of the Act. The provisions of the rule would be strictly construed and persons selling pursuant to the rule would have the burden of proving its availability.

The staff will not issue no-action letters with respect to resales of securities acquired after the effective date of the rule, but would issue interpretative letters to assist persons in complying with the new rule. In connection with securities acquired prior to the adoption of the rule, the staff would continue to issue no-action letters. In this regard, Release No. 5186 proposing Rule 144 stated that the staff would no longer give weight to the "change in circumstances" concept in issuing "no-action" letters. This has been reconsidered and it has been determined that solely with respect to securities acquired prior to the adoption of the rule, the staff will continue to consider "changes in circumstances" in issuing "no-action" letters for to do otherwise at this time appears unfair due to the retroactive effect. As to the application of the "change in circumstances" concept to resales of restricted securities acquired subsequent to the effective date of this rule, attention is drawn to the Commission's position previously stated on page 3 of this release.

In view of the objectives and policies underlying the Act, the rule shall not be available to any individual or entity with respect to any transaction which, although in technical compliance with the provisions of the rule, is part of a plan by such individual or entity to distribute or redistribute securities to the public. In such case, registration is required.

While Rule 144 relates to transactions exempted by sections 4(1) and 4(4) of the Act from the registration provisions of section 5, it would not provide an exemption from the antifraud provisions of the securities laws or the civil liabilities provisions of section 12(2) of the Act or other provisions of the securities laws.

It should be recognized that the rule is in the nature of an experiment and the Commission will observe its operation to determine whether it is consistent with the objectives of the Act. If experience with the rule indicates that it is not operating for the protection of investors, it will be rescinded or appropriately amended.

Related Rules and Other Amendments

Rule 237. The Commission recognized that noncontrolling persons owning restricted securities of issuers which do not satisfy all of the conditions of Rule 144 might have difficulty in selling those securities due to circumstances beyond their control. Accordingly, in order to avoid unduly restricting the liquidity of such investments, the Commission has adopted Rule 237 under section 3(b) of the Act. Under that rule any person satisfying the conditions of the rule will be permitted to sell an amount of securities not exceeding the lesser of the gross proceeds from the sale of 1 percent of the securities of the class outstanding or $50,000 during any 12-month period, reduced by the amount of any other sales pursuant to an exemption under section 3(b) of the Act or Rule 144 during the period. Those conditions are:

1. The person[7] is not an issuer, an affiliate of the issuer or a broker or dealer;
2. The person has owned and fully paid for the securities for 5 or more years;
3. The issuer is a domestic organization which has been actively engaged in business as a going concern for at least the last 5 years;
4. The securities are sold in negotiated transactions otherwise than through a broker or dealer; and
5. The person files the required notice with the appropriate regional office of the Commission at least 10 days before the sale, indicating, among other things, his name, the name of the issuer, the amount of securities to be sold and the amount sold within the past 12 months.

Regulation A. The Commission has adopted amendments to Regulation A so that an offering not to exceed $100,000 can be made by noncontrolling persons, or an aggregate of $300,000 by all such persons, during any one year without offsetting such amounts against the amount available to the issuer under a Regulation A offering. This broadening of the availability of Regulation A will provide a means by which noncontrolling investors in small businesses may resell their restricted securities.

Amendments to Form 10–K and Form 10–Q. As mentioned previously, the Commission has adopted amendments to Forms 10–K and 10–Q to require a statement by the registrant that all filings required to be made have been made during the preceding 90 days and in addition that the registrant has filed the most recent annual report required to be filed.

The Commission has adopted further amendments to these forms requiring certain information relating to the issuance of unregistered securities in reliance upon an exemption from registration under the Act.

Applicability of the antifraud provisions to sales of restricted securities. Although private offerings are exempt from the registration provisions of the Act by virtue of section 4(2), that exemption does not apply to a public resale of the securities by the purchaser. The Commission is particularly concerned about the position in which purchasers of such securities find themselves when they later desire to resell the securities. The antifraud provisions of the Securities Act, including section 17(a) of the Act and section 10(b) of the Exchange Act and Rule 10b–5 thereunder, make it

[6] The "160 Series" and Rule 144, as initially proposed, would also have permitted the broker to insert quotations in an interdealer quotation service. However, such a provision would raise questions of conflict with the antimanipulative provisions of Rule 10b–6 (17 CFR 240.10b–6) under the Exchange Act and accordingly has been deleted.

[7] Defined as in Rule 144(a) (2) above.

unlawful, in connection with the purchase or sale of a security, to make misleading statements or to omit the disclosure of material facts, and prohibit other fraudulent or deceptive practices. The Commission is of the opinion that these provisions are violated when an issuer, an affiliate of the issuer, or other persons, in connection with a private placement of securities, fail to inform the purchaser fully as to the circumstances under which he is required to take and hold the securities and the limitations upon their resale. A more detailed release concerning these matters has been issued in connection with the adoption of Rule 144 and the related rules and amendments.

Use of legends and stop-transfer instructions. Precautions by issuers are essential to assure that a public offering does not result from resale of securities initially purchased in transactions claimed to be exempt under section 4(2) of the Act. (Attention is directed to Securities Act Release No. 5121 which discusses the use of legends and stop-transfer instructions as evidence of a nonpublic offering.) Although such assurance cannot be obtained merely by the use of an appropriate legend on stock certificates or other evidences of ownership, or by appropriate instructions to transfer agents, these devices serve a useful policing function, and the use of such devices is strongly suggested by the Commission and will be considered a factor in determining whether in fact there has been a private placement.

Contractual registration or other rights for resale of restricted securities. Issuers, brokers, dealers, private placees and other holders of restricted securities are hereby put on notice that the Commission deems it appropriate that such persons when acquiring such securities, should consider contracting for registration or other rights, so that, if they desire to distribute their securities rather than resell in trading transactions pursuant to the rule, they can do so in a manner consistent with the provisions of the Act, i.e., by filing a registration statement or a notification under Regulation A. If the issuer does not file reports pursuant to section 13 or 15(d) of the Exchange Act, such persons should consider obtaining an agreement by the issuer to register voluntarily under that Act so that Rule 144 may be available.

Business combinations. On October 9, 1969, the Commission gave notice of proposed revisions to Rule 133 (17 CFR 230.133) and Form S–14 (17 CFR 239.23), of proposed new Rules 153A (17 CFR 230.153a) and 181 (17 CFR 230.181) under the Act and of a proposed amendment to Rule 14a–2 (17 CFR 240.14a–2) of Regulation 14A under the Exchange Act (Release No. 8711; 34 F.R. 17180). Comments have been received and the staff is currently preparing its recommendations for submission to the Commission for decision in the near future.

Short form registration under the Securities Act. The Commission has amended Form S–7 (17 CFR 239.26) to expand its coverage and has recently proposed amendments to Form S–16 (17 CFR 239.27; see 36 F.R. 23256) which simplified registration of securities offered by persons other than the issuer, securities offered in certain conversions and securities to be issued on the exercise of certain warrants. The Commission is observing the operation of these forms, and may at a later date broaden their availability if it appears to be in the public interest and consistent with the protection of investors.

Commission Action:

I. Part 230 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding thereunder a new § 230.144 to read as follows and by rescinding §§ 230.154 and 230.155.

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

PRELIMINARY NOTE

Rule 144 is designed to implement the fundamental purposes of the Act, as expressed in its preamble, "To provide full and fair disclosure of the character of the securities sold in interstate commerce and through the mails, and to prevent fraud in the sale thereof * * *" The rule is designed to prohibit the creation of public markets in securities of issuers concerning which adequate current information is not available to the public. At the same time, where adequate current information concerning the issuer is available to the public, the rule permits the public sale in ordinary trading transactions of limited amounts of securities owned by persons controlling, controlled by or under common control with the issuer and by persons who have acquired restricted securities of the issuer.

Certain basic principles are essential to an understanding of the requirement of registration in the Act:

1. If any person utilizes the jurisdictional means to sell any nonexempt security to any other person, the security must be registered unless a statutory exemption can be found for the transaction.

2. In addition to the exemptions found in Section 3, four exemptions applicable to transactions in securities are contained in section 4. Three of these section 4 exemptions are clearly not available to anyone acting as an "underwriter" of securities. (The fourth, found in section 4(4), is available only to those who act as brokers under certain limited circumstances.) An understanding of the term "underwriter" is therefore important to anyone who wishes to determine whether or not an exemption from registration is available for his sale of securities.

The term underwriter is broadly defined in section 2(11) of the Act to mean any person who has purchased from an issuer with a view to, or offers or sells for an issuer in connection with, the distribution of any security, or participates or has a direct or indirect participation in any such undertaking, or participates or has a participation in the direct or indirect underwriting of any such undertaking. The interpretation of this definition has traditionally focused on the words "with a view to" in the phrase "purchased from an issuer with a view to * * * distribution." Thus, an investment banking firm which arranges with an issuer for the public sale of its securities is clearly an "underwriter" under that section. Individual investors who are not professionals in the securities business may also be "underwriters" within the meaning of that term as used in the Act if they act as links in a chain of transactions through which securities move from an issuer to the public. Since it is difficult to ascertain the mental state of the purchaser at the time of his acquisition, subsequent acts and circumstances have been considered to determine whether such person took with a view to distribution at the time of his acquisition. Emphasis has been placed on factors such as the length of time the person has held the securities and whether there has been an unforeseeable change in circumstances of the holder. Experience has shown, however, that reliance upon such factors as the above has not assured adequate protection of investors through the maintenance of informed trading markets and has led to uncertainty in the application of the registration provisions of the Act.

It should be noted that the statutory language of section 2(11) is in the disjunctive. Thus, it is insufficient to conclude that a person is not an underwriter solely because he did not purchase securities from an issuer with a view to their distribution. It must also be established that the person is not offering or selling for an issuer in connection with the distribution of the securities, does not participate or have a direct or indirect participation in any such undertaking, and does not participate or have a participation in the direct or indirect underwriting of such an undertaking.

In determining when a person is deemed not to be engaged in a distribution several factors must be considered.

First, the purpose and underlying policy of the Act to protect investors requires that there be adequate current information concerning the issuer, whether the resales of securities by persons result in a distribution or are effected in trading transactions. Accordingly, the availability of the rule is conditioned on the existence of adequate current public information.

Secondly, a holding period prior to resale is essential, among other reasons, to assure that those persons who buy under a claim of a section 4(2) exemption have assumed the economic risks of investment, and therefore are not acting as conduits for sale to the public of unregistered securities, directly or indirectly, on behalf of an issuer. It should be noted that there is nothing in section 2(11) which places a time limit on a person's status as an underwriter. The public has the same need for protection afforded by registration whether the securities are distributed shortly after their purchase or after a considerable length of time.

A third factor, which must be considered in determining what is deemed not to constitute a "distribution", is the impact of the particular transaction or transactions on the trading markets. Section 4(1) was intended to exempt only routine trading transactions between individual investors with respect to securities already issued and not to exempt distributions by issuers or acts of other individuals who engage in steps necessary to such distributions. Therefore, a person reselling securities under section 4(1) of the Act must sell the securities in such limited quantities and in such a manner as not to disrupt the trading markets. The larger the amount of securities involved, the more likely it is that such resales may involve methods of offering and amounts of compensation usually associated with a distribution rather than routine trading transactions. Thus, solicitation of buy orders or the payment of extra compensation are not permitted by the rule.

In summary, if the sale in question is made in accordance with all of the provisions of the section as set forth below, any person who sells restricted securities shall be deemed not to be engaged in a distribution of such securities and therefore not an

underwriter thereof. The rule also provides that any person who sells restricted or other securities on behalf of a person in a control relationship with the issuer shall be deemed not to be engaged in a distribution of such securities and therefore not to be an underwriter thereof, if the sale is made in accordance with all the conditions of the section.

(a) *Definitions.* The following definitions shall apply for the purposes of this section.

(1) An "affiliate" of an issuer is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such issuer.

(2) The term "person" when used with reference to a person for whose account securities are to be sold in reliance upon this section includes, in addition to such person, all of the following persons:

(i) Any relative or spouse of such person, or any relative of such spouse, any one of whom has the same home as such person;

(ii) Any trust or estate in which such person or any of the persons specified in subdivision (i) of this subparagraph collectively own 10 percent or more of the total beneficial interest or of which any of such persons serve as trustee, executor or in any similar capacity; and

(iii) Any corporation or other organization (other than the issuer) in which such person or any of the persons specified in subdivision (i) of this subparagraph are the beneficial owners collectively of 10 percent or more of any class of equity securities or 10 percent or more of the equity interest.

(3) The term "restricted securities" means securities acquired directly or indirectly from the issuer thereof, or from an affiliate of such issuer, in a transaction or chain of transactions not involving any public offering.

(b) *Conditions to be met.* Any affiliate or other person who sells restricted securities of an issuer for his own account, or any person who sells restricted or any other securities for the account of an affiliate of the issuer of such securities, shall be deemed not to be engaged in a distribution of such securities and therefore not to be an underwriter thereof within the meaning of section 2(11) of the Act if all of the conditions of this section are met.

(c) *Current public information.* There shall be available adequate current public information with respect to the issuer of the securities. Such information shall be deemed to be available only if either of the following conditions is met:

(1) *Filing of reports.* The issuer has securities registered pursuant to section 12 of the Securities Exchange Act of 1934 and has filed the reports required to be filed by section 13 of that Act for a period of at least 90 days immediately preceding the sale of the securities and in addition has filed the most recent annual report required to be filed thereunder, or has securities registered pursuant to the Securities Act of 1933 and has filed the reports required to be filed by section 15(d) of the Securities Exchange Act of 1934 for a period of at least 90 days immediately preceding the sale of the securities and in addition has filed the most recent annual report required to be filed thereunder. The person for whose account the securities are to be sold shall be entitled to rely upon a statement in whichever is the most recent report, quarterly or annual, required to be filed and filed by the issuer that such issuer has complied with such requirements, unless he knows or has reason to believe that the issuer has not complied with such requirements. Such person shall also be entitled to rely upon a written statement from the issuer that it has complied with such reporting requirements unless he knows or has reason to believe that the issuer has not complied with such requirements.

(2) *Other public information.* If the issuer is not subject to section 13 or 15(d) of the Securities Exchange Act of 1934, there is publicly available the information concerning the issuer specified in subdivision (i) to (xiv), inclusive, and subdivision (xvi) of paragraph (a)(4) of § 240.15c2–11 of this chapter or, if the issuer is an insurance company, the information specified in section 12(g)(2)(G)(i) of that Act.

(d) *Holding period for restricted securities.* If the securities sold are restricted securities, the following provisions apply:

(1) *General rule.* The person for whose account the securities are sold shall have been the beneficial owner of the securities for a period of at least 2 years prior to the sale and, if the securities were purchased, the full purchase price or other consideration shall have been paid or given at least 2 years prior to the sale.

(2) *Promissory notes, other obligations or installment contracts.* Giving the person from whom the securities were purchased a promissory note or other obligation to pay the purchase price, or entering into an installment purchase contract with such person, shall not be deemed full payment of the purchase price unless the promissory note, obligation or contract—

(i) Provides for full recourse against the purchaser of the securities;

(ii) Is secured by collateral, other than the securities purchased, having a fair market value at least equal to the purchase price of the securities purchased; and

(iii) Shall have been discharged by payment in full prior to the sale of the securities.

(3) *Short sales, puts or other options to sell securities.* In computing the 2-year holding period the following periods shall be excluded:

(i) If the securities sold are equity securities, there shall be excluded any period during which the person for whose account they are sold had a short position in, or any put or other option to dispose of, any equity securities of the same class or any securities convertible into securities of such class; and

(ii) If the securities sold are nonconvertible debt securities, there shall be excluded any period during which the person for whose account they are sold had a short position in, or any put or other option to dispose of, any nonconvertible debt securities of the same issuer.

(4) *Determination of holding period.* The following provisions shall apply for the purpose of determining the period securities have been held:

(i) *Stock dividends, splits and recapitalizations.* Securities acquired from the issuer as a dividend or pursuant to a stock split, reverse split or recapitalization shall be deemed to have been acquired at the same time as the securities on which the dividend or, if more than one, the initial dividend was paid, the securities involved in the split or reverse split, or the securities surrendered in connection with the recapitalization;

(ii) *Conversions.* If the securities sold were acquired from the issuer for a consideration consisting solely of other securities of the same issuer surrendered for conversion, the securities so acquired shall be deemed to have been acquired at the same time as the securities surrendered for conversion;

(iii) *Contingent issuance of securities.* Securities acquired as a contingent payment of the purchase price of an equity interest in a business, or the assets of a business, sold to the issuer or an affiliate of the issuer shall be deemed to have been acquired at the time of such sale if the issuer or affiliate was then committed to issue the securities subject only to conditions other than the payment of further consideration for such securities. An agreement entered into in connection with any such purchase to remain in the employment of, or not to compete with, the issuer or affiliate or the rendering of services pursuant to such agreement shall not be deemed to be the payment of further consideration for such securities.

(iv) *Pledged securities.* Securities which are bona fide pledged by any person other than the issuer when sold by the pledgee, or by a purchaser, after a default in the obligation secured by the pledge, shall be deemed to have been acquired when they were acquired by the pledgor, except that if the securities were pledged without recourse they shall be deemed to have been acquired by the pledgee at the time of the pledge or by the purchaser at the time of purchase.

NOTE: Securities sold by the pledgee shall be aggregated with those sold by the pledgor, as provided in paragraph (e)(3)(11) of this section.

(v) *Gifts of securities.* Securities acquired from any person, other than the issuer, by gift shall be deemed to have been acquired by the donee when they were acquired by the donor;

NOTE: Securities sold by the donee shall be aggregated with those sold by the donor, as provided in paragraph (e)(3)(iii) of this section.

(vi) *Trusts.* Securities acquired from the settlor of a trust by the trust or acquired from the trust by the beneficiaries thereof shall be deemed to have been acquired when they were acquired by the settlor;

NOTE: Securities sold by the trust shall be aggregated with those sold by the settlor of the trust, as provided in paragraph (e)(3)(iv) of this section.

(vii) *Estates.* Securities held by the estate of a deceased person or acquired from such an estate by the beneficiaries thereof shall be deemed to have been acquired when they were acquired by the deceased person, except that no holding period is required if the estate is not an affiliate of the issuer or if the securities are sold by a beneficiary of the estate who is not such an affiliate.

NOTES: (a) Securities sold by the estate shall be aggregated with those sold by the deceased person, as provided in paragraph (e)(3)(v) of this section, if the estate is an affiliate of the issuer.

(b) While there is no holding period or amount limitation for estates and beneficiaries thereof which are not affiliates of the insurer, paragraphs (c), (f), (g), (h), and (i) of the section apply to securities sold by such persons in reliance upon the section.

(e) *Limitation on amount of securities sold.* Except as hereinafter provided, the amount of securities which may be sold in reliance upon this section shall be determined as follows:

(1) *Sales by affiliates.* If restricted or other securities are sold for the account of an affiliate of the issuer, the amount of securities sold, together with all sales of restricted and other securities of the same class for the account of such person within the preceding 6 months, shall not exceed the following:

(i) If the securities are admitted to trading on a national securities exchange, the lesser of (*a*) 1 percent of the shares or other units of the class outstanding as shown by the most recent report or statement published by the issuer, or (*b*) the average weekly reported volume of trading in such securities on all securities exchanges during the 4 calendar weeks preceding the filing of the notice required by paragraph (h) of this section, or if no such notice is required the receipt of the order to execute the transaction by the broker; or

(ii) If the securities are not traded on a national securities exchange, 1 percent of the shares or other units of the class outstanding as shown by the most recent report or statement published by the issuer.

(2) *Sales by persons other than affiliates.* The amount of restricted securities sold for the account of any person other than an affiliate of the issuer, together with all other sales of restricted securities of the same class for the account of such person within the preceding 6 months, shall not exceed the amount specified in subparagraph (1)(i) or (ii) of this paragraph, whichever is applicable.

(3) *Determination of amount.* For the purpose of determining the amount of securities specified in subparagraphs (1) and (2) of this paragraph, the following provisions shall apply:

(i) Where both convertible securities and securities of the class into which they are convertible are sold, the amount of convertible securities sold shall be deemed to be the amount of securities of the class into which they are convertible for the purpose of determining the aggregate amount of securities of both classes sold;

(ii) The amount of securities sold for the account of a pledgee thereof, or for the account of a purchaser of the pledged securities, during any period of 6 months within 2 years after a default in the obligation secured by the pledge and the amount of securities sold during the same 6-month period for the account of the pledgor shall not exceed, in the aggregate, the amount specified in subparagraph (1) or (2) of this paragraph whichever is applicable;

(iii) The amount of securities sold for the account of a donee thereof during any period of 6 months within 2 years after the donation, and the amount of securities sold during the same 6-month period for the account of the donor, shall not exceed, in the aggregate, the amount specified in subparagraph (1) or (2) of this paragraph, whichever is applicable;

(iv) Where securities were acquired by a trust from the settlor of the trust, the amount of such securities sold for the account of the trust during any period of 6 months within 2 years after the acquisition of the securities by the trust, and the amount of securities sold during the same 6-month period for the account of the settlor, shall not exceed, in the aggregate, the amount specified in subparagraph (1) or (2) of this paragraph, whichever is applicable;

(v) The amount of securities sold for the account of the estate of a deceased person, or for the account of a beneficiary of such estate, during any period of 6 months and the amount of securities sold during the same period for the account of the deceased person prior to his death shall not exceed, in the aggregate, the amount specified in subparagraph (1) or (2) of this paragraph, whichever is applicable: *Provided,* That no limitation on amount shall apply if the estate or beneficiary thereof is not an affiliate of the issuer;

(vi) When two or more affiliates or other persons agree to act in concert for the purpose of selling securities of an issuer, all securities of the same class sold for the account of all such persons during any period of 6 months shall be aggregated for the purpose of determining the limitation on the amount of securities sold; and

(vii) Securities sold pursuant to an effective registration statement under the Act or pursuant to an exemption provided by section 4(2) of the Act or by Regulation A under the Act need not be included in determining the amount of securities sold in reliance upon this section.

(f) *Manner of sale.* The securities shall be sold in "brokers' transactions" within the meaning of section 4(4) of the Act and the person selling the securities shall not (1) solicit or arrange for the solicitation of orders to buy the securities in anticipation of or in connection with such transactions, or (2) make any payment in connection with the offering or sale of the securities to any person other than the broker who executes the order to sell the securities.

(g) *Brokers' transactions.* The term "brokers' transactions" in section 4(4) of the Act shall for the purposes of this section be deemed to include transactions by a broker in which such broker—

(1) Does no more than execute the order or orders to sell the securities as agent for the person for whose account the securities are sold; and receives no more than the usual and customary broker's commission;

(2) Neither solicits nor arranges for the solicitation of customers' orders to buy the securities in anticipation of or in connection with the transaction; *Provided,* That the foregoing shall not preclude inquiries by the broker or other brokers or dealers who have indicated an interest in the securities within the preceding 60 days; and

(3) After reasonable inquiry is not aware of circumstances indicating that the person for whose account the securities are sold is an underwriter with respect to the securities or that the transaction is a part of a distribution of securities of the issuer. Without limiting the foregoing, the broker shall be deemed to be aware of any facts or statements contained in the notice required by paragraph (h) of this section.

NOTES: (i) The broker, for his own protection, should obtain and retain in his files a copy of the notice required by paragraph (h) of this section.

(ii) The reasonable inquiry required by paragraph (g)(3) of this section should include, but not necessarily be limited to, inquiry as to the following matters:

(*a*) The length of time the securities have been held by the person for whose account they are to be sold. If practicable, the inquiry should include physical inspection of the securities;

(*b*) The nature of the transaction in which the securities were acquired by such person;

(*c*) The amount of securities of the same class sold during the past 6 months by all persons whose sales are required to be taken into consideration pursuant to paragraph (e) of this section;

(*d*) Whether such person intends to sell additional securities of the same class through any other means;

(*e*) Whether such person has solicited or made any arrangement for the solicitation of buy orders in connection with the proposed sale of securities;

(*f*) Whether such person has made any payment to any other person in connection with the proposed sale of the securities; and

(*g*) The number of shares or other units of the class outstanding, or the relevant trading volume.

(h) *Notice of proposed sale.* Concurrently with the placing with a broker of an order to execute a sale of any securities in reliance upon this rule, there shall be transmitted to the Commission, at its principal office in Washington, D.C., for filing three copies of a notice on Form 144 (§ 239.144 of this chapter) which shall be signed by the person for whose account the securities are to be sold: *Provided,* That such a notice need not be filed if the amount of securities to be sold during any period of 6 months does not exceed 500 shares or other units and the

aggregate sale price thereof does not exceed $10,000. If all of the securities for which a notice is filed are not sold within 90 days after the filing of such notice, an amended notice shall be transmitted to the Commission concurrently with the commencement of any further sales of such securities. Neither the filing of such notice nor the failure of the Commission to comment thereon shall be deemed to preclude the Commission from taking any action it deems necessary or appropriate with respect to the sale of the securities referred to in such notice.

(i) *Bona fide intention to sell.* The person filing the notice required by paragraph (h) of this section shall have a bona fide intention to sell the securities referred to therein within a reasonable time after the filing of such notice.

§§ 230.154, 230.155 [Rescinded]

II. Part 239 of Chapter II of Title 17 of the Code of Federal Regulations is amended by adding thereunder a new § 239.144 reading as follows:

§ 239.144 Form 144, for notice of proposed sale of restricted securities pursuant to § 230.144 of this chapter.

(a) This form shall be filed in triplicate with the Commission by each person desiring to make an offering of restricted securities in reliance upon § 230.144 of this chapter at least 10 days prior to the commencement of such offering. This form shall also be completed and filed by such person, if all such securities are not sold within 90 days after the filing of the initial notice on this form, as an amended notice of such proposed reoffering at least 10 days prior to any further sales of such securities. An amended Form 144 shall be filed at the expiration of each 90-day period following the prior filing if any unsold securities are to be reoffered thereafter, and at least 10 days prior to the commencement of the reoffering of such securities.

(b) The notice on Form 144 is not required to be filed with respect to transactions in which the initial offering of restricted securities involves not more than 500 shares or other units or $10,000, whichever is less.

NOTE: Copies of Form 144 have been filed with the Office of Federal Register as part of this document. Additional copies will be available upon request from the Securities and Exchange Commission, Washington, D.C. 20549.

The adoption of Rule 144 and Form 144, and the recission of Rule 154, are effective April 15, 1972. The recission of Rule 155 is also effective April 15, 1972, except that it shall remain in effect with respect to securities acquired prior to the effective date of Rule 144 and not sold thereafter in accordance with all the provisions of Rule 144.

The foregoing action was taken by the Commission pursuant to its authority under the Securities Act of 1933, particularly section 19(a) in conjunction with sections 2(11), 4(1), 4(2), and 4(4).

(Sec. 19(a), 48 Stat. 85; Sec. 209, 48 Stat. 908)

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

[FR Doc.72-562 Filed 1-13-72;8:46 am]

[Release No. 33-5225]

PART 230—GENERAL RULES AND REGULATIONS SECURITIES ACT OF 1933

PART 239—FORMS PRESCRIBED UNDER SECURITIES ACT OF 1933

Amount of Securities Exempted

The Securities and Exchange Commission has adopted certain amendments to its Regulation A (17 CFR 230.251–230.263) under the Securities Act of 1933. Regulation A provides an exemption from registration under the Act for limited amounts of securities of certain issuers which meet the terms and conditions of the regulation. The regulation requires, among other things, the filing of a notification with the appropriate regional office of the Commission and the filing and use of an offering circular furnishing specified information in regard to the issuer and the securities offered.

Rule 254 (17 CFR 230.254) of Regulation A has been amended with respect to the amount of securities which may be offered thereunder. The amounts in the aggregate which may be offered by various persons during any 12-month period are as follows: The issuer, an estate of a deceased person within 2 years after the death of such person, and affiliates of the issuer may offer in the aggregate $500,000; except that any one affiliate (i.e., a person in a control relationship with the issuer) may offer only $100,000; and persons other than the issuer and its affiliates may offer $100,000 each, but the aggregate amount offered by all such other persons may not exceed $300,000 and would not be included in computing the $500,000 ceiling. Securities issued by predecessors and certain affiliates of the issuer which were sold during the same 12-month period by the person making the current offering would have to be included in determining the amount of the offering.

Item 11 of Schedule I to Form 1–A (17 CFR 239.90), the notification form, has been amended to provide that where the notification is filed by an issuer which has filed or is required to file with the Commission certified financial statements for its last fiscal year, the financial statements required to be included in the offering circular for such fiscal year shall be certified.

Two changes have been made in the rule as published for comment in Securities Act Release No. 5188 (36 F.R. 18593). The first is that the definition of person has been conformed to that used in Rule 144 (17 CFR 230.144). The second is that the rule has been revised to incorporate therein the limitations in the existing rule on the aggregate offering price of securities offered or sold by or on behalf of the estate of a deceased person within 2 years after the death of such person and by or on behalf of affiliates of the issuer. The purpose of the proposed amendments was to assist small businesses, to provide relief for nonaffiliates who wish to sell restricted securities, and not to otherwise materially change the provisions of the existing rule.

Commission action. I. Paragraph (a) of § 230.254 of Chapter II of Title 17 of the Code of Federal Regulations is amended to read as follows:

§ 230.254 Amount of securities exempted.

(a) For determining the requisite amount:

(1) The aggregate offering price of all securities of the issuer offered or sold pursuant to §§ 230.251 to 230.263 and any other securities offered or sold within 1 year prior to the commencement of the proposed offering pursuant to any other exemption under section 3(b) of the Act or in violation of section 5(a) of the Act, shall not exceed the following amounts:

(i) $500,000 if the securities are offered or sold by or on behalf of the issuer, or by the estate of a decedent who owned the securities at death if offered within 2 years after the death of the decedent, or by affiliates of issuer: *Provided,* That the aggregate offering price of securities offered or sold by or on behalf of any one affiliate, other than an estate shall not exceed $100,000; and

(ii) $100,000 if the securities are offered or sold by or on behalf of any person other than the issuer or its affiliates; provided that the aggregate offering price of all such securities offered or sold by or on behalf of all such other persons shall not exceed $300,000: *And provided,* That the aggregate offering price of securities offered or sold by or on behalf of an estate pursuant to this paragraph and subdivision (i) of this subparagraph shall not exceed $500,000.

(2) When two or more persons agree to act in concert for the purpose of selling securities of the issuer, all securities of the same class sold for the account of all such persons during any 12-month period shall be aggregated for the purpose of determining the limitation on the amount of securities sold.

(3) The following definitions shall apply for the purposes of this rule:

(i) The term "securities of the issuer" shall include securities issued by any predecessor of the issuer or by any affiliate of the issuer which was organized or became such an affiliate within the past 2 years.

(ii) The term "person" when used with reference to a person who offers securities in reliance upon the exemption

provided by this section includes, in addition to such person, all of the following persons:

(a) Any relative or spouse of such person, or any relative of such spouse, any one of whom has the same home as such person;

(b) Any trust or estate in which such person or any of the persons specified in (a) of this subdivision collectively own 10 percent or more of the total beneficial interest or of which any of such persons serve as trustee, executor or in any similar capacity; and

(c) Any corporation or other organization (other than the issuer) in which such person or any of the persons specified in (a) of this subdivision are the beneficial owners collectively of 10 percent or more of any class of equity securities or 10 percent or more of the equity interest.

* * * * *

§ 239.90 [Amended]

II. The first paragraph of item 11 of section I of Form 1–A (17 CFR 239.90) is amended to read as follows:

11. Furnish the following financial statements of the issuer, or of the issuer and its predecessors, prepared in accordance with generally accepted accounting principles and practices. The statements required for the issuer's latest fiscal year shall be certified by an independent public accountant or certified public accountant if the issuer has filed or is required to file with the Commission certified financial statements for such fiscal year; the statements filed for the period or periods preceding such latest year need not be certified.

(Secs. 3(b), 19(a), 48 Stat. 75, 85; secs. 202, 209, 48 Stat. 906, 908; sec. 214, 49 Stat. 557; sec. 15, 52 Stat. 1240; 59 Stat. 167; 84 Stat. 1480; 15 U.S.C. 77c(b), 77s(a))

The foregoing action, which was taken pursuant to the Securities Act of 1933, particularly sections 3(b) and 19(a) thereof, shall become effective April 15, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

JANUARY 10, 1972.

[FR Doc.72-564 Filed 1-13-72;8:46 am]

[Releases Nos. 33-5226, 34-9444]

PART 231—INTERPRETATIVE RELEASES RELATING TO SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

PART 241—INTERPRETATIVE RELEASES RELATING TO SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

Offering and Sale of Securities in Nonpublic Offerings; Applicability of Antifraud Provisions of Securities Acts to Certain Acts and Practices

The Securities and Exchange Commission today called attention to the applicability of the antifraud provisions of the securities act to certain acts and practices in connection with the offering and sale of unregistered securities in transactions not involving any public offering—so-called "private offerings". Such transactions are exempt from registration under section 4(2) of the Securities Act of 1933 but such exemption does not apply to a public resale of the securities by the purchaser. The Commission is particularly concerned about the position in which the purchasers of securities in such transactions may find themselves when they later desire to resell the securities.

Section 17(a) of the Securities Act of 1933 makes it unlawful in connection with the offer or sale of a security, and section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 (17 CFR 240.10b–5) thereunder makes it unlawful in connection with the purchase or sale of a security, to make misleading statements or to omit the disclosure of material facts and prohibit other fraudulent or deceptive acts or practices. In the opinion of the Commission, these provisions are violated when an issuer, a person in a control relationship with an issuer, or any other person, in connection with the private placement of securities, fails to inform the purchaser fully as to the circumstances under which he is required to take and hold the securities.

The Commission regards it as a deceptive act or practice for an issuer, a control person, or any other person to sell unregistered securities in a private transaction without fully informing the purchaser as to the applicable limitations upon the resale of the securities by the purchaser. The seller should inform the purchaser that the securities are unregistered and must be held indefinitely unless they are subsequently registered under the Securities Act of 1933 or an exemption from such registration is available. It should be pointed out that any casual sales of securities made in reliance upon Rule 144 (17 CFR 230.144) can be made only in limited amounts in accordance with the terms and conditions of that rule and that in the case of securities to which that rule is not applicable compliance with Regulation A (17 CFR 230.251–230.263) or some other disclosure exemption will be required.

If at the time a private sale of securities is made it is represented to the purchaser that an attempt will be made to register the securities at some future date or that compliance with Regulation A or some other exemption will be effected, the purchaser should be informed specifically as to the time when and the circumstances under which such attempt to register will be made or compliance with such exemption will be effected. If the issuer is under no obligation to register the securities or to comply with any such exemption, that fact should be made clear to the purchaser. The purchaser should also be informed as to whether the seller will supply the purchaser with any information necessary to enable the latter to make casual sales of the securities under Rule 144.

The Commission strongly recommends the use of restrictive legends on stock certificates and stop-transfer instructions to transfer agents as a means of preventing the illegal sale of privately placed securities (see Securities Act Release 5121; 36 F.R. 1525), and the purchaser should be informed prior to being committed to purchase the securities whether such a legend will be placed on the certificate or such instructions will be issued.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

JANUARY 10, 1972.

[FR Doc.72-567 Filed 1-13-72;8:47 am]

[Release No. 34-9442]

PART 249—FORMS PRESCRIBED UNDER SECURITIES EXCHANGE ACT OF 1934

Facing Sheet of Annual and Quarterly Report Forms

The Securities and Exchange Commission has adopted amendments to Forms 10–K (17 CFR 249.310) and 10–Q (17 CFR 249.308a) under the Securities Exchange Act of 1934. Forms 10–K and 10–Q are used for annual and quarterly reports, respectively, filed pursuant to section 13 or 15(d) of the Act. Notice of the proposed action was published September 10, 1971, in Securities Exchange Act Release No. 9331 (36 F.R. 18594).

The amendments require registrants to indicate whether or not they have filed all annual, quarterly and other reports required to be filed with the Commission within the last 90 days. This will enable persons who wish to sell securities pursuant to Rule 144 (17 CFR 230.144) to determine whether the registrant is up-to-date in its reporting requirements and therefore has made the disclosure requisite to the sale of securities under that rule.

The amendments add the following at the end of the facing sheet of each of the forms:

Indicate by check mark whether the registrant has filed all annual, quarterly and other reports required to be filed with the Commission within the past 90 days and in addition has filed the most recent annual report required to be filed. Yes ------ No ------

(Secs. 13, 15(d), 23(a), 48 Stat. 894, 895, 901; secs. 3, 8, 49 Stat. 1377, 1379; secs. 4, 6, 78 Stat. 569, 570; 15 U.S.C. 78m, 78o(d), 78w(a))

The foregoing amendments were adopted pursuant to the Securities Exchange Act of 1934, particularly sections 13, 15(d), and 23(a) thereof and shall become effective on February 10, 1972.

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

JANUARY 10, 1972.

[FR Doc.72-565 Filed 1-13-72;8:47 am]

[Release No. 34-9443]

PART 249—FORMS PRESCRIBED UNDER SECURITIES EXCHANGE ACT OF 1934

Annual and Quarterly Reporting Forms

The Securities and Exchange Commission has adopted an amendment to Item 6 of Form 10–K (17 CFR 249.310) and an expansion of Form 10–Q (17 CFR 249.308a) under the Securities Exchange Act of 1934. Form 10–K is a general form for annual reports by companies having securities registered pursuant to section 12 of the Act and companies having securities registered under the Securities Act of 1933 which are required to file reports pursuant to section 15(d) of the Securities Exchange Act of 1934. Form 10–Q is the general quarterly form filed for such companies. Notice of proposed action was published April 15, 1971 in Securities Exchange Act Release No. 9126 (36 F.R. 7976).

The forms will include information covering recent transactions by the issuer in unregistered securities for the past fiscal year in the case of Form 10–K and the past fiscal quarter for Form 10–Q. Information will now be requested for transactions in all unregistered securities, debt as well as equity, within the stated period of time, where they have been issued in reliance upon an exemption under section 4(2) of the Securities Act of 1933. An EDP attachment, for statistical purposes, will be furnished by the registrant as an Exhibit I with the reports on Form 10–K and 10–Q.

Copies of the amendments to Forms 10–K and 10–Q, and copies of the EDP attachment, have been filed as part of this document with the Office of Federal Register and will be available upon request at the Securities and Exchange Commission, Washington, D.C. 20549.

The foregoing action, which was taken pursuant to the Securities Exchange Act of 1934, particularly sections 13, 15(d) and 23(a) thereof, shall be effective as of February 10, 1972.

(Secs. 13, 15(d), 23(a), 48 Stat. 894, 895, 901; secs. 3, 8, 49 Stat. 1377, 1379; secs. 4, 6, 78 Stat. 569, 570; 15 U.S.C. 78m, 78o(d), 78w(a))

By the Commission.

[SEAL] RONALD F. HUNT, *Secretary.*

JANUARY 10, 1972.

[FR Doc.72-566 Filed 1-13-72;8:47 am]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter X—Office of Oil and Gas, Department of the Interior

[Oil Import Reg. 1 (Rev. 5) Amdt. 39]

OI REG. 1—OIL IMPORT REGULATION

Oil Import Appeals Board; Organizational Change

The Oil Import Appeals Board has recently been placed within the Office of Hearings and Appeals of the Department of the Interior. This amendment implements the organizational change. Since this amendment makes an organizational change, it is unnecessary to publish it as proposed rulemaking or to delay its effective date.

Paragraph (a) of section 21 of Oil Import Regulation 1 (Revision 5) is amended by deleting the last sentence and inserting in lieu thereof the following sentence: "The representative of the Department of the Interior shall be the Board's permanent Chairman." As amended, paragraph (a) of section 21 reads as follows:

Sec. 21 Appeals.

(a) There is in the Department of the Interior an Oil Import Appeals Board comprised of a representative each from the Departments of the Interior, Justice, and Commerce designated, respectively, by the heads of such Departments. The representative of the Department of the Interior shall be the Board's permanent Chairman.

* * * * *

This amendment is issued pursuant to the authority vested in the Secretary of the Interior by section 4 of Presidential Proclamation 3279, March 10, 1959 (24 F.R. 1781), as amended, and shall be effective immediately.

W. T. PECORA,
Acting Secretary of the Interior.

JANUARY 6, 1972.

[FR Doc.72-546 Filed 1-13-72;8:45 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter I—Federal Power Commission

[Docket No. R-403; Order No. 440-A]

PART 201—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS A AND CLASS B NATURAL GAS COMPANIES

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

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

Full-Cost Accounting for Exploration and Development Costs

JANUARY 5, 1972.

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 8, 1969.[1]

On November 5, 1971, we issued Order No. 440 (36 F.R. 21963, November 18, 1971) amending our Uniform Systems of Accounts for Natural Gas Companies and Annual Report Form No. 2 to adopt full-cost accounting for exploratiton and development costs on natural gas leases acquired after October 7, 1969.

On December 6, 1971, petitions for rehearing were filed with the Commission by Arthur Young & Co. (Arthur Young), Humble Oil & Refining Co. (Humble), Mobil Oil Corp. (Mobil), the Public Service Commission for the State of New York (New York), and jointly by Amerada Hess Corp., Amoco Production Co., Gulf Oil Corp., and Union Oil Company of California (Amerada et al.).

Arthur Young and Amerada et al., request that the Commission revoke and rescind Order No. 440 or, in the alternative, provide full-cost accounting as optional accounting. Amerada et al., also requests that if the order is not rescinded that amounts capitalized under full-cost accounting be segregated and itemized in the Uniform Systems of Accounts and not used by pipeline companies in support of rate increases. Humble requests that the Commission, upon reconsideration, determine that full-cost accounting is inappropriate and dismiss the rulemaking. Mobil requests that the Commission either rescind the order or correct the errors it alleges the order contains. New York requests the Commission clarify and modify Order No. 440 in the event it chooses to adhere to the conclusions reached in the order.

In asking that Order No. 440 be rescinded or revoked, Arthur Young, Humble and Mobil state that the order is silent on whether the Commission had reached the conclusion that full-cost accounting would stimulate the search for natural gas. Further, all five of the petitioners allege that the order is illegal in that the provisions may result in rates for pipeline produced natural gas above Commission determined area rates. We will first clarify these points.

The notice of proposed rule making issued October 5, 1970, in Docket No. R–403 (35 F.R. 15939, October 9, 1970) requested comments on whether full-cost accounting would provide a stimulus for the search for and development of new gas supplies. In reaching our decision to adopt full-cost accounting, however, we compared the merits of the two concepts of accounting and concluded that full-cost accounting is more consistent with the economics of exploration and development over a period of time than current expensing of costs. Since we concluded that full-cost accounting on its merits should be adopted, it is not necessary for us to proceed further and reach a finding as to whether the accounting, as

[1] This date appeared in Order No. 440 as "October 7, 1969." As explained on page 6 of this order, this date is being revised to read "October 8, 1969." The date October 6, 1969" appearing in Order 440 is being revised to read "October 7, 1969." These revised dates will be used in this order.

such, would provide a stimulus to discover and develop new gas supplies. Further, having decided that full-cost accounting is the preferable method of accounting, it would be inappropriate for us to provide optional accounting.

Order No. 440 will not have any bearing on the applicable area rate for gas produced by pipelines and pipeline affiliates prescribed 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). Furthermore, it is not intended that pipeline companies receive the applicable area rate for their natural gas production and in addition thereto either receive a return on costs incurred on leases acquired after October 7, 1969, or recover such costs in their cost of service. Costs incurred on natural gas leases acquired before October 8, 1969 (old leases) and natural gas leases acquired after October 7, 1969 (new leases) will not be commingled as alleged in some of the Petitions for Rehearing because Opinion No. 568 provided that pipelines should keep their records on a basis which would enable them and the Commission to achieve the necessary division of costs between costs incurred on old and new leases.

Amerada et al., states that pipeline company exploratory programs will probably result in discovery of oil reserves, gas reserves and gas-condensate reserves and unless all exploration costs are arbitrarily assigned to natural gas and liquids treated as byproducts, difficult cost allocation will be necessary to determine what amounts should be capitalized in natural gas accounts.

The pipeline companies subject to the Commission's Uniform Systems of Accounts are in the business of obtaining and selling natural gas. The systems of accounts, accordingly, contain several references to "natural gas leases". However, our accounting regulations are applicable to the pipeline entity[2] and, as Amerada et al. states, exploratory programs will probably result in discovery of oil reserves, gas reserves and gas-condensate reserves. It is, therefore, reasonable and proper that the definitions and accounting cover "hydrocarbons" rather than natural gas. Order No. 440 intended that costs related to crude oil and natural gas condensates be accounted for in accordance with the full-cost concept. The notice of proposed rule making referred only to "natural gas". This matter, however, was called to our attention by respondents to the rule making.

Amerada et al., excepts to the instructions on net realizable value alleging that pipelines' earnings will be based on estimates. New York alleges that the determining and valuing of hydrocarbon reserves is not clear and seems to be largely subjective.

As a safeguard that the amounts recorded in the natural gas production plant accounts will not exceed the values of recoverable reserves, Order 440 provided that the amounts recorded in the natural gas production plant accounts shall, in general, not exceed the "net realizable value" of recoverable reserves. The determination of the net realizable value of reserves will be reviewed through audits and by other means of surveillance available to the Commission.

New York excepts to the adoption of a nationwide cost center primarily because of the inclusion of the State of Alaska. New York believes that full-cost accounting, if it is to be authorized, should be limited to pipeline activities in areas where, if gas had been found, it could reasonably be attached to the pipeline's existing system. New York also believes that cost centers of the type the Commission has established for area rates should be established so that it will be possible to determine the relationship of a pipeline's capitalized exploration costs to its productive operations.

We believe that for a proper matching of revenues and expenses, all exploration and development costs incurred by a company should be accounted for by the full-cost accounting method. We, however, limited the cost center to our sphere of jurisdiction.

New York alleges that restatement of financial statements for the years 1969, 1970, and 1971 would lead to public confusion because the Commission did not prescribe retroactive accounting.

Arthur Young alleges that financial reporting will be based on a mixture of accounting methods not in accordance with either the full cost method or the successful cost method.

The Commission is aware that Order No. 440 did not prescribe complete retroactivity for exploration and development costs. Because of rate considerations, it would be inappropriate for us to prescribe full-cost accounting for exploration and development costs incurred or related to leases acquired on or before the date of Opinion No. 568. However, exploration and development by pipelines prior to October 8, 1969, was not at a high level of activity so that financial statements of pipelines after adoption of full-cost accounting should be fairly comparable with statements for previous years. We, however, expected a significant increase in pipeline exploration and development after the date of Opinion No. 568. Since full-cost accounting was prescribed for such costs on leases acquired after October 7, 1969, we believe that financial statements should be restated for the years 1969, 1970, and 1971. Statistics for those years are not available that would show whether a significant increase in exploration and development did occur. If individual pipeline companies did not increase the exploration and development significantly in those years, they may petition the Commission for relief from the restatement provision in Order No. 440.

Arthur Young states that the Order is at substantive variance in terms and substance with the notice of proposed rule making with respect to the treatment of amounts in excess of net realizable value of reserves. Order No. 440 provided that after initiation of exploration and development on leases acquired after October 7, 1969, the utility must determine after a reasonable period of time whether the net realizable value of recoverable reserves on such leases is sufficient to absorb the net book value of the amounts recorded in the production accounts. If the net realizable value of recoverable reserves are not sufficient to absorb the net book values, such net book values are to be reduced to the net realizable value of reserves. It was further provided that excesses significant in amount may be amortized over a period not to exceed 5 years. In addition to stating that it had no notice of the 5-year provision, petitioner states that it is inappropriate accounting to amortize such amounts. After reconsideration, we agree with the petitioner and are deleting this instruction from the preface to the natural gas production accounts in the Uniform Systems of Accounts. We are correcting the preface to the production accounts to provide that after the reasonable period of time has elapsed and a determination is made on whether the net realizable value of recoverable reserves is sufficient to absorb the net book value in the production accounts, the determination shall be made annually thereafter. We are also correcting terms which appear in what is now the last sentence of the preface by substituting "net book value" for "book value" and "net realizable value" for "net book value", respectively.

In Order No. 440 full-cost accounting was prescribed for exploration and development costs on leases acquired "on or after October 7, 1969." To coincide with the provisions of Opinion No. 568, this date should read "on or after October 8, 1969." We are correcting the dates "October 6, 1969" and "October 7, 1969" that appear in the modifications to the Uniform Systems of Accounts prescribed by Order No. 440 to read "October 7, 1969" and "October 8, 1969", respectively.

The Commission finds:

(1) It is necessary and appropriate to the administration of the Natural Gas Act that Order No. 440, issued November 5, 1971, and published in the FEDERAL REGISTER on November 18, 1971, at 36 F.R. 21963–21968, F.R. Doc. 71–16702, be amended as ordered herein.

(2) The clarifications and modifications to the Uniform System of Accounts set forth within this order render moot certain of the grounds for rehearing and the assignments of error and grounds for rehearing set forth on other matters for rehearing by the petitioners present no new facts or principles of law which were not considered by the Commission in Order No. 440, issued November 5, 1971, in Docket R–403 (36 F.R. 21963, November 18, 1971), or which having now been considered, warrant any other changes or modification of that order.

The Commission, acting pursuant to the provisions of the Natural Gas Act, as amended, particularly sections 8, 9, 10,

[2] Northwestern Electric Co. (2 FPC 327, 331 afd. 321 U.S. 119)

and 16 thereof (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717h, 717i, 717o), orders:

(A) Order No. 440, issued November 6, 1971, and published in the FEDERAL REGISTER on November 18, 1971, at 36 F.R. 21963–21968 (F.R. Doc. 71–16702), is amended and corrected as follows:

1. At 36 F.R. page 21963, column 2, paragraph 1, is corrected to read:

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 8, 1969.

2. At 36 F.R. page 21963, column 2, unnumbered paragraph 4, lines 12 and 19 the date "October 7, 1969" is corrected to read "October 8, 1969."

3. At 36 F.R. page 21964, column 2, numbered paragraph "1.", line 8 the date "October 7, 1969" is corrected to read "October 8, 1969."

4. At 36 F.R. 21964, column 2, numbered paragraph "2.", line 4 the date "October 6, 1969" is corrected to read "October 7, 1969."

5. At 36 F.R. 21964, column 2, unnumbered paragraph 3, lines 9 and 23 the date "October 6, 1969" is corrected to read "October 7, 1969."

6. At 36 F.R. 21964, column 3, first line top of page the date "October 6, 1969" is corrected to read "October 7, 1969."

7. At 36 F.R. 21964, column 3, numbered paragraph "(5)", line 3 the date "October 6, 1969" is corrected to read "October 7, 1969."

8. At 36 F.R. 21965, column 1, numbered paragraph "15.", line 7 the date "October 6, 1969" is corected to read "October 7, 1969."

9. At 36 F.R. 21965, column 1, text of note under account "105.1, Production properties held for future use." line 3 the date "October 6, 1969" is corrected to read "October 7, 1969."

10. At 36 F.R. 21965, column 1, text of "Note B:", account "107, Construction work in progress—Gas.", line 3 the date "October 6, 1969" is corrected to read "October 7, 1969."

11. At 36 F.R. 21965, column 2, second paragraph to the text of account "183.1, Preliminary natural gas survey and investigation charges.", lines 8 and 12 the dates "October 7, 1969" and "October 6, 1969" are corrected to read "October 8, 1969" and "October 7, 1969," respectively.

12. At 36 F.R. 21965, column 2, numbered paragraph 4, is corrected and amended to read as follows:

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 7, 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 7, 1969. The net book value of amounts recorded in the natural gas production accounts incurred on or related to leases acquired after October 7, 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 7, 1969, the utility must determine after a reasonable period of time, and annually thereafter, 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 net 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 net realizable value by appropriate charges and credits to the expense and valuation accounts.

* * * * *

13. At 21965, column 3, text of paragraph "A.", lines 6 and 9, and paragraph "C.", lines 7 and 9, of account "338, Unsuccessful exploration and development costs." the date "October 6, 1969" is corrected to read "October 7, 1969."

14. At 21966, column 1, text of paragraph "A.", line 4 and paragraph "B.", line 4, of account "795, Delay rentals." the date "October 7, 1969" is corrected to read "October 8, 1969."

15. At 21966, column 1, text to "Note:", line 2, of account "795, Delay rentals.", the date "October 6, 1969" is corrected to read "October 7, 1969."

16. At 21966, column 1, text to account, line 3, and "Note B.", line 2, of account "796, Nonproductive well drilling." the dates "October 7, 1969" and "October 6, 1969" are corrected to read "October 8, 1969" and "October 7, 1969," respectively.

17. At 21966, column 1, text of paragraph "A.", line 6 and paragraph "B.", line 2, of account "797, Abandoned leases." the date "October 7, 1969" is corrected to read "October 8, 1969."

18. At 21966, column 1, text to "Note:", line 2, of account "797, Abandoned leases." the date "October 6, 1969" is corrected to read "October 7, 1969."

19. At 21966, column 1, text to account, line 3, and "Note.", line 3 of account "798, Other exploration." the dates "October 7, 1969" and "October 6, 1969" are corrected to read "October 8, 1969" and "October 7, 1969," respectively.

20. At 21966, column 2, text to "Note C:", line 2, of account "105, Gas plant held for future use." the date "October 6, 1969" is corrected to read "October 7, 1969."

21. At 21966, column 2, text to "Note B:", line 3 of account "107, Construction work in progress—Gas." the date "October 6, 1969" is corrected to read "October 7, 1969."

22. At 21966, column 2, text to subparagraph "A.(2)", lines 18 and 23 of account "183, Other deferred debits." the dates "October 7, 1969" and "October 6, 1969" are corrected to read "October 8, 1969" and "October 7, 1969," respectively.

23. At 21966, column 3, number paragraph "3." is corrected and amended as follows:

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 7, 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 7, 1969. The net book value of amounts recorded in the natural gas production accounts incurred on or related to leases acquired after October 7, 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 7, 1969, the utility must determine after a reasonable period of time, and annually thereafter, 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 net 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 net realizable value by appropriate charges and credits to the expense and valuation accounts.

* * * * *

24. At 21967, column 1, text of paragraphs "A.", line 6, paragraph "C.", lines 7 and 9, of account "338, Unsuccessful exploration and development costs." the date "October 6, 1969" is corrected to read "October 7, 1969".

25. At 21967, column 1, text of paragraph "A.", line 4, of account "720, Delay rentals" the date "October 7, 1969" is corrected to read "October 8, 1969".

26. At 21967, column 2, text of paragraph "B.", line 4 and "Note:", line 2, of account "720, Delay rentals." the dates "October 7, 1969" and "October 6, 1969" are corrected to read "October 8, 1969" and "October 7, 1969", respectively.

27. At 21967, column 2, text of account, line 3 and "Note B:", line 2, of account "721, Nonproduction well drilling." the dates "October 7, 1969" and "October 6, 1969" are corrected to read "October 8, 1969" and "October 7, 1969", respectively.

28. At 21967, column 2, text of account, lines 3 and 9, of account "722, Abandoned leases." the dates "October 7, 1969" and "October 6, 1969" are corrected to read "October 8, 1969" and October 7, 1969", respectively.

29. At 21967, column 2, text of account, lines 3 and 4, and "Note:", line 3, of account "723, Other exploration." the dates "October 7, 1969" and "October 6, 1969" are corrected to read "October 8, 1969" and "October 7, 1969", respectively.

30. At 21967, column 3, text of subparagraph "A.(2)", lines 18 and 22, of account "183, Other deferred debits." the dates "October 7, 1969" and "October 6, 1969" are corrected to read "October 8, 1969" and "October 7, 1969", respectively.

31. At 21967, column 3, numbered paragraph "3." is corrected and amended as follows:

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 7, 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 7, 1969. The net book value of amounts recorded in the natural gas production accounts incurred on or related to leases acquired after October 7, 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 7, 1969, the utility must determine after a reasonable period of time, and annually thereafter, 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 net 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 net realizable value by appropriate charges to the expense and valuation accounts.

* * * * *

32. At 21968, colmun 1, text of account paragraph "A.", lines 6 and 9 and paragraph "C.", lines 7 and 9 of account "327, Unsuccessful exploration and development costs." the dates "October 6, 1969" are corrected to read "October 7, 1969."

33. At 21968, column 2, the text of "Note C:", lines 2 and 3, of account "394, Gas plant held for future use." the date "October 6, 1969" is corrected to read "October 7, 1969."

34. At 21968, column 2, the text of the "Note:", line 3, of account "395, Construction work in progress—Gas." the date "October 6, 1969" is corrected to read "October 7, 1969."

35. At 21968, column 2, text of paragraph "A.", line 4 and paragraph "B.", line 4 of account "720, Delay rentals." the dates "October 7, 1969" are corrected to read "October 8, 1969."

36. At 21968, column 3, text of "Note:", lines 2 and 3, of account "720, Delay rentals." the date "October 6, 1969" is corrected to read "October 7, 1969."

37. At 21968, column 2, text of account paragraph, line 3 and "Note B:", line 2, of account "721, Nonproductive well drilling." the dates "October 7, 1969" and "October 6, 1969" are corrected to read "October 8, 1969" and "October 7, 1969," respectively.

38. At 21968, column 2, text of account paragraph, lines 3 and 9, of account "722, Abandoned leases." the dates "October 7, 1969" and "October 6, 1969" are corrected to read as "October 8, 1969" and "October 7, 1969," respectively.

39. At 21968, column 3, text of account paragraph, line 4 and "Note:", line 3, of account "723, Other exploration." the dates "October 7, 1969" and "October 6, 1969" are corrected to read "October 8, 1969" and "October 7, 1969," respectively.

40. At 21968, column 3, lettered paragraph "(E)", line 3, the date "October 6, 1969" is corrected to read "October 7, 1969."

(B) Except as herein granted, the applications for rehearing of Order No. 440 are denied.

(C) This order clarifying and amending Order No. 440, issued November 5, 1971, and published in the FEDERAL REGISTER on November 18, 1971, at 36 F.R. 21963–21968, is effective upon issuance.

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

By the Commission.

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

[FR Doc.72-570 Filed 1-13-72;8:47 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[FCC 72-6]

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

Applicability of Certain U.S. Footnotes to the Table of Frequency Allocations

Order. In the matter of amendment of § 2.106 of the Commission's rules and regulations concerning applicability of certain U.S. footnotes to the Table of Frequency Allocations.

1. The Commission, in coordination with the Office of Telecommunications Policy, has recently reviewed the adequacy and applicability of certain U.S. footnotes to the Table of Frequency Allocations in light of current requirements and recent actions. Following this review, it has been determined that three footnotes, US17, US103 and US72, may be deleted or should be modified as they no longer correctly reflect conditions of access to pertinent radio frequencies.

2. Footnote US17, added to permit access to the frequencies 230, 250, and 310 MHz for Shoran operations by the petroleum industry off the coasts of Alaska and the contiguous 48 States, has expired. As the frequencies are no longer available for that purpose, the footnote is not pertinent. Accordingly, it is being deleted.

3. Footnote US103 was added to permit the New York Monitoring Corp. to operate the Decca aeronautical radionavigation service in the New York City area to serve helicopter operations. As the FCC has recently authorized cessation of this service at the request of the New York Monitoring Corp., retention of the footnote is no longer necessary. Accordingly, it is being deleted.

4. Footnote US72 was established in the second memorandum opinion and order in Docket 13928 in October 1961 to reflect agreements reached at the 1959 Geneva Radio Conference and has been amended on several occasions subsequently.

5. In order to reflect the current status of Airport Surface Detection Equipments operating in the bands 23.0–24.25 GHz and 24.25–25.25 GHz, footnote US72 should be amended.

6. Authority for this action is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended. As the modifications reflect actions already taken, are of an administrative nature, and/or do not appear to affect non-Government interests adversely, the public notice provisions of section 553(b) of the Administrative Procedure Act are not applicable.

7. *Accordingly, it is ordered,* That, effective January 21, 1972, § 2.106, the Table of Frequency Allocations, is amended to read as set forth below.

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

Adopted: January 5, 1972.

Released: January 7, 1972.

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

In § 2.106 footnotes US17 and US103 are deleted and removed from the bands 225–328.6 MHz and 24.25–25.25 GHz, and footnote US72 is amended as follows:

US72 Airport Surface Detection Equipments (ASDE's) in operation between 23.6 and 24.47 GHz as of June 1, 1970, may continue to operate on a primary basis and shall be protected from other authorized operations in this band. ASDE's designed for introduction into service after June 1, 1970, will not be permitted to operate in the band 23.6–24.25 GHz but may operate on a primary basis in the band 24.25–25.25 GHz.

[FR Doc.72-588 Filed 1-13-72;8:49 am]

PART 31—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS A AND CLASS B TELEPHONE COMPANIES

PART 33—UNIFORM SYSTEM OF ACCOUNTS FOR CLASS C TELEPHONE COMPANIES

Class Lives and Asset Depreciation Ranges for Income Tax Purposes

Order regarding waiver of rules. In the matter of waiver of applicable sections of Parts 31 and 33 of the Commission's rules in connection with Accounting for Deferred Taxes Resulting From the Use of Depreciation Based on Class Lives and Asset Depreciation Ranges for Income Tax Purposes.

1. At the time of the adoption in 1970 of our present accounting rules for telephone companies (Parts 31 and 33) to provide for the use of normalization accounting for income tax differentials resulting from the use of accelerated depreciation methods in computing income taxes, the acceleration in tax depreciation in the case of Federal income taxes resulted solely from the use of such methods as sum-of-the-years digits, double-declining balance, etc. Section 167 of the Internal Revenue Code of 1954 was amended by the Revenue Act of 1971 and includes a new subsection (m) which permits a tax depreciation allowance based on class lives and asset depreciation ranges prescribed by the Secretary of the Treasury or his delegate. We expect that the Treasury Department will prescribe class lives and asset depreciation ranges for use by the telephone carriers for tax purposes and that the regulations will require the resulting tax differentials to be normalized in the accounts of the telephone carriers.

2. Question arises as to whether, under the present provisions of Parts 31 and 33 of our rules, normalization accounting is permitted for income tax differentials occasioned by the use of class lives and asset depreciation ranges in determining depreciation deductions for income tax purposes. In order to make it clear that normalization accounting may be used by telephone companies subject to Parts 31 and 33 of our rules it appears desirable to waive our accounting requirements pending rule making to incorporate therein such changes as may be desirable in the circumstances.

3. *Accordingly, it is ordered,* Pursuant to §§ 0.295 and 0.303(f) of the Commission's rules, that, pending determination of permanent accounting procedures, the applicable sections of Parts 31 and 33 of the rules, particularly § 31.3–32 and related sections of Part 31 and the corresponding sections of Part 33, related to the accounting for tax differentials resulting from the use of accelerated depreciation for income tax purposes, are hereby waived so as to permit retroactively to January 1, 1971, the normalization of income tax differentials when such accounting is a necessary condition to taxpayer eligibility for the use of class lives and asset depreciation ranges in determining depreciation deductions for income tax purposes. Upon the determination of permanent accounting procedures, each carrier shall adjust its interim accounting to conform to the permanent accounting prescribed.

Adopted: January 4, 1972.

Released: January 5, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] BERNARD STRASSBURG,
Chief, Common Carrier Bureau.

[FR Doc.72-584 Filed 1-13-72;8:48 am]

[Docket No. 19075, FCC 72-19]

PART 73—RADIO BROADCAST SERVICES

Television Broadcast Stations in Nogales and Tucson, Ariz.

Report and order. In the matter of amendment of § 73.606 *Table of Assignments,* Television Broadcast Stations, Nogales and Tucson, Ariz.; Docket No. 19075, RM–1645.

1. In response to a petition (RM–1645) filed by I.B.C., a limited partnership (KZAZ), licensee of television Station KZAZ–TV, Channel 11, Nogales, Ariz., the Commission adopted on October 28, 1970, a notice of proposed rule making, released November 2, 1970 (FCC 70–1164) in the above-entitled matter. The notice set out in some detail the proposal of KZAZ to have its operation on Channel 11 at Nogales, Ariz., hyphenated as an assignment to Tucson-Nogales, this, in order to permit KZAZ to apply to the Commission to have its station licensed as a Tucson, Ariz., operation rather than a Nogales service and to permit it to maintain a main studio solely in Tucson, Ariz.

2. In this proceeding, interested parties were afforded an opportunity to comment on or before January 7, 1971, and to reply to such comments on or before March 1, 1971. Formal comments and/or reply comments (in large part identical in substance to the comments originally filed in response to the petition) were filed by: Petitioner, I.B.C., a limited partnership (KZAZ); Universal Communications Corp. (KOLD), licensee of television Station KOLD–TV, Tucson, Ariz.; May Broadcasting Co. (KGUN), licensee of television Station KGUN–TV, Tucson, Ariz.; and KOVA Television, Inc. (KOVA), licensee of television Station KOVA–TV, Tucson, Ariz. A variety of letters, including letters from the Mayor and Chamber of Commerce of Nogales (who opposed the hyphenation of KZAZ) were received from both supporting and opposing citizens of Nogales.

3. Nogales, Ariz. (population 8,946), is located in Santa Cruz County (population 13,966). The community has assigned to it Channel 11 which is occupied by petitioner and Channel *16 for which there is no application pending. Tucson, Ariz., located in Pima County (respective populations 262,933 and 351,667), has assigned to it as "commercial" VHF channels 4-, 9-, and 13-. Each of these commercial channels is occupied. In addition VHF Channel *16 provides the community with a noncommercial educational service. Unapplied for UHF Channels 18, *27 and 40 are also assigned to Tucson.[1]

4. Petitioner's position, as set out in the pleadings, is that Channel 11 presently assigned to Nogales should be assigned on a hyphenated basis to Tucson-Nogales. This is to permit its present license for Channel 11, which specified Nogales as the principal community, to be modified to specify Tucson. In support of its proposal it asserts that the three VHF network affiliated stations in Tucson serve Nogales while its operation licensed to Nogales provides programing to Tucson, i.e., that the four commercial services, from a de facto view, are competing for the same audience and that KZAZ is at a severe competitive disadvantage with respect to regional and national advertising in view of its de jure designation as a Nogales station. As the Notice in this proceeding set out—

[1] Commissioner H. Rex Lee absent.

[1] The population statistics cited in this paragraph are from the Preliminary Reports of the 1970 U.S. Census.

With respect to financial statistics, petitioner states the following:

The station's history has been one of continuing and monumental losses. Its Forms 324 for 1967, 1968 and 1969 show the following:

	1967	1968	1969	Total
Broadcasting operating loss	$630,376	$603,494	$467,316	$1,701,186
Less: Depreciation and amortization	245,339	202,737	152,860	600,936
Net operating loss	385,037	400,757	314,456	1,000,250

Through May, 1969, [sic] the station accrued additional net operating losses of $115,907, plus additional depreciation charges in the neighborhood of $100,000.[2]

In brief, it is petitoner's belief that the small community of Nogales simply cannot, by itself, support its own television station.

5. KZAZ maintains that the adoption of its proposal of a hyphenated assignment of Channel 11 and its relicensing to Tucson will in no way disadvantage the citizens of Nogales in that its proposal suggests only one physical change, i.e., the relocation, on a permanent basis, of its studio to Tucson.[3] Petitioner states that KZAZ's transmitter site atop Mount Wrightson (approximately 26 miles north of the center of Nogales and 37 miles south of the center of Tucson) permits its transmitter to provide both Tucson and Nogales with a principal-city signal. It asserts that Nogales will continue to receive service from KZAZ and that special rates will be made available by the station to Nogales businessmen. In essence, it maintains that not only the private interest of economic survival of KZAZ will be served but in addition that the public interest will be served by the provision of a fourth commercial service to Tucson—a first station in Tucson independent of network affiliation—this, while Nogales will be, in effect, not deprived of KZAZ's service.

6. The opposing parties, who filed formal comments in this proceeding, basically opposed petitioner's proposal on three grounds: first, that Nogales needs its own specialized local service which only can be provided, in reality, if there is a KZAZ studio located in Nogales; second, that the hyphenation of Channel 11 between Tucson and Nogales is contrary to established Commission policy; and third, that the KZAZ facility broadcasting from Mount Wrightson (it is not proposed to move the KZAZ transmitting facility closer to Tucson because that action would deprive Nogales of its principal-city signal) does not put the required principal-city signal into all of Tucson, i.e., that there is shadowing within the city limits of Tucson, and that therefore § 73.685 (a) and (b) of our rules would be violated by ultimately licensing KZAZ to Tucson. Each of these three points will be discussed below, seriatim.

7. The first key point of concern in this proceeding is that Nogales should not be deprived of its local television voice and means of expression. Most of the informal comments, filed in letter form, refer specifically to this question, for example, the Mayor and Chamber of Commerce of Nogales each have voiced their opposition to petitioner's proposal on the ground that Nogales would be deprived of its only television station. We agree that the primary consideration in this case is the continuance of service to Nogales and therefore the continued functioning of the valuable Channel 11 facility. The most significant point with respect to a continuance of local television service to Nogales is the economic survival of KZAZ. If petitioner's station is forced to go dark due to continuing heavy financial losses Nogales (as well as other places within KZAZ's service area) will lose an important communication facility which can contribute significantly to the economic, social and political lives of the citizens who view the station, including those in Nogales. Petitioner considers it vital to have the advantage of having (for the purpose of attracting advertisers) its station more closely identified with the well-known and substantial market of Tucson. It clearly appears that petitioner, if financial losses continue without any hope of improvement, may be forced to make the business judgment that KZAZ must go dark. This result would be unfortunate both for petitioner and the viewers of KZAZ in Nogales. By proposing to identify KZAZ with Tucson through a relicensing of petitoner's station to that city (after the requested hyphenation of the present assignment of Channel 11 to Tucson-Nogales) petitioner hopes to gain economic strength which will, of course, permit it to continue to provide its service to Nogales.

8. Petitioner's proposal, if adopted in its entirety, would bring only one change with regard to the community of Nogales, i.e., the elimination of any studio facilities in that community. Petitioner expects to continue a principal-city signal there. Each of the opposing parties, including the Mayor and Chamber of Commerce of Nogales, indicate the fundamental view that a station must have a studio in the community it intends to serve so as to make it feasible for citizens of that community, with their cultural background, to relate to and participate in the broadcast programing directed to their community. We are of the view that it is important for any station which is to bring Nogales the programing that the community requires to have a studio in the community. A television station is truly part of a community and providing that community with the local service the community needs, when it has a facility located in that community which can develop and produce local programing. Therefore, in this instance, although we are hyphenating the assignment of Channel 11 to Tucson-Nogales in order to permit petitioner to apply for a license specifying Tucson whereby it hopes to gain economic strength, we are going to require (notwithstanding petitioner's objection [4]) that KZAZ, if ultimately licensed to Tucson, continue, at least, an auxiliary studio facility in Nogales.

9. With regard to the second question presented by the proceeding, i.e., the lack of precedent for hyphenating the Channel 11 television assignment between Tucson and Nogales, the record contains the following arguments. KZAZ alleges that there is a strong commercial tie between the Tucson and Nogales economic markets, citing as the only example the participation of part of the Nogales, Sonora, Mexico community in subcontracting for manufacturing primarily done in Tucson. In the pleadings, it maintains that the distance of 72 miles by road between Tucson and Nogales is not a significant physical separation between the two communities in that such distances are normal between sister communities in the widespread southwestern United States. In concluding its argument, petitioner maintains that the existence of commercial transportation between Tucson and Nogales is a factor which proves that the two communities are allied. Each of the opposing parties maintains that it is—

[2] The following additional financial clarification is made by petitioner:

"* * * Actually the situation in 1970 is worse than shown in the petition because the $115,907 loss through May of 1970 reported therein did not include interest expense of approximately $9,000 per month. Operating losses through June 1970 were $160,119, plus interest charges of $54,000 for a total of $214,119. On an annualized basis, this represents $428,138 before depreciation so the 1970 situation is worse than 1968 * * *".

The 1970 financial report, which is now available to the Commission, still shows substantial losses but with some improvement over earlier years.

[3] On July 2, 1970, the Commission granted special temporary authority to petitioner to operate solely from its auxiliary studio in Tucson. That authority has been renewed several times. A further extension request, which has not been acted upon, is presently pending.

[4] Petitioner hoped to make savings by permanently discontinuing any studio facility at Nogales. It proposed to have the studio facilities at Tucson made available to the citizens of Nogales. It is our judgment, in view of the distance between Nogales and Tucson—approximately 72 miles by road—that KZAZ's service to Nogales can only be maintained if access by the citizens of Nogales to a studio facility of the station is facilitated by reasonable proximity.

* * * inappropriate to hyphenate an assignment between Tucson and Nogales since the two communities are separated approximately 72 miles by road. The opponents emphasize the difference between the city of Tucson and the small community of Nogales, i.e., the disparity in size of population, the variance between the nature of their economic base (manufacturing and tourism in Tucson—cattle raising and mining in Nogales), and the languages spoken (primarily English in Tucson—primarily Spanish in Nogales).

10. After a careful consideration of the above we find we must come to the conclusion that petitioner's proposal of hyphenation of Channel 11 between Tucson and Nogales is not supported by our previous criteria for determining appropriate circumstances for hyphenating television assignments between two or more communities. It appears clear, that there is a difference between the economic patterns and lifestyles of the two communities which in normal circumstances would preclude a hyphenated assignment of Channel 11. We are forced, however, to come to the judgment that the matter before us does not contain only the average considerations involved in questions of hyphenating assignments. In this instance, we do not have the average case of a newly proposed assignment. Instead, we have the problem of an existing station, KZAZ, proposing to continue to serve, in part, the community of its present licensing, Nogales, but being unable to do so because of a severe adverse economic situation. The act of hyphenating Channel 11 between the communities of Tucson and Nogales can only be justified by the need of KZAZ to identify itself (for the purpose of attracting advertising support) with the nationally known market of Tucson. By so doing KZAZ hopes to survive, and expects to be able to continue television service to its present television audience in and between the communities of Nogales and Tucson. Therefore, in view of the economic realities confronting us and KZAZ, we have decided to redesignate Channel 11, presently assigned to Nogales, as a Tucson-Nogales allocation. This action, on our part, will give petitioner the benefit of applying to have Tucson designated as the city of license for KZAZ. In addition however, it attaches to petitioner the responsibility (if ultimately licensed to Tucson) of continuing to meet the needs of Nogales for a variety of television programing including some locally originated from KZAZ's Nogales studio. We wish to emphasize that the action we take herein is not simply aimed at permitting petitioner to adopt a new principal city but that additionally the hyphenation of Channel 11 underlines the responsibility of KZAZ to continue to serve Nogales. In view of the responsibility we see in this matter—in the event Channel 11 is licensed at Tucson we will require that it not only meet the requirement of putting a principal city signal into Tucson (as it alleges it presently does) but that, in addition, it continue to put its principal-city signal into Nogales.

11. A third and last matter raised by opposing parties remains in the proceeding, i.e., possible violation of § 73.685 (a) and (b) of our rules by petitioner, in respect to service to Tucson as the city of license for KZAZ. The matter is best set out by quoting our notice of proposed rule making in this proceeding (FCC 70–1164). May Broadcasting Company states:

"* * * Under § 73.685, if KZAZ were to become a Tucson station, it would not only have to place a city-grade signal (77 dbu) over the entire corporate limits of Tucson (§ 73.685(a)), but its transmitter location must be so chosen as to provide line-of-sight thus avoiding 'shadowing', 'over the principal community to be served' (§ 73.685(b))".

These rules would be violated by KZAZ, it is alleged, in view of the assertion that

"* * * 7.8 percent of the corporate limits of the city of Tucson would be below line-of-sight from KZAZ's present antenna site on Mt. Wrightson * * *"

Too, it is maintained that in view of the existence of Mount Bigelow located approximately 19 miles from the center of Tucson (used by existing stations for their transmitters),

"* * * it certainly can not be said that Mount Wrightson, some 37 miles from Tucson, is 'the most central point at the highest elevation available', as required by § 73.685 (b) in order to keep shadowing to a minimum * * *".

KZAZ replies to the above position by indicating that the studies made by KGUN are theoretical in nature and that in the event there is a shadow area in its principal city signal at Tucson that alleged defect can be solved by the Commission's establishment of a requirement that Channel 11, on licensing to Tucson, construct a translator to serve the alleged shadow area. In this Report and Order, it is appropriate that we only set out the contrasting views of the participants in this proceeding, in that any bar of § 73.685(a) and (b) to petitioner carrying out its proposal properly only arises at the actual application stage for a new city of license and must be dealt with at that time. Any attempt to resolve such a matter in this proceeding would be improper (we have no application before us) and productive of only dicta. Although we make no findings, at this time, with regard to the possible violation of § 73.685(a) and (b) by KZAZ as a station licensed to Tucson we feel that a sufficient threshold case has been made by petitioner concerning these engineering problems to warrant the action we take herein, with a full examination of the engineering problems at the time KZAZ applies to be redesignated as a Tucson licensee.

12. In view of the foregoing, we have come to the decision that petitioner has carried the burden of convincing us that the public interest would be served by hyphenating Channel 11, presently assigned to Nogales, Ariz., between Tucson, Ariz., and Nogales, Ariz.

13. Authority for the action taken herein, is contained in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

14. *Accordingly, it is ordered,* That effective February 23, 1972, the Television Table of Assignments in § 73.606 of the Commission's rules is amended, insofar as the cities listed below are concerned, to read as follows:

City	*Channel No.*
Tucson-Nogales, Ariz.	[1] 11
Nogales, Ariz.	* 16

[1] Operation on this channel is subject to the conditions, terms, and requirements set out in the Report and Order in Docket No. 19075, RM–1645, adopted January 5, 1972, released January 7, 1972, FCC 72–19.

15. *It is further ordered,* That any station located on Channel 11 as assigned to Tucson-Nogales, Ariz., provide, if licensed to Tucson, a principal-city signal to both Tucson and Nogales, Ariz., and that any such station, at least, maintain an auxiliary studio in Nogales, Ariz.

16. *It is further ordered,* That this proceeding (RM–1645, Docket No. 19075) is terminated.

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

Adopted: January 5, 1972.

Released: January 7, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[5]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–587 Filed 1–13–72;8:49 am]

[5] Chairman Burch not participating; Commissioner Johnson concurring in the result, and Commissioner H. Rex Lee absent.

Title 24—HOUSING AND URBAN DEVELOPMENT

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

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

List of Eligible Communities

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

§ 1914.4 List of eligible communities.

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Colorado	Adams	Unincorporated areas.				Jan. 14, 1972.
Connecticut	New Haven	Milford				Do.
Georgia	Chatham	Savannah Beach	I 13 051 4920 03 through I 13 051 4920 06	Bureau of State Planning and Community Affairs, 270 Washington St. SW., Atlanta, GA 30334. Georgia Insurance Department, State Capitol, Atlanta, GA 30334.	Office of the City Clerk, Post Office Box 128, Savannah Beach, GA 31328.	Do.
Massachusetts	Middlesex	Lowell				Do.
Do.	Plymouth	Marshfield				Do.
Do.	Norfolk	Westwood				Do.
New Jersey	Bergen	Dumont				Do.
Do.	do.	Ho-Ho-Kus				Do.
Do.	do.	Ridgefield Borough.				Do.
Do.	Burlington	Southampton Township.				Do.
Do.	Camden	Cherry Hill Township.				Do.
Do.	Hunterdon	Raritan Township.				Do.
Do.	Middlesex	Metuchen Borough.				Do.
Do.	Monmouth	Deal Borough				Do.
Do.	do.	Neptune Township.				Do.
Do.	do.	Rumson Borough				Do.
Do.	Ocean	Mantoloking Borough.				Do.
Do.	Somerset	Bound Brook Borough.				Do.
Oregon	Douglas	Myrtle Creek				Do.
Pennsylvania	Philadelphia	Philadelphia				Do.
Texas	Tarrant	Haltom City				Do.
Wisconsin	Outagamie	Unincorporated areas.				Do.

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

Issued: January 7, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-489 Filed 1-13-72;8:45 am]

PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

List of Communities

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

§ 1915.3 **List of communities with special hazard areas.**

* * * * * * *

State	County	Location	Map No.	State map repository	Local map repository	Effective date of identification of areas which have special flood hazards
* * *	* * *	* * *	* * *	* * *	* * *	* * *
Colorado	Adams	Unincorporated areas.				Jan. 14, 1972.
Connecticut	New Haven	Milford				Do.
Georgia	Chatham	Savannah Beach	H 13 051 4920 03 through H 13 051 4920 06	Bureau of State Planning and Community Affairs, 270 Washington St. SW., Atlanta, GA 30334. Georgia Insurance Department, State Capitol, Atlanta, GA 30334.	Office of the City Clerk, Post Office Box 128, Savannah Beach, GA 31328.	Nov. 6, 1970.
Massachusetts	Middlesex	Lowell				Jan. 14, 1972.
Do	Plymouth	Marshfield				Do.
Do	Norfolk	Westwood				Do.
New Jersey	Bergen	Dumont				Do.
Do	do	Ho-Ho-Kus				Do.
Do	do	Ridgefield Borough.				Do.
Do	Burlington	Southampton Township.				Do.
Do	Camden	Cherry Hill Township.				Do.
Do	Hunterdon	Raritan Township.				Do.
Do	Middlesex	Metuchen Borough.				Do.
Do	Monmouth	Deal Borough				Do.
Do	do	Neptune Township.				Do.
Do	do	Rumson Borough				Do.
Do	Ocean	Mantoloking Borough.				Do.
Do	Somerset	Bound Brook Borough.				Do.
Pregon	Douglas	Myrtle Creek				Do.
Oennsylvania	Philadelphia	Philadelphia				Do.
Texas	Tarrant	Haltom City				Do.
Wisconsin	Outagamie	Unincorporated areas				Do.

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

Issued: January 7, 1972.

GEORGE K. BERNSTEIN,
Federal Insurance Administrator.

[FR Doc.72-490 Filed 1-13-72;8:45 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 1—Federal Procurement Regulations

PART 1–3—PROCUREMENT BY NEGOTIATION

Subpart 1–3.8—Price Negotiation Policies and Techniques

PART 1–16—PROCUREMENT FORMS

Subpart 1–16.8—Miscellaneous Forms

Subpart 1–16.9—Illustrations of Forms

MISCELLANEOUS AMENDMENTS

This amendment of the Federal Procurement Regulations provides, illustrates, and cross-references Optional Forms 59 and 60 for use in securing contractor cost or pricing data.

Section 1–3.807–3 is amended to change paragraph (a) as follows:

§ 1–3.807–3 Requirements for cost or pricing data.

(a) The contracting officer shall, except as provided in paragraph (b) of this section, require the prospective contractor or contractor, as the case may be, to submit written cost or pricing data (see § 1–16.806 for cost or pricing data forms) or to specifically identify such data in writing if actual submission of the data is impracticable, and to certify, by the use of the certificate set forth in § 1–3.807–4, that, to the best of his knowledge and belief, the cost or pricing data submitted or identified was accurate, complete, and current prior to:

(1) The award of any negotiated contract expected to exceed $100,000 in amount; or

(2) The pricing of any contract modification expected to exceed $100,000 in amount to any formally advertised or negotiated contract whether or not cost or pricing data was required in connection with the initial pricing of the contract.

* * * * *

The table of contents for Part 1–16 is amended to add new entries as follows:

Sec.

1–16.806	Contract pricing proposals.
1–16.902–OF 59	Optional Form 59, Contract Pricing Proposal.
1–16.902–OF–60	Optional Form 60, Contract Pricing Proposal (Research and Development).

Section 1–16.806 is added as follows:

§ 1–16.806 Contract pricing proposals.

(a) Optional Form 59, Contract Pricing Proposal, October 1971 edition, and Optional Form 60, Contract Pricing Proposal (Research and Development), October 1971 edition, are designed for submission of cost or pricing data by prospective contractor or contractors. Contractor reproduction of these forms is authorized.

(b) The appropriate contract pricing proposal form is for use whenever cost or pricing data is required pursuant to § 1–3.807–3. Contractors may, however, submit the necessary information in a different format, acceptable to the contracting officer, where a contractor's accounting system makes the use of the form impracticable, or when required for a more effective and efficient presentation of cost or pricing information. In either instance, the information furnished should include pertinent details as to cost elements for the specific statements, authorizations, and authentications required by the form.

Sections 1–16.902–OF 59 and 1–16.902–OF 60 are added as follows:

§ 1–16.902–OF 59 Optional Form 59, Contract Pricing Proposal.

(a) Page 1 of Optional Form 59.

CONTRACT PRICING PROPOSAL

OFFICE OF MANAGEMENT AND BUDGET APPROVAL NO. 29-R0183

This form is for use when submission of cost or pricing data *(see FPR 1–3.807–3)* is required.

PAGE NO. | NO. OF PAGES

NAME OF OFFEROR

SUPPLIES AND/OR SERVICES TO BE FURNISHED

HOME OFFICE ADDRESS

QUANTITY

TOTAL AMOUNT OF PROPOSAL $

DIVISION(S) AND LOCATION(S) WHERE WORK IS TO BE PERFORMED

GOVT SOLICITATION NO.

COST ELEMENTS	PROPOSED CONTRACT ESTIMATE: TOTAL COST [1]	UNIT COST	REFERENCE [1]
1. DIRECT MATERIAL: a. PURCHASED PARTS [5]			
1. DIRECT MATERIAL: b. SUBCONTRACTED ITEMS [6]			
1. DIRECT MATERIAL: c. OTHER MATERIAL: (1) RAW MATERIAL [7]			
1. DIRECT MATERIAL: c. OTHER MATERIAL: (2) STANDARD COMMERCIAL ITEMS [8]			
1. DIRECT MATERIAL: c. OTHER MATERIAL: (3) INTERDIVISIONAL TRANSFERS *(at other than cost)* [9]			
2. MATERIAL OVERHEAD [10]			
3. INTERDIVISIONAL TRANSFERS AT COST [11]			
4. DIRECT ENGINEERING LABOR [12]			
5. ENGINEERING OVERHEAD [13]			
6. DIRECT MANUFACTURING LABOR [13]			
7. MANUFACTURING OVERHEAD [13]			
8. OTHER COSTS [13]			
9. *SUBTOTALS*			
10. GENERAL AND ADMINISTRATIVE EXPENSES [14]			
11. ROYALTIES [15]			
12. FEDERAL EXCISE TAX [16]			
13. *SUBTOTALS*			
14. PROFIT OR FEE			
15. TOTAL PRICE *(Amount)*			

SPECIMEN

I. HAS ANY EXECUTIVE AGENCY OF THE UNITED STATES GOVERNMENT PERFORMED ANY REVIEW OF YOUR ACCOUNTS OR RECORDS IN CONNECTION WITH ANY OTHER GOVERNMENT PRIME CONTRACT OR SUBCONTRACT WITHIN THE PAST TWELVE MONTHS?

☐ YES ☐ NO *(If yes, identify below)*

NAME AND ADDRESS OF REVIEWING OFFICE AND INDIVIDUAL | TELEPHONE NUMBER/EXTENSION

II. WILL YOU REQUIRE THE USE OF ANY GOVERNMENT PROPERTY IN THE PERFORMANCE OF THIS PROPOSED CONTRACT?

☐ YES ☐ NO *(If yes, identify on reverse or separate page)*

III. DO YOU REQUIRE GOVERNMENT CONTRACT FINANCING TO PERFORM THIS PROPOSED CONTRACT?

☐ YES ☐ NO *(If yes, identify)* ☐ ADVANCE PAYMENTS ☐ PROGRESS PAYMENTS OR ☐ GUARANTEED LOANS

OPTIONAL FORM 59
OCTOBER 1971
GENERAL SERVICES ADMINISTRATION
FPR 1-16.806
5059-101

(b) Page 2 of Optional Form 59.

IV. HAVE YOU BEEN AWARDED ANY CONTRACTS OR SUBCONTRACTS FOR SIMILAR ITEMS WITHIN THE PAST THREE YEARS?

☐ YES ☐ NO *(If yes, show customer(s) and contract numbers on reverse or a separate page)*

V. DOES THIS COST SUMMARY CONFORM WITH THE COST PRINCIPLES APPLICABLE TO YOUR CONTRACT.

☐ YES ☐ NO *(If no, explain on reverse or separate page)*

This proposal is submitted for use in connection with and in response to _____

_____ *and reflects our best estimates as of this date, in accordance with the Instructions to Offerors and the Footnotes which follow.

*Describe RFP, etc.

TYPED NAME AND TITLE	SIGNATURE
NAME OF FIRM	DATE OF SUBMISSION

FOOTNOTES

NOTE 1. Enter in this column those necessary and reasonable costs which in the judgment of the offeror will properly be incurred in the efficient performance of the contract. When any of the costs in this column have already been incurred *(e.g., on a letter contract or change order)*, describe them on an attached supporting schedule. When "preproduction" or "startup" costs are significant or when specifically requested in detail by the contracting officer, provide a full identification and explanation of same. Identify all sales and transfers between your plants, divisions,, or organizations under a common control, which are included at other than the lower of cost to the original transferror or current market price.

NOTE 2. The use of this column is optional for multiple line item proposals, except where the contracting officer determines that a separate Optional Form 59 is required for selected line items.

NOTE 3. Attach separate pages as necessary and identify in this column the attachment in which the information supporting the specific cost element may be found. No standard format is prescribed; however, the cost or pricing data must be accurate, complete and current, and the judgment factors used in projecting from the data to the estimates must be stated in sufficient detail to enable the Contracting Officer to evaluate the proposal. For example, provide the basis used for pricing the bill of materials such as by vendor quotations, shop estimates, or invoice prices; the reason for use of overhead rates which depart significantly from experienced rates *(reduced volume, a planned major rearrangement, etc.)*; or justification for an increase in labor rates *(anticipated wage and salary increases, etc.)*. Identify and explain any contingencies which are included in the proposed price, such as anticipated costs of rejects and defective work, anticipated costs of engineering redesign and retesting, or anticipated technical difficulties in designing high-risk components.

NOTE 4. Provide a list of principal items within each category of material indicating known or anticipated source, quantity, unit price, competition obtained, and basis of establishing source and reasonableness of cost.

NOTE 5. Include material for the proposed contract other than material described in the other footnotes under the cost element entitled "Direct Material."

NOTE 6. Include parts, components, assemblies, and services to be produced or performed by other than you in accordance with your designs, specifications, or directions and applicable only to the prime contract.

NOTE 7. Include raw and processed material for the proposed contract in a form or state which requires further processing.

NOTE 8. Include standard commercial items normally fabricated in whole or in part by you which are generally stocked in inventory. Provide explanation for inclusion at other than the lower of cost or current market price.

NOTE 9. Include all materials sold or transferred between your plants, divisions or organizations under a common control at other than cost to the original transferror and provide explanation of pricing method used.

NOTE 10. Indicate the rates used and provide an appropriate explanation. Where agreement has been reached with Government representatives on the use of forward pricing rates, describe the nature of the agreement. Provide the method of computation and application of your overhead expense, including cost breakdown, and showing trends and budgetary data as necessary to provide a basis for evaluation of the reasonableness of proposed rates.

NOTE 11. Include separate breakdown of costs.

NOTE 12. Provide a separate breakdown of labor by job category and furnish basis for cost estimates.

NOTE 13. Include all other estimated costs *(e.g., special tooling, facilities, special test equipment, special plant rearrangement, preservation packaging and packing, spoilage and rework, and warranty)* which are not otherwise included. Identify separately each category of cost and provide supporting details. If the proposal is based on a F.O.B. destination price, indicate separately all outbound transportation costs included in total amount.

NOTE 14. If the total cost entered here is in excess of $250, provide on a separate page the following information on each separate item of royalty or license fee: name and address of licensor; date of license agreement; patent numbers, patent application serial numbers, or other basis on which the royalty is payable; brief description, including any part or model numbers of each contract item or component on which the royalty is payable; percentage or dollar rate of royalty per unit; unit price of contract item; number of units; and total dollar amount of royalties. In addition, if specifically requested by the contracting officer, a copy of the current license agreement and identification of applicable claims of specific patents shall be provided.

NOTE 15. Selling price must include any applicable Federal excise tax on finished articles.

See Reverse for Instructions

OPTIONAL FORM 59 (10-71)

(c) Page 3 of Optional Form 59.

INSTRUCTIONS TO OFFERORS

1. The purpose of this form is to provide a standard format by which the offeror submits to the Government a summary of incurred and estimated costs *(and attached supporting information)* suitable for detailed review and analysis. Prior to the award of a contract resulting from this proposal the offeror shall, under the conditions stated in FPR 1-3.807-3 be required to submit a Certificate of Current Cost or Pricing Data *(see FPR 1-3.807-3(b) and 1-3.807-4)*.

2. As part of the specific information required by this form, the offeror must submit with this form, and clearly identify as such, cost or pricing data (that is, data which is verifiable and factual and otherwise as defined in FPR 1-3.807-3(h)). In addition, he must submit with this form any information reasonably required to explain the offeror's estimating process, including:

a. the judgmental factors applied and the mathematical or other methods used in the estimate including those used in projecting from known data, and
b. the contingencies used by the offeror in his proposed price.

3. Attach separate pages if necessary and identify in this column the attachment in which the information supporting or otherwise relating to the specific cost element may be found. When attachment of supporting cost or pricing data to this form is impracticable, the data will be specifically identified and described *(with schedules as appropriate)*, and made available to the Contracting Officer or his representative upon request.

4. The formats for the "Cost Elements" and the "Proposed Contract Estimate" are not intended as rigid requirements. These may be presented in different format acceptable to the Contracting Officer if required for more effective and efficient presentation. In all other respects this form will be completed and submitted without change.

5. By submission of this proposal offeror, if selected for negotiation, grants to the Contracting Officer, or his authorized representative, the right to examine, for the purpose of verifying the cost or pricing data submitted, those books, records, documents and other supporting data which will permit adequate evaluation of such cost or pricing data, along with the computations and projections used therein. This right may be exercised in connection with any negotiations prior to contract award.

FOR REPLIES TO QUESTIONS II, IV AND V.

OPTIONAL FORM 59 (10-71)

§ 1–16.902–OF 60 Optional Form 60, Contract Pricing Proposal (Research and Development).

(a) Page 1 of Option Form 60.

CONTRACT PRICING PROPOSAL
(RESEARCH AND DEVELOPMENT)

OFFICE OF MANAGEMENT AND BUDGET APPROVAL NO. 29-R0184

This form is for use when *(i)* submission of cost or pricing data (see FPR 1–3.807–3) is required and *(ii)* substitution for the optional Form 59 is authorized by the contracting officer.

PAGE NO. | NO. OF PAGES

NAME OF OFFEROR

HOME OFFICE ADDRESS

SUPPLIES AND/OR SERVICES TO BE FURNISHED

DIVISION(S) AND LOCATION(S) WHERE WORK IS TO BE PERFORMED

TOTAL AMOUNT OF PROPOSAL $

GOV'T SOLICITATION NO.

DETAIL DESCRIPTION OF COST ELEMENTS

	EST COST ($)	TOTAL EST COST[1]	REFERENCE[2]
1. DIRECT MATERIAL *(Itemize on Exhibit A)*			
a. PURCHASED PARTS			
b. SUBCONTRACTED ITEMS			
c. OTHER—(1) RAW MATERIAL			
(2) YOUR STANDARD COMMERCIAL ITEMS			
(3) INTERDIVISIONAL TRANSFERS *(At other than cost)*			
TOTAL DIRECT MATERIAL			
2. MATERIAL OVERHEAD[3] *(Rate % X $ base =)*			
3. DIRECT LABOR *(Specify)*	ESTIMATED HOURS / RATE/HOUR / EST COST ($)		
TOTAL DIRECT LABOR			
4. LABOR OVERHEAD *(Specify Department or Cost Center)*[3]	O.H. RATE X BASE = EST COST ($)		
TOTAL LABOR OVERHEAD			
5. SPECIAL TESTING *(Including field work at Government installations)*	EST COST ($)		
TOTAL SPECIAL TESTING			
6. SPECIAL EQUIPMENT *(If direct charge) (Itemize on Exhibit A)*			
7. TRAVEL *(If direct charge) (Give details on attached Schedule)*	EST COST ($)		
a. TRANSPORTATION			
b. PER DIEM OR SUBSISTENCE			
TOTAL TRAVEL			
8. CONSULTANTS *(Identify—purpose—rate)*	EST COST ($)		
TOTAL CONSULTANTS			
9. OTHER DIRECT COSTS *(Itemize on Exhibit A)*			
10. *TOTAL DIRECT COST AND OVERHEAD*			
11. GENERAL AND ADMINISTRATIVE EXPENSE *(Rate % of cost element Nos.)*[3]			
12. ROYALTIES[4]			
13. *TOTAL ESTIMATED COST*			
14. FEE OR PROFIT			
15. *TOTAL ESTIMATED COST AND FEE OR PROFIT*			

SPECIMEN

OPTIONAL FORM 60
OCTOBER 1971
GENERAL SERVICES ADMINISTRATION
FPR 1-16.808
5060-101

(b) Page 2 of Optional Form 60.

This proposal is submitted for use in connection with and in response to *(Describe RFP, etc.)*

and reflects our best estimates as of this date, in accordance with the Instructions to Offerors and the Footnotes which follow.

TYPED NAME AND TITLE | SIGNATURE

NAME OF FIRM | DATE OF SUBMISSION

EXHIBIT A—SUPPORTING SCHEDULE *(Specify. If more space is needed, use reverse)*

COST EL NO.	ITEM DESCRIPTION *(See footnote 5)*	EST COST ($)

SPECIMEN

I. HAS ANY EXECUTIVE AGENCY OF THE UNITED STATES GOVERNMENT PERFORMED ANY REVIEW OF YOUR ACCOUNTS OR RECORDS IN CONNECTION WITH ANY OTHER GOVERNMENT PRIME CONTRACT OR SUBCONTRACT WITHIN THE PAST TWELVE MONTHS?

☐ YES ☐ NO *(If yes, identify below.)*

NAME AND ADDRESS OF REVIEWING OFFICE AND INDIVIDUAL | TELEPHONE NUMBER/EXTENSION

II. WILL YOU REQUIRE THE USE OF ANY GOVERNMENT PROPERTY IN THE PERFORMANCE OF THIS PROPOSED CONTRACT?

☐ YES ☐ NO *(If yes, identify on reverse or separate page)*

III. DO YOU REQUIRE GOVERNMENT CONTRACT FINANCING TO PERFORM THIS PROPOSED CONTRACT?

☐ YES ☐ NO *(If yes, identify.)*: ☐ ADVANCE PAYMENTS ☐ PROGRESS PAYMENTS OR ☐ GUARANTEED LOANS

IV. DO YOU NOW HOLD ANY CONTRACT *(Or, do you have any independently financed (IR&D) projects)* FOR THE SAME OR SIMILAR WORK CALLED FOR BY THIS PROPOSED CONTRACT?

☐ YES ☐ NO *(If yes, identify.)*:

V. DOES THIS COST SUMMARY CONFORM WITH THE COST PRINCIPLES SET FORTH IN AGENCY REGULATIONS?

☐ YES ☐ NO *(If no, explain on reverse or separate page)*

See Reverse for Instructions and Footnotes

OPTIONAL FORM 60 (10-71)

(c) Page 3 of Optional Form 60.

INSTRUCTIONS TO OFFERORS.

1. The purpose of this form is to provide a standard format by which the offeror submits to the Government a summary of incurred and estimated costs *(and attached supporting information)* suitable for detailed review and analysis. Prior to the award of a contract resulting from this proposal the offeror shall, under the conditions stated in FPR 1-3.807-3 be required to submit a Certificate of Current Cost or Pricing Data (See FPR 1-3.807-3(h) and 1-3.807-4).

2. In addition to the specific information required by this form, the offeror is expected, in good faith, to incorporate in and submit with this form any additional data, supporting schedules, or substantiation which are reasonably required for the conduct of an appropriate review and analysis in the light of the specific facts of this procurement. For effective negotiations, it is essential that there be a clear understanding of:

a. The existing, verifiable data.
b. The judgmental factors applied in projecting from known data to the estimate, and
c. The contingencies used by the offeror in his proposed price.

In short, the offeror's estimating process itself needs to be disclosed.

3. When attachment of supporting cost or pricing data to this form is impracticable, the data will be described *(with schedules as appropriate)*, and made available to the contracting officer or his representative upon request.

4. The formats for the "Cost Elements" and the "Proposed Contract Estimate" are not intended as rigid requirements. These may be presented in different format with the prior approval of the Contracting Officer if required for more effective and efficient presentation. In all other respects this form will be completed and submitted without change.

5. By submission of this proposal the offeror grants to the Contracting Officer, or his authorized representative, the right to examine, for the purpose of verifying the cost or pricing data submitted, those books, records, documents and other supporting data which will permit adequate evaluation of such cost or pricing data, along with the computations and projections used therein. This right may be exercised in connection with any negotiations prior to contract award.

FOOTNOTES

1 *Enter in this column those necessary and reasonable costs which in the judgment of the offeror will properly be incurred in the efficient performance of the contract. When any of the costs in this column have already been incurred (e.g., on a letter contract or change order), describe them on the attached supporting schedule. Identify all sales and transfers between subplants, divisions, or organizations under a common control which are included at other than the lower of cost to the original transferor or current market price.*

2 *When space in addition to that available in Exhibit A is required, attach separate pages as necessary and identify in this "Reference" column the attachment in which the information supporting the specific cost element may be found. No standard format is prescribed; however, the cost or pricing data must be accurate, complete and current, and the judgment factors used in projecting from the data to the estimates must be stated in sufficient detail to enable the Contracting Officer to evaluate the proposal. For example, provide the basis used for pricing materials such as by vendor quotations, shop estimates, or invoice prices; the reason for use of overhead rates which depart significantly from experienced rates (reduced volume, a planned major re-arrangement, etc.); or justification for an increase in labor rates (anticipated wage and salary increases, etc.). Identify and explain any contingencies which are included in the proposed price, such as anticipated costs of rejects and defective work, or anticipated technical difficulties.*

3 *Enter the rates used and provide an appropriate explanation. Where agreement has been reached with Government representatives on the use of predetermined rates, identify the nature of the agreement. Provide the basis for establishing and application of your overhead expense, including trends and budgetary data as necessary to support your rates for evaluation of the reasonableness of proposed rates.*

4 *If the total cost entered here is in excess of $250, provide on a separate page the following information on each separate item of royalty or license fee: name and address of licensor; date of license agreement; patent numbers, patent application serial numbers, or other basis on which the royalty is payable; brief description, including any part or model numbers of each contract item or component on which the royalty is payable; percentage or dollar rate of royalty per unit; unit price of contract item; number of units; and total dollar amount of royalties. In addition, if specifically requested by the contracting officer, a copy of the current license agreement and identification of applicable claims of specific patents shall be provided.*

5 *Provide a list of principal items within each category indicating known or anticipated source, quantity, unit price, competition obtained, and basis of establishing source and reasonableness of cost.*

CONTINUATION OF EXHIBIT A—SUPPORTING SCHEDULE AND REPLIES TO QUESTIONS II AND V.

OPTIONAL FORM 60 (10-71)

Availability of forms. It is anticipated that copies of the forms will be available for use by June 1, 1972.

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

Effective date. This amendment is effective June 1, 1972, but may be observed earlier.

Dated: January 6, 1972.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.72-510 Filed 1-13-72;8:45 am]

Chapter 8—Veterans Administration

PART 8-1—GENERAL

Responsible Prospective Contractors

1. In Subpart 8-1.3, § 8-1.310 is revoked. See Subpart 8-1.12.

§ 8-1.310 Responsible prospective contractor. [Revoked]

§ 8-1.310-6 Determination of responsibility. [Revoked]

§ 8-1.310-9 Preaward onsite evaluation. [Revoked]

§ 8-1.310-50 Plant inspection by qualified representatives of the Chief, Marketing Division for Drugs and Chemicals. [Revoked]

2. In Part 8-1, a new Subpart 8-1.12 is added to read as follows:

Subpart 8-1.12—Responsible Prospective Contractors

Sec.
8-1.1203 Minimum standards for responsible prospective contractors.
8-1.1203-2 Additional standards.
8-1.1203-3 Special standards.
8-1.1204 Determination of responsibility or nonresponsibility.
8-1.1204-1 Requirement.
8-1.1205 Procedures for determining responsibility of prospective contractors.
8-1.1205-1 General.
8-1.1205-4 Preaward surveys.
8-1.1205-50 Plant inspection by qualified representatives of the Chief, Marketing Division for Drugs and Chemicals.

AUTHORITY: The provisions of this Subpart 8-1.12 issued under Sec. 205(c), 63 Stat. 389, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114, 38 U.S.C. 210(c).

Subpart 8-1.12—Responsible Prospective Contractors

§ 8-1.1203 Minimum standards for responsible prospective contractors.

§ 8-1.1203-2 Additional standards.

Standards applicable to subsistence will be established based on preaward surveys prescribed in § 8-1.1205-4.

§ 8-1.1203-3 Special standards.

When deemed necessary, the contracting officer will obtain technical advice and assistance for a particular class of procurement in the same manner prescribed in § 8-2.201 (h) and (i) of this chapter.

§ 8-1.1204 Determination of responsibility or nonresponsibility.

§ 8-1.1204-1 Requirement.

Administrative determinations establishing the responsiveness of a prospective contractor will be made part of the contract file.

§ 8-1.1205 Procedures for determining responsibility of prospective contractors.

§ 8-1.1205-1 General.

The contracting officer will establish a file by contractor's name and will maintain it on a current basis for the purpose of recording the following actions for use in the placement of new procurements:

(a) Followup on delinquent deliveries.
(b) Rejection.
(c) Declaration of intent to default.
(d) Default.

§ 8-1.1205-4 Preaward surveys.

(a) Preaward onsite evaluation will be made for contracts covering the products and services of bakeries, dairies, ice cream plants and laundries. A committee under the direction of the contracting officer and composed of representatives of the medical and using service appointed by the station head will inspect and evaluate the plant, personnel, equipment and processes of the prospective contractor. Prior to any inspection, the contracting officer will inquire whether the plant has been recently inspected and approved by another Veterans Administration station or Federal agency. Approved inspection reports

of another Veterans Administration station will be accepted by Veterans Administration stations and approved inspection reports of other Federal agencies may be accepted as satisfactory evidence that the facilities of the bidder meet the requirements of the Invitation for Bid, provided inspection was made not more than 6 months prior to the purposed contract period.

(b) Preaward onsite evaluation of dairy plants will not be made by the Veterans Administration when acceptable bids are received from suppliers of those dairy products designated as No. 1 in the Federal Specifications. Suppliers must have received, prior to opening of bids, a pasteurized milk rating of 90 percent or more for the type product being supplied, on the basis of the U.S. Public Health Service milk ordinance and code. Such rating must be current (not over 2 years old), and will have been determined by certified State milk sanitation rating officer in the State of origin or by the Public Health Service and will continue at 90 percent or more during the period of the contract. Firms not so rated may only offer dairy products designated as No. 2 in the Federal Specifications. Award to such firms may be made only after completion of a preaward onsite evaluation conducted in accordance with paragraph (a) of this section.

(c) Prior to any open market purchase of fresh bakery products (such as pies, cakes, cookies), the plant where these products are produced or prepared will be inspected and evaluated as provided in paragraph (a) of this section. Onsite evaluation will be made at least annually.

§ 8–1.1205–50 Plant inspection by qualified representatives of the Chief, Marketing Division for Drugs and Chemicals.

(a) Inspection of new potential contractor and/or supplier plant facilities will be scheduled when the estimated annual sales would warrant costs incident to such inspection. The inspection will normally be scheduled within 120 calendar days after receipt of the request for inspection. The cost of the initial and followup inspection will be borne by the Veterans Administration. Cost of subsequent inspections resulting from prior disapprovals will be borne by the contractor or supplier. Cost of inspection for each plant inspected will be prorated at $150 to cover cost of travel, per diem and salary.

(b) When an inspection of a contractor's plant(s) by a qualified inspector or inspection agency representing the Chief, Marketing Division for Drugs and Chemicals, discloses a violation or violations of the type specified in § 8–7.150–17 of this chapter, the division chief will immediately, by the most expeditious means available, advise all Veterans Administration purchasing officers and other Government agencies authorized to use the contract that, pending further notification, drugs manufactured by the contractor in his plant(s) located at ----------[1] will not be purchased. He will, after reinspection of the contractor's plant(s), advise all purchasing offices and other Government agencies either to resume purchasing or that the contractor has been declared in default.

(c) When the violation disclosed by the inspection and reinspection are of such a nature as to warrant debarment action, the appropriate contracting officer will immediately comply with the provisions of § 8–1.606.

These regulations are effective February 10, 1972.

Approved: January 10, 1972.

By the direction of the Administrator.

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

[FR Doc.72-569 Filed 1-13-72;8:47 am]

Chapter 101—Federal Property Management Regulations

SUBCHAPTER H—UTILIZATION AND DISPOSAL

PART 101–43—UTILIZATION OF PERSONAL PROPERTY

PART 101–44—DONATION OF PERSONAL PROPERTY

Medical Shelf Life Items

This amendment implements section 1 of Public Law 91–426 (84 Stat. 883, 40 U.S.C. 481(e)). This Act provides, in part, that whenever the head of any executive agency determines that the remaining storage or shelf life of medical materials or medical supplies held by such agency for national emergency purposes is of too short duration to justify their continued retention for such purposes and that their transfer or disposal would be in the best interest of the United States, such materials or supplies shall be considered for the purposes of section 202 of the Federal Property and Administrative Services Act of 1949, as amended, to be excess property. This Act further provides that in accordance with regulations of the Administrator of General Services, such excess materials or supplies may thereupon be transferred to or exchanged with any other Federal agency for other medical materials or supplies or disposed of as surplus property.

The table of contents for Part 101–43 is amended by adding new § 101–43.313–9a as follows:

Sec.
101–43.313–9a Medical shelf life items held for national emergency purposes.

Subpart 101–43.3—Utilization of Excess

Section 101–43.313–9(b) is revised and new § 101–43.313–9a is added as follows:

[1] Enter location of plant(s) where violations were disclosed.

§ 101–43.313–9 Shelf life items.

* * * * *

(b) Drugs and biologicals requiring refrigeration or deep freeze, medical shelf life items held for national emergency purposes (see § 101–43.313–9a), subsistence items, and ammunition are excepted from the provisions of this § 101–43.313–9.

* * * * *

§ 101–43.313–9a Medical shelf life items held for national emergency purposes.

(a) Whenever the head of any executive agency determines that the remaining storage or shelf life of medical materials or supplies held for national emergency purposes is of too short duration to justify their continued retention for such purposes and that their transfer or disposal would be in the best interest of the United States, such materials or supplies shall be considered to be excess personal property. To the greatest extent practicable, the above determination shall be made at such times as to insure that such medical materials or medical supplies can be transferred or otherwise disposed of in sufficient time to permit their use before their shelf life expires and they are rendered unfit for human use.

(b) Medical materials and medical supplies held by an agency for national emergency purposes and determined to be excess personal property may be exchanged with any other Federal agency without the prior approval of GSA and without regard to the provisions of Part 101–46. Such exchanges, however, shall be only for other medical materials or medical supplies to be held for national emergency purposes.

(c) Medical shelf life items held for national emergency purposes which have a remaining useful life of 3 or more months before they reach the expiration date and are not otherwise exchanged as provided in § 101–43.313–9a (b) shall be reported as excess in accordance with § 101–43.311. Agencies may also report medical shelf life items not required to be reported by § 101–43.311. The Standard Form 120, Report of Excess Personal Property, shall identify the items as medical shelf life items held for national emergency purposes by carrying the designating symbol "MSL" and by showing the shelf life expiration date. If the item has an extendible expiration date, there shall be furnished an indication of whether the expiration date is the original or the extended date. Further, whenever medical shelf life items held for national emergency purposes are reported as excess on SF 120, any specialized storage requirements pertaining to the items listed thereon shall be noted on the report.

(d) Normally, medical shelf life items held for national emergency purposes and reported in accordance with § 101–43.313–9a(c) will be given a surplus release date effective 60 calendar days after

the receipt of the report in the appropriate GSA office. This date may be shortened or extended consistent with utilization objectives and with the remaining useful shelf life. However, in all instances GSA offices will handle the screening of medical shelf life items in an expeditious manner to permit their use before their shelf life expires and they are rendered unfit for human use.

(e) Medical shelf life items held for national emergency purposes which have a remaining useful life of 3 or more months before they reach the expiration date, and which are not reportable in accordance with § 101–43.4901, shall be made available for use by other Federal agencies as provided in § 101–43.306. A surplus release date shall be established by the holding agency upon determination that such items are excess to provide a minimum of 15 calendar days for selection of the items for Federal use. In the instance of controlled substances, defined in sections 201 and 202 of Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 811 and 812), and listed in 21 CFR Part 308 of the implementing regulations (36 F.R. 7803–7812), each executive agency shall comply with the provisions of 21 CFR 307.21 of the regulations (36 F.R. 7802).

(f) Transfers among Federal agencies of medical materials and medical supplies held by an agency for national emergency purposes and determined excess property shall be accomplished in accordance with § 101–43.315, except that such transfers shall be made upon such terms and prices as shall be agreed to by the Federal agencies concerned (including the organizations specified in § 101–46.301). Proceeds from transfers may be credited to the current applicable appropriation or fund of the transferor agency and shall be available only for the purchase of medical materials or medical supplies to be held for national emergency purposes.

(g) Medical materials and medical supplies held by an agency for national emergency purposes and determined to be excess property for which a surplus release date has been established in accordance with §§ 101–43.313–9a (d) or (e) and not transferred to other agencies shall become surplus at the close of business on the surplus release date.

(h) Medical materials and medical supplies held by an agency for national emergency purposes and determined to be surplus in accordance with § 101–43.313–9a(g) shall not be disposed of until a period of 15 calendar days has been afforded for donation program screening in accordance with Part 101–44. If no donation action is initiated during the period afforded for donation screening, items shall be disposed of at the end of that period pursuant to the provisions of Part 101–45.

The table of contents for Part 101–44 is amended by adding new § 101–44.323 as follows:

Sec.
101–44.323 Donation of medical shelf life items held for national emergency purposes.

Subpart 101–44.3—Donation for Educational, Public Health, and Civil Defense, Including Research or Public Airport Purposes

Subpart 101–44.3 is amended by adding new § 101–44.323 as follows:

§ 101–44.323 Donation of medical shelf life items held for national emergency purposes.

(a) Medical materials and medical supplies held for national emergency purposes and determined to be surplus in accordance with § 101–43.313–9a(g) shall be made available for donation screening for educational, public health, civil defense, and public airport purposes pursuant to the provisions of § 101–44.304.

(b) Prior to donation, drugs, biologicals, and reagents which are not required to be destroyed as provided in § 101–45.505 shall be processed as provided in § 101–44.321.

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

Effective date. This amendment is effective upon publication in the FEDERAL REGISTER (1–14–72).

Dated: January 6, 1972.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.72–590 Filed 1–13–72;8:50 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 51]

SEED POTATOES

Proposed Standards for Grades [1]

Notice is hereby given that the U.S. Department of Agriculture is considering the issuance of U.S. Standards for Seed Potatoes (7 CFR 51.3000–51.3014). These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers and consumers. Official grading services are also provided under this act upon request of any financially interested party and upon payment of a fee to cover the cost of such services.

All persons who desire to submit written data, views or arguments for consideration in connection with the proposal should file the same, in duplicate, not later than March 15, 1972, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, where they will be available for public review during official hours of business (7 CFR 1.27(b)).

Statement of considerations leading to the proposed issuance of the grade standards. In 1968 the Certification Section of the Potato Association of America sent questionnaires to all seed potato certification officials throughout the United States and to the Department of Agriculture and Marketing officials in nonseed producing States. This was done to determine if there was an interest in establishing a national seed grade. Twenty-one of the 22 States reporting certified seed programs in 1968 responded and 18 nonseed producing States replied. Eighty-five percent of those responding favored having a national seed grade indicating that it would: (1) Provide uniformity and thereby reduce confusion in the minds of the buyers, both foreign and domestic, and (2) would simplify seed potato inspection at destination.

After subsequent meetings and considerable discussion, the Certification Section approved and submitted formal recommendations for development of U.S. Standards for seed potatoes to the U.S. Department of Agriculture in 1971.

In June, USDA's Consumer and Marketing Service prepared and submitted to the Certification Section's National Seed Grade Committee a study draft of tentative standards incorporating the section's formal recommendations as well as several suggestions for consideration. The purpose of the study draft was to provide the Grade Committee with an opportunity to review the proposed standards and submit informal comments.

After consideration of comments from the Committee and additional changes suggested by the Department, in September a final draft was prepared and submitted to the Committee. Subsequent comments have been favorable.

These proposed voluntary standards would not supplant State certified seed grades or regulations but would serve as a reference point in lieu of the U.S. "fresh market" standards.

It is believed that these standards would serve as a useful basis for trade between buyers and sellers, and that the seed industry would benefit from their use.

The proposed standards are as follows:

GRADE

Sec.
51.3000 U.S. No. 1 Seed Potatoes.

TOLERANCES

51.3001 Tolerances.

APPLICATION OF TOLERANCES

51.3002 Application of tolerances.

SAMPLES FOR GRADE AND SIZE DETERMINATION

51.3003 Samples for grade and size determination.

DEFINITIONS

51.3004 Fairly well shaped.
51.3005 Nematode or Tuber Moth injury.
51.3006 Damage.
51.3007 Serious damage.
51.3008 Freezing.
51.3009 Soft rot or wet breakdown.
51.3010 External defects.
51.3011 Internal defects.
51.3012 Permanent defects.
51.3013 Condition defects.

METRIC CONVERSION TABLE

51.3014 Metric conversion table.

AUTHORITY: The provisions of this subpart issued under secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

GRADE

§ 51.3000 U.S. No. 1 Seed Potatoes.

"U.S. No. 1 Seed Potatoes" consists of potatoes identified as certified seed of one variety by the State of origin which meet the following requirements:

(a) Fairly well shaped;
(b) Free from:
(1) Freezing;
(2) Blackheart;
(3) Late Blight Tuber Rot;
(4) Nematode or Tuber Moth injury;
(5) Bacterial Ring Rot; and,
(6) Soft rot or wet breakdown.
(c) Free from serious damage caused by:
(1) Hollow heart.
(d) Free from damage by any other cause (see Tables I and II).
(e) Size:
(1) Minimum diameter, unless otherwise specified, shall be not less than 1½ inches; and,
(2) Maximum size shall not exceed 3¼ inches in diameter or 12 ounces in weight.
(f) For tolerances see § 51.3001.

TOLERANCES

§ 51.3001 Tolerances.

In order to allow for variations incident to proper grading and handling in the foregoing grade, the following tolerances, by weight, are provided as specified:

(a) For defects:

(1) 10 percent for potatoes in any lot which are seriously damaged by hollow heart;

(2) 10 percent for potatoes which fail to meet the remaining requirements of the grade including therein not more than 5 percent for external defects and not more than 5 percent for internal defects: *Provided*, That included in these tolerances not more than the following percentages shall be allowed for the defects listed:

	Percent
Bacterial Ring Rot	0.00
Serious damage caused by dry or moist type Fusarium Tuber Rot	2.00
Late Blight Tuber Rot	1.00
Nematode or Tuber Moth injury	0.00
Varietal mixture	0.25
Frozen soft rot or wet breakdown	0.50

Provided, That en route or at destination an additional 0.50 percent, or a total of 1 percent, shall be allowed for potatoes which are frozen or affected by soft rot or wet breakdown.

(b) For off-size:

(1) *For undersize.* Three percent for potatoes in any lot which fail to meet the required or specified minimum size except that 5 percent shall be allowed when the minimum size specified is 2¼ inches or more in diameter or 5 ounces or more in weight.

(2) *For oversize.* Ten percent for potatoes in any lot which fail to meet the required or specified maximum size.

APPLICATION OF TOLERANCES

§ 51.3002 Application of tolerances.

Individual samples shall have not more than double the tolerances specified, except that at least one defective and one off-size potato may be permitted in any sample: *Provided*, That en route or at

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act or with applicable State laws and regulations.

destination one-tenth of the samples may contain three times the tolerance permitted for potatoes which are frozen or affected by soft rot or wet breakdown: *And provided further*, That the averages for the entire lot are within the tolerances specified for the grade.

SAMPLES FOR GRADE AND SIZE DETERMINATION

§ 51.3003 Samples for grade and size determination.

Individual samples shall consist of at least 20 pounds. The number of such individual samples drawn for grade and size determination will vary with the size of the lot.

DEFINITIONS

§ 51.3004 Fairly well shaped.

"Fairly well shaped" means that the potato is not materially pointed, dumbbell-shaped or otherwise materially deformed.

§ 51.3005 Nematode or Tuber Moth injury.

"Nematode or Tuber Moth injury" means the presence of or any evidence of Nematode or Tuber Moth.

§ 51.3006 Damage.

"Damage" means any defect (except sunburn and greening) or any combination of defects which materially detracts from the internal or external appearance of the potato, or any internal defect which cannot be removed without a loss of more than 5 percent of the total weight of the potato. See Tables I and II in §§ 51.3010 and 51.3011.

§ 51.3007 Serious damage.

"Serious damage" means any defect (except sunburn and greening), or any combination of defects, which seriously detracts from the internal or external appearance of the potato, or any external defect which cannot be removed without a loss of more than 10 percent of the total weight of the potato.

§ 51.3008 Freezing.

"Freezing" means that the potato is frozen or shows evidence of having been frozen.

§ 51.3009 Soft rot or wet breakdown.

"Soft rot or wet breakdown" means any soft, mushy, or leaky condition of the tissue.

§ 51.3010 External defects.

"External defects" are defects which can be detected externally. However, cutting may be required to determine the extent of the injury. Some external defects are listed in Table I.

TABLE I.—EXTERNAL DEFECTS

Defect	Damage		
	When materially detracting from appearance of the potato.	or	When removal causes loss of more than 5 percent of total weight of potato
Air cracks	X		
Bruises	X		X
Cuts or trimming	X		
Enlarged lenticels	X		
External discoloration	X		
Flea Beetle Injury	X		X
Rhizoctonia	X		
Scab, pitted	X		X
Scab, russet	X		
Scab, surface	When more than 5 percent of surface affected		
Second growth	X		
Growth cracks	X		
Wireworm or grass damage	When any hole in a potato 2¼ inches in diameter or 6 ounces in weight is more than ¾-inch long, or when the aggregate length of all holes is more than 1¼ inches, or correspondingly shorter or longer holes in smaller or larger potatoes.		
Dirt	Dirt or other foreign matter is considered as causing damage when the individual potato is more than slightly dirty or slightly stained, or when more than a moderate amount of loose dirt or other foreign matter is present in the sample.		
Insects or worms	When present inside the potato		
Shriveling	When more than moderately shriveled, spongy, or flabby		
Sprouts	When more than 10 percent of the potatoes in any lot have any sprout more than 1 inch in length.		

§ 51.3011 Internal defects.

"Internal defects" are defects which cannot be detected without cutting the potato. Some internal defects are listed in Table II.

TABLE II—INTERNAL DEFECTS

Defect	*Damage*
Ingrown sprouts	When removal causes a loss of more than 5 percent of the total weight of the potato.
Internal discoloration occurring entirely within the vascular ring.	When more than the equivalent of three scattered light brown spots ⅛ inch in diameter in a potato 2½ inches in diameter or 6 ounces in weight, or correspondingly lesser or greater number of spots in smaller or larger potatoes.
Internal discoloration outside of or not entirely confined within the vascular ring.	When removal causes a loss of more than 5 percent of the total weight of the potato.

§ 51.3012 Permanent defects.

"Permanent defects" are defects which are not subject to change during storage or shipment.

§ 51.3013 Condition defects.

"Condition defects" are defects which may develop or change during storage or shipment.

METRIC CONVERSION TABLE

§ 51.3014 Metric conversion table.

Inches:	*Millimeters (mm)*
⅛ equals	3.2
¼ equals	6.4
½ equals	12.7
¾ equals	19.1
1 equals	25.4
1½ equals	38.1
2 equals	50.8
2½ equals	63.5
3 equals	76.2
3½ equals	88.9
4 equals	101.6
4½ equals	114.3

Ounces:	*Grams*
1 equals	28.35
4 equals	113.40
5 equals	141.75
6 equals	170.10
7 equals	198.45
8 equals	226.80
9 equals	255.15
10 equals	283.50
12 equals	340.20
14 equals	396.90
16 equals	453.60
18 equals	510.30
19 equals	538.60
20 equals	567.00

Dated: January 10, 1972.

G. R. GRANGE,
Acting Administrator,
Consumer and Marketing Service.

[FR Doc.72-504 Filed 1-13-72;8:45 am]

[7 CFR Part 981]

[Docket No. AO-214-A4]

ALMONDS GROWN IN CALIFORNIA

Decision and Referendum Order With Respect to Proposed Amendment of Marketing Agreement, as Amended, and Order, as Amended

Pursuant to the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held in Sacramento, Calif., on March 17-23, 1971, after notice thereof was published in the FEDERAL REGISTER (36 F.R. 4295) on proposals to amend the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California (hereinafter collectively referred to as the "order"). The order is effective pursuant to the provisions of the Agricultural Marketing Agreement

Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "act".

On the basis of the evidence adduced at the hearing, and the record thereof, a recommended decision in this proceeding was filed with the Hearing Clerk, U.S. Department of Agriculture. Notice thereof, affording opportunity to file written exceptions thereto, was published October 30, 1971, in the FEDERAL REGISTER (F.R. Doc. 71–15824; 36 F.R. 20887).

Material issues, findings and conclusions, and general findings. The material issues, findings and conclusions, and general findings of the recommended decision set forth in the FEDERAL REGISTER (F.R. Doc. 71–15824; 36 F.R. 20887) are hereby approved and adopted as the material issues, findings and conclusions and general findings of this decision as if set forth in full herein, except as they are modified by the clarifying change and rulings on the exceptions hereinafter set forth.

Section 981.41(c) recommended for adoption authorizes the Control Board, with the approval of the Secretary, to provide for crediting all or any portion of a handler's direct expenditures for marketing promotion including paid advertising, that promotes the sale of almonds, almond products or their uses. However, the proviso in that paragraph excludes certain items of expenditure from such crediting. It is not clear from the proviso whether the excluded expenditures apply to market promotion activities as well as paid advertising, although the evidence of record would permit the Control Board, at some future time, to establish creditable guidelines applicable to marketing promotion activities. These include some of the expenditures excluded in the proviso. So as to make clear that the proviso is applicable only to paid advertising, the proviso is revised by inserting ", with respect to paid advertising," immediately after "*Provided*, That".

Rulings on exceptions. Exceptions to the recommended decision were filed within the prescribed time for the Almond Growers Council.

These exceptions have been considered carefully and fully in connection with the evidence in the record and the proposed findings and conclusions in the recommended decision in arriving at the findings and conclusions set forth herein. To the extent that the findings and conclusions contained herein are at variance with any of the exceptions pertaining thereto, such exceptions are denied on the basis of the findings and conclusions relating to the issues to which the exceptions refer.

The exceptions, and the rulings thereon, are as follows:

Exception was taken to the recommended revision of § 981.81(b), pertaining to the refund of any money collected as assessments during any crop year and not expended at the end of the crop year's operation. The exceptor contended that refunds should be made on the basis of assessments levied on handlers rather than on the basis of collections from handlers. Pursuant to the provisions of § 981.41(a) recommended for adoption, the Board may provide for crediting the pro rata expense assessment obligation of a handler with such portion of his direct expenditures for such marketing promotion including paid advertising as may be authorized. The exceptor stated that a handler engaged in paid advertising and having expenditures for such activity credited against his assessment obligation would not actually "pay" an assessment to the Board with respect to such activity, but rather receive a credit against such obligation. The exceptor further stated that computation of refunds of assessments solely on the basis of assessments collected from handlers would preclude amounts so credited from being used in the computation of refunds. This would discourage handlers from promoting the sale and use of almonds. While there is merit in this exception, it is not feasible to use assessments levied on handlers as a basis for computing refunds. A handler may be billed for his assessments and fail to pay all or a portion of his assessments. Granting the exception as presented would enable a handler delinquent in the payment of his assessments to receive a refund of the Board's excess assessments. This is not supported by the evidence of record. In this regard, the third paragraph (36 F.R. 20890) of material issue (7) in the recommended decision states, in part, "Each handler's share of such excess funds would be the amount of assessments including eligible credits for marketing promotion including paid advertising he has paid in excess of his pro rata share of the actual expenses of the Board including such credits for such category and the addition, if any, to the corresponding operating reserve fund". Thus, the recommended decision provides for the computation of any refunds of excess assessments on the basis of assessments including eligible credits for marketing promotion including paid advertising. In order to make it clear that computation of such refunds should take into account such credits, the third sentence of § 981.81(b) is revised accordingly.

Exception was also taken to the inclusion in new § 981.40(e) of a requirement that adoption of recommendations by the Control Board with respect to projects pursuant to § 981.41 shall require at least seven affirmative votes.

The exceptor contended that since the establishment of guidelines for paid advertising is with the Control Board, subject to the Secretary's approval, the Control Board should require eight affirmative votes when recommending actions pursuant to § 981.41. The exceptor stated that to require eight affirmative votes would insure that at least three of the five handler members on the Control Board agree on any proposal. However, considering the existing industry structure and representation on the Control Board, eight affirmative votes on such action is not necessary. While it is agreed that handlers will be the ones most concerned with advertising decisions, this should not be at the expense of producer participation in program operations, which has as its purpose, to increase producer returns.

In view of the foregoing and the findings and conclusions in the recommended decision, this exception is denied.

Amendment of the amended marketing agreement and order. Annexed hereto and made a part hereof, are two documents entitled, respectively, "Marketing Agreement, as Amended, Regulating the Handling of Almonds Grown in California" and "Order Amending the Order, as Amended, Regulating the Handling of Almonds Grown in California", which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the aforesaid rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Referendum order. Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), it is hereby directed that a referendum be conducted among producers who, during the period July 1, 1970, through June 30, 1971 (which period is hereby determined to be a representative period for the purpose of such referendum) have been engaged, in the State of California, in the production for market of almonds to determine whether such producers favor the issuance of the said annexed order amending the order, as amended, regulating the handling of almonds grown in California.

William B. Blackburn, Gilbert P. Muck, and James S. Miller of the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, are hereby designated referendum agents of the Secretary of Agriculture to conduct said referendum severally or jointly.

The procedure applicable to the referendum shall be "Procedure for the Conduct of Referenda in Connection with Marketing Orders for Fruits, Vegetables, and Nuts, Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended" (7 CFR Part 900).

The ballots used in the referendum shall contain a summary describing the terms and conditions of the proposed amendatory order.

Any producer entitled to vote in the referendum who does not receive a copy of the aforesaid annexed order, voting instructions, or a ballot or other necessary information will be able to obtain the same from William B. Blackburn, Sacramento Marketing Field Office, Fruit and Vegetable Division, Consumer and Marketing Service, 2800 Cottage Way, Room E–2713, Sacramento, CA 95825.

It is hereby ordered, That, all of this decision and referendum order, except the annexed marketing agreement, as amended, be published in the FEDERAL REGISTER. The regulatory provisions of the said marketing agreement, as

amended, are identical with those contained in the said order, as amended, and as further amended by the annexed order which will be published with this decision.

Dated: January 10, 1972.

RICHARD E. LYNG,
Assistant Secretary.

Order[1] Amending the Order, as Amended, Regulating the Handling of Almonds Grown in California

§ 981.0 **Findings and determinations.**

(a) *Previous findings and determinations.* The findings and determinations hereinafter set forth are supplementary, and in addition, to the findings and determinations made in connection with the issuance of the order and the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed except insofar as such prior findings and determinations may be in conflict with the findings and determinations set forth herein. (For prior findings and determinations see 15 F.R. 4993; 22 F.R. 3781; 22 F.R. 8485; 23 F.R. 903; 35 F.R. 11372.)

(b) *Findings upon the basis of the hearing record.* Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure effective thereunder (Part 900 of this chapter), a public hearing was held in Sacramento, Calif., on March 17–23, 1971, on a proposed amendment of the marketing agreement, as amended, and Order No. 981, as amended (Part 981 of this chapter), regulating the handling of almonds grown in California. On the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order, as amended, and as hereby further amended, and all the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The said order, as amended, and as hereby further amended, regulates the handling of almonds grown in California in the same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) There are no differences in the production and marketing of almonds in the production area covered by the order, as amended, and as hereby further amended, which require different terms applicable to different parts of such area;

(4) The said order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act; and

(5) All handling of almonds grown in California is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

It is, therefore, ordered, That, on and after the effective date hereof, all handling of almonds grown in California shall be in conformity to, and in compliance with, the terms and conditions of the said order, as amended, and as hereby further amended as follows:

§ 981.16 **[Amended]**

1. Section 981.16 is revised by deleting the words "continental", "Alaska", and "Hawaii".

§ 981.21 **[Amended]**

2. Section 981.21 is revised by deleting the word "continental", and substituting therefor the word "the" and deleting the words "Alaska" and "Hawaii".

3. A new paragraph (e) is added to § 981.40 to read:

§ 981.40 **Procedure.**

* * * * *

(e) *Additional voting requirements.* Adoption of recommendations by the Control Board with respect to projects pursuant to § 981.41 involving production research, marketing research and development projects, and marketing promotion including paid advertising and crediting the pro rata expense assessment obligation of handlers with such portion of their direct expenditures for marketing promotion including paid advertising, shall require at least seven affirmative votes.

4. Section 981.41 is revised to read:

§ 981.41 **Research and development.**

(a) *General.* The Control Board, with the approval of the Secretary, may establish or provide for the establishment of projects involving production research, marketing research and development projects, and marketing promotion including paid advertising, designed to assist, improve, or promote the marketing, distribution, consumption or efficient production of almonds. The Board may also provide for crediting the pro rata expense assessment obligations of a handler with such portion of his direct expenditure for such marketing promotion including paid advertising as may be authorized. The expenses of such projects shall be paid from funds collected pursuant to § 981.81(a) or credited pursuant to paragraph (c) of this section.

(b) *Authorization.* If, on the basis of a Control Board recommendation pursuant to § 981.40(e) with respect to projects pursuant to this section, and appertaining rules and regulations established by the Secretary on recommendation of the Control Board, and other available information, the Secretary concurs that such activities should be permitted, he shall authorize such activities.

(c) *Creditable expenditures.* The Control Board, with the approval of the Secretary, may provide for crediting all or any portion of a handler's direct expenditures for marketing promotion including paid advertising, that promotes the sale of almonds, almond products or their uses. No handler shall receive credit for any allowable direct expenditures that would exceed the total of his assessment obligation which is attributable to that portion of his assessment designated for marketing promotion including paid advertising. Such expenditures may include, but are not limited to, money spent for advertising space or time in newspapers, magazines, radio, television, transit, and outdoor media, including the actual standard agency commission costs not to exceed 15 percent: *Provided,* That, with respect to paid advertising, advertising production costs, preparation expenses, travel allowances, and other expenses not directly connected with paid space or time, and costs relating to pretesting of advertising, test marketing, directory advertising, point of sales materials, premiums, and trade promotion allowances shall not be eligible for credit against a handler's assessment obligation.

(d) *Promotion guidelines.* All marketing promotion activity engaged in by the Control Board, including paid advertising, shall be subject to the following terms and conditions:

(1) No marketing promotion, including paid advertising shall refer to any private brand, private trademark or private tradename;

(2) No promotion or advertising shall disparage the quality, use, value, or sale of like or any other agricultural commodity or product, and no false or unwarranted claims shall be made in connection with the product;

(3) No promotion or advertising shall be undertaken without reason to believe that returns to producers will be improved by such activity, and

(4) Upon conclusion of each activity; but at least annually, the Control Board shall summarize and report the results of such activity to its members and to the Secretary.

(e) *Rules and regulations.* Before any project involving marketing promotion, including paid advertising and the crediting of the pro rata expense assessment obligation of handlers is undertaken pursuant to this section, the Secretary, after recommendation by the Board, shall prescribe appropriate rules and regulations as are necessary to effectively regulate such activity.

§ 981.66 **[Amended]**

5. Paragraph (b) of § 981.66 is amended by deleting the words "continental", "Alaska", and "Hawaii".

6. Paragraph (c) of § 981.66 is amended by deleting the words "Alaska" and "Hawaii".

§ 981.70 **[Amended]**

7. Section 981.70 is amended by inserting in the first sentence after the

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

word "disposition" the words "advertising and promotion activities".

§ 981.80 [Amended]

8. Section 981.80 is amended by inserting in the first sentence after the words "maintenance and functioning of the Control Board" the words, "including the accumulation and maintenance of an operating reserve fund", and in the second sentence after the word "expenses" the words "and size of the operating reserve fund".

§ 981.81 [Amended]

9. Paragraph (a) of § 981.81 is amended by inserting in the first sentence after the words "such sum" the words "less any amounts credited pursuant to § 981.41" and by inserting after the words "to meet the authorized Board expenses" the words "and the operating reserve requirements," and by adding a new sentence, after the last sentence, to read as follows: "The payment of assessments for the maintenance and functioning of the Board may be required under this part throughout the period it is in effect irrespective of whether particular provisions thereof are suspended or become inoperative".

10. Paragraph (b) of § 981.81 is revised to read:

(b) *Refunds.* Any money collected as assessments during any crop year and not expended at the end of the crop year's operations shall be used by the Control Board during the period of 4 months subsequent to such crop year in paying the expenses of the Control Board incurred in connection with the new crop year, refunded by the Control Board in accordance with the provisions of this part, or be retained in an operating reserve fund as provided in paragraph (c) of this section. Assessments collected in excess of Board expenses and not retained in the reserve shall be refunded to handlers. The Control Board shall from funds on hand, including assessments collected during the new crop year, or from funds in the reserve, distribute or make available within 5 months after the beginning of the new crop year, such excess to the handlers from whom it was collected or credited. Each handler's share of such funds shall be the amount of assessment he paid to the Board plus any assessment credited pursuant to § 981.41, in excess of his pro rata share of actual expenses of the Board including amounts credited to handlers for paid advertising pursuant to § 981.41 and the addition, if any, to the operating reserve fund.

11. Paragraph (c) of § 981.81 is redesignated (d), and a new paragraph (c) is added to read:

(c) *Reserve.* The Board, with the approval of the Secretary, may establish and maintain during one or more crop years an operating reserve fund for marketing promotion including paid advertising, and for the maintenance and functioning, and other authorized activities of the Board. For the foregoing respective activities, the amount applicable to these purposes shall not exceed approximately one crop year's budgeted expenses for such activities. Upon approval of the Secretary, funds accumulated in the reserve fund may be used by the Board for authorized activities.

[FR Doc.72-557 Filed 1-13-72;8:46 am]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Parts 601, 606, 613, 616, 670, 675, 677, 678, 688, 689, 690, 720, 727]

[Administrative Order 622]

INDUSTRY COMMITTEES FOR VARIOUS INDUSTRIES IN PUERTO RICO

Appointment To Investigate Conditions and Recommend Minimum Wages; Notice of Hearings

Correction

In F.R. Doc. 71-14162 appearing at page 19037 in the issue of Saturday, September 25, 1971, the reference to "Industry Committees Nos. 108-A or 107-B" in the first two lines on page 19040 should read "Industry Committees Nos. 108-A or 108-B", and the reference to "Industry Committees Nos. 109-A or 107-B" in the third and fourth lines on page 19040 should read "Industry Committees Nos. 109-A or 109-B".

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 71-GL-32]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Versailles, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines IL 60018.

A new public use instrument approach procedure has been developed for the Darke County Airport, Versailles, Ohio, based on a non-Federal NDB. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Versailles, Ohio.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

VERSAILLES, OHIO

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Darke County Airport (latitude 40°12'17" N., longitude 84°31'38" W.); and within 3 miles either side of the 265° bearing from the airport, extending from the 5-mile-radius area to 8 miles from the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).

Issued in Des Plaines, Ill., on December 17, 1971.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.72-543 Filed 1-13-72;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-GL-34]

CONTROL ZONE

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the control zone at Willoughby, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be

made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposals contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Room 18, 3158 Des Plaines Avenue, Des Plaines, IL 60018.

Since designation of controlled airspace at Willoughby, Ohio, new VOR instrument approach procedures have been developed for Lost Nation Airport, Willoughby, Ohio. To protect these approaches, a small additional segment of control zone must be designated.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

WILLOUGHBY, OHIO

Within a 5-mile radius of the Lost Nation Airport (latitude 41°40'45" N., longitude 81°23'45" W.); within 4 miles each side of the 068° bearing from the Lost Nation RBN extending from the 5-mile-radius zone to 12 miles east of the RBN; within 3 miles each side of the 268° bearing from the RBN extending from the 5-mile-radius zone to 8.5 miles west of the RBN; within 3 miles each side of the 050° radial of the Lost Nation TVOR extending from the 5-mile-radius zone to 8.5 miles northeast of the TVOR; excluding the portion within the Cleveland, Ohio (Cuyahoga County Airport), control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will, thereafter, be continuously published in the Airman's Information Manual.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on December 16, 1971.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.72-544 Filed 1-13-72;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 71-GL-36]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Jefferson, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 3166 Des Plaines Avenue, Des Plaines, IL 60018. All communications received within 45 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Room 18, 3158 Des Plaines Avenue, Des Plaines, IL 60018.

The runway at the Ashtabula County Airport, Jefferson, Ohio, has been lengthened to 5,200 feet. This allows larger aircraft to use the airport. To protect the larger aircraft on departures, a larger transition area is required.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

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

JEFFERSON, OHIO

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Ashtabula County Airport, Ashtabula, Ohio (latitude 41°46'40" N., 80°41'45" W.) and within 3½ miles each side of the Jefferson VORTAC 243° radial, extending from the 7-mile-radius area to 11½ miles southwest of the VORTAC.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on December 20, 1971.

LYLE K. BROWN,
Director, Great Lakes Region.

[FR Doc.72-545 Filed 1-13-72;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 2]

PUBLIC INFORMATION

Trade Secrets and Privileged or Confidential Information; Extension of Time to File Comments

Upon request of a member of the public, and good cause appearing, time within which comments may be filed in response to the Environmental Protection Agency's notice of proposed rule making published at 36 F.R. 23077 (December 3, 1971) is hereby extended through February 2, 1972.

Dated: January 10, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72-550 Filed 1-13-72;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19172; FCC 72-16]

FM BROADCAST STATIONS IN BRUNSWICK, MD.

Notice of Proposed Rule Making

Report and order. In the matter of amendment of § 73.202, *Table of Assignments,* FM Broadcast Stations, Brunswick, Md., Docket No. 19172, RM-1450.

1. The Commission here considers the notice of proposed rule making and order to show cause in Docket No. 19172, adopted March 10, 1971 (FCC 71-261). The notice proposed to amend the FM Table of Assignments (§ 73.202(b) of the rules) to assign Channel 244A to Brunswick, Md., substitute Channel 240A for 244A at Halfway, Md., and delete Channel 240A from Williamsport, Md. The notice also proposed an order to show cause for Station WHAG-FM at Halfway to change channels.

2. The proceeding was instituted by a petition filed by Elektra Broadcasting Co. (Elektra), licensee of daytime AM Station WTRI, Brunswick, Md. Comments and reply comments were filed by petitioner Elektra, Regional Broadcasting Co. (Regional), the licensee of Station WHAG-FM, Halfway, Md., and OEA Broadcasting Co. (OEA), applicant for Channel 240A at Williamsport.[1] The populations of the three communities and their respective counties, according to the 1970 Census, are as follows:

City:	*Population*
Brunswick	3,566
Halfway	6,106
Williamsport	2,270
County:	*Population*
Frederick	84,927
Washington	103,829
Washington	103,829

3. It should be noted that the Notice indicated our reservations to the proposal. In the petition stage, Regional opposed the channel change of Station WHAG-FM as disruptive to service to its listeners, restricting future improvement of facilities, and possibly causing second harmonic interference to the television reception of Station WTOP-TV, Channel 9, Washington, D.C., in the Halfway area. Elektra contended that the disruption of service and the interference to the television reception would be minimal, and it agreed to reimburse Regional for the

[1] BPH-7563, filed Aug. 19, 1971.

reasonable expenses to be incurred in the changeover.

4. Elektra's comments, as anticipated, urged the adoption of the proposal to assign Channel 244A to Brunswick, Md. Regional in its comments withdrew its objections: Elektra and other circumstances have assured it that harmonic interference, if any, is minimal, and, in any event, if there were any, Elektra would promptly take steps to remedy the situation at full expense and responsibility; it would be more economical to maintain Station WHAG–FM at the present site; and Elektra has agreed to reimburse Regional for its legitimate and prudent expenses that would be involved in the change of assignment.

5. OEA opposes deleting Channel 240A at Williamsport. It contends that, contrary to Elektra's allegations, Brunswick's population has remained constant between 1960 and 1970 despite the area's growth,[2] while Williamsport's population increased 22.5 percent within the same period. OEA further contends that Williamsport is a stable and thriving community with 35 established businesses, seven churches and many service and social organizations, the tourist influx has been growing at the rate of 15 percent for several years with an anticipated more rapid increase in the future and that the community is on the threshold of a carefully planned growth period with an effort to bring new business into Williamsport and the adjacent Washington County Industrial Park, current and planned construction of motel, restaurant, service station, shopping centers, manufacturing plant, apartment complex, and home developments. OEA argues that, in terms of comparative broadcast outlets, the proposed assignment would result in Frederick County, with less population than Washington County (see paragraph 2, above), having greater number of broadcast outlets[3] (see paragraph 7, below) and that Frederick County has its fair and equitable share of available frequencies. It states that Williamsport is an independent community, and that a local radio station would help meet the community's problems and provide it with a first local outlet for self-expression.

6. In reply to OEA, Elektra contends that, although the Brunswick's population grew only 0.3 percent between 1960 and 1970, that statistic should be considered along with other facts demonstrating that Brunswick is now on the threshold of a period of substantial growth which will increase its need for additional broadcast service, and that, notwithstanding the present smaller population, Frederick County is growing substantially faster than Washington County, and is narrowing the gap, i.e., 18.1 percent population increase from 1960 to 1970 compared to 13.8 percent for Washington County. Elektra also contends that Frederick County has better economic health with greater median values of houses and rents, bank deposits, governmental expenditures, redevelopment of recreational area, construction of new homes, and a large number of commercial farms. By comparison, Elektra alleges that the unemployment rate in Hagerstown was approximately 12 or 13 percent in April 1971, and that it will be a long time before people can be put back to work. Elektra argues that it would be a waste of broadcast resources to establish an independent FM station in the midst of economic chaos in Washington County.

7. As stated in the notice, the proposal here is a difficult one. In order to assign Channel 244A to Brunswick, a community of 3,566 persons with a daytime AM station (WTRI), it is necessary to delete Channel 240A at Williamsport, a community of 2,270 without an aural service of its own. As to service from nearby communities, Williamsport seems better positioned than Brunswick. Williamsport is located approximately 7 miles southwest of Hagerstown from which two Class B FM stations (WARK–FM and WJEJ–FM) and two full-time Class IV AM stations (WARK and WJEJ) operate, and 4 miles southwest of Halfway where a Station WHAG–FM and a daytime AM Station WHAG operate. Brunswick, on the other hand, is located approximately 15 miles southwest of Frederick where Class B FM Station WFRE and full-time AM Station WFMD are in operation, and approximately 10 miles southwest of Braddock Heights where Class A FM Station WMHI–FM is being built and daytime AM Station WMHI operates. A fourth AM station (WTHU, Class IV, 100 watts) in Frederick County is located at Thurmont, which is located closer to Williamsport than to Brunswick (23 miles compared to 25 miles).

8. Both Elektra and OEA make similar arguments about future growth. We are unable to evaluate these conjectures as opposed to the "fact" that Brunswick's population remained static while Williamsport's grew in the 1960–1970 period. We would suppose that other factors about Frederick County's economic well-being are a result of its bordering both the Baltimore and Washington Standard Metropolitan Statistical Areas. As to unemployment rate and "economic chaos", we tend to agree with OEA that these are cyclical in nature.

9. There are a number of factors which make it appear that the better course of action is a denial of the proposal. These include: Williamsport's population growth in the 1960–1970 period while Brunswick has remained static; Brunswick has a daytime AM station while Williamsport has none; both communities have substantial nighttime FM service. In the latter respect, our study shows: that Brunswick proper is served with six aural services and the nearby areas in Frederick County have five or six services; and that Williamsport proper has eight and the nearby Washington County areas have seven or eight. Also, there now is an applicant for Channel 240A at Williamsport, which was allocated by the first report and order in Docket No. 18222, adopted August 28, 1968, 14 R.R. 2d 1537, 1541–3, in part based on a commitment that the petitioner would apply for it (but he did not). Thus, on balance, the public interest would be best served at this time by leaving Channel 240A at Williamsport. Should there be a lack of diligence in prosecuting an application for the channel or building a station, if a construction permit is authorized, we would consider a further petition to make an allocation to Brunswick.

10. Accordingly, the petition of Elektra Broadcasting Co. (RM–1450) is denied.

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

Adopted: January 5, 1972.

Released: January 7, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72–583 Filed 1–13–72;8:48 am]

[2] Frederick County's population growth was 18.1 percent. That of Washington County was 13.8 percent.

[3] Not counting Station WHAG–TV, Hagerstown, Md.

[4] Commissioner H. Rex Lee absent.

FEDERAL TRADE COMMISSION

[16 CFR Part 435]

UNDELIVERED MAIL ORDER MERCHANDISE AND SERVICES

Notice of Postponement of Hearing Date and Extension of Time for Submitting Data, Views or Arguments Concerning Proposed Trade Regulation Rule

The Federal Trade Commission has postponed the public hearing for the consideration of the proposed Trade Regulation Rule relating to Undelivered Mail Order Merchandise and Services until March 27 and 28, 1972. The original public hearing had been scheduled for January 24 and 25, 1972, as announced in a public notice published in the FEDERAL REGISTER on September 28, 1971.

The rescheduled hearing will take place on March 27 and 28, 1972, at 10 a.m., e.s.t., in Room 532 of the Federal Trade Commission Building, Sixth and Pennsylvania Avenue NW., Washington, D.C. The hearing is being rescheduled at the request of and pursuant to petitions from industry members in order to allow them more time within which to prepare and submit alternative proposals to the Rule proposed.

Any person desiring orally to present views at the hearing should so inform the Assistant Director for Rules and Guides, Federal Trade Commission, Washington, D.C., 20580, not later than March 17, 1972, and state the estimated time required for the oral presentation. Reasonable limitations upon the length of time allocated to any person may be imposed. In addition, all parties desiring to deliver a prepared statement at the hearing should file such statement with the Assistant Director for Rules and Guides on or before March 17, 1972. To the extent possible, persons wishing to file written presentations in excess of two pages should submit 20 copies.

In addition, the Commission has extended from January 17, 1972 to March 17, 1972, the closing date for submission of written views on the proposed Trade Regulation Rule.

Copies of the original notice of September 28, 1971, including the proposed Trade Regulation Rule may be obtained upon request to the Federal Trade Commission.

Approved: January 12, 1972.

By direction of the Commission.

[SEAL] CHARLES A. TOBIN,
Secretary.

[FR Doc. 72-652 Filed 1-13-72;8:50 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 72-17]

METALIZED VINYL TINSEL GARLAND

Tariff Classification; Change of Practice Ruling

Pursuant to § 16.10a(d), Customs Regulations (19 CFR 16.10a(d)), the Bureau gave notice in the FEDERAL REGISTER on June 2, 1971 (36 F.R. 10743), that it was reviewing the existing established and uniform practice of classifying metalized vinyl tinsel garland approximately 3 inches wide, produced by cutting metalized film in lengths to simulate cedar and pine needles, which are entwined in one operation at the time of cutting around a cotton or wire core, so as to give the effect of 1½-inch needles branching off from a stem, as other Christmas decorations, of plastics, under item 772.97, Tariff Schedules of the United States (TSUS), with duty at 10 percent ad valorem.

After a thorough review of the existing practice including consideration of all written data, views, and arguments submitted in reference to the notice of June 2, 1971, the Bureau has concluded that the merchandise described above is properly classifiable under the provision for Christmas tree ornaments of plastics, under item 772.95, TSUS, with duty at the rate of 15 percent ad valorem.

Heavier constructed metalized vinyl tinsel garland having simulated cedar and pine needles measuring approximately 4 inches or more will not be affected by this ruling and will continue to be classifiable as other Christmas ornaments, under item 772.97, TSUS.

Inasmuch as this ruling results in the assessment of duty on the merchandise in question at a rate higher than has heretofore been assessed, it shall, pursuant to § 16.10a(d), Customs Regulations (19 CFR 16.10a(d)), be applicable only to merchandise entered, or withdrawn from warehouse, for consumption on or after the 91st day following publication of this ruling in the weekly Customs Bulletin.

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: January 4, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-594 Filed 1-13-72;8:49 am]

[T.D. 72-19]

VESSEL BONDS

Revocation of Provision for Waiver

JANUARY 6, 1972.

Revocation of T.D. 52948, which provided for the waiver of bonds required for vessels operated by or for the account of the United States, acting by and through the Commander, Military Sealift Command, formerly the Military Sea Transportation Service.

On February 26, 1952, the Commander, Military Sea Transportation Service, stipulated that the obligations and duties imposed by bonds required pursuant to any provision of law, regulation, or instruction which the Secretary of the Treasury or this Bureau may be authorized to enforce in connection with the operation of vessels owned by or chartered to the United States, acting by and through the Commander, Military Sea Transportation Service, and operated by or for the account of the United States, acting by and through the Commander, Military Sea Transportation Service, under any form or forms of charter, service agreement, contract, or other arrangement, will be observed and the same responsibilities assumed by the Commander, Military Sea Transportation Service, as fully and to the same extent as if such bonds had been executed and filed. In view of that stipulation, Treasury Decision 52948, dated March 11, 1952, waived such requirements for bonds in connection with the operation of such vessels.

The Commander, Military Sealift Command, by letter dated September 24, 1971, has recommended that the agreement between that agency and the Bureau which is provided for by Treasury Decision 52948 be terminated as soon as possible. Therefore, effective 30 days after publication of this Treasury Decision in the FEDERAL REGISTER, Treasury Decision 52948 is revoked. (212.6)

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

[FR Doc.72-595 Filed 1-13-72;8:49 am]

WELDED STAINLESS STEEL PIPE AND TUBING FROM JAPAN

Antidumping Proceeding Notice

On November 1, 1971, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), indicating a possibility that welded stainless steel pipe and tubing from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

[SEAL] MYLES J. AMBROSE,
Commissioner of Customs.

Approved: January 12, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-643 Filed 1-13-72;8:50 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[Amdt. 2]

ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

The notice published in the FEDERAL REGISTER on December 30, 1970 (35 F.R. 19798) is amended by revising Parts II, III, and VI to read as follows:

II. *Organization, Agricultural Stabilization and Conservation Service.* A. The following is a listing of the ASCS by reporting lines:

1. Administrator.
a. Associate Administrator.
b. Executive Assistant.
c. Deputy Administrator, State and County Operations:
(1) Commodity Loan and Service Division.
(2) Commodity Stabilization Division.
(3) Conservation and Land Use Programs Division.
(4) Emergency Preparedness Division.
(5) Program Performance Division.
(6) Area Directors.
(a) ASC State Committees:
(i) ASC County Committees.
d. Deputy Administrator, Commodity Operations:

(1) Cotton Division.
(2) Grain Division.
(3) Livestock and Dairy Division.
(4) Oilseeds and Special Crops Division.
(5) Sugar Division.
(6) Tobacco Division.
(7) Transportation and Warehousing Division.
(8) Kansas City Commodity Office.
(9) Minneapolis Commodity Office.
(10) New Orleans Commodity Office.

e. Deputy Administrator, Management:
(1) Administrative Services Division.
(2) Budget Division.
(3) Data Division.
(4) Fiscal Division.
(5) Operations Evaluation and Improvement Division.
(6) Personnel Division.
(7) Management Field Office (Kansas City, Mo.).

f. Consultants and Staff Assistants.
g. Information Division.
h. ADP Division.
(1) ASCS Data Processing Center (Kansas City, Mo.).
(2) New Orleans Data Processing Center (Interim) (New Orleans, La.).

III. *Functional responsibilities.* The following are the responsibilities of the organizational units of the Agricultural Stabilization and Conservation Service (ASCS), listed in accordance with reporting lines.

A. *Administrator.* The Administrator, who is also the Executive Vice President of the Commodity Credit Corporation (CCC), is responsible to the Assistant Secretary, International Affairs and Commodity Programs, for the general direction and supervision of the programs assigned to ASCS.

1. *Associate Administrator.* The Associate Administrator acts for and assists the Administrator in formulating and administering the policies and programs of ASCS and CCC. The Associate Administrator is also Vice President of the CCC. In the absence of unavailability of the Administrator, the Associate Administrator exercises the powers and performs the duties of the Administrator of ASCS and the Executive Vice President of CCC.

2. *Executive Assistant.* The Executive Assistant to the Administrator participates in the formulation of new or improved Agency policies and programs. He serves as the Administrator's personal representative. He also serves as Secretary of the CCC.

3. *Deputy Administrator, State and County Operations.* The Deputy Administrator, State and County Operations, formulates policies and programs pertaining to defense activities, conservation and land use, and CCC bin storage. The Deputy Administrator, State and County Operations, is primarily responsible for regulations and program instructions for State and county committees and offices and for the administration through these offices of production adjustment, payment and production aspects of the Sugar Act, price support, farm storage and drying equipment loans, CCC-owned storage facility, agricultural conservation, land use, diversion, cropland adjustment, farm wheat certificate, disaster livestock feed, defense, and related programs, including program compliance and aerial photography. The Deputy Administrator, State and County Operations, provides administrative and program direction to Area Directors and assigned divisions and offices, as set forth below. The Deputy Administrator, State and County Operations, is also Deputy Vice President of the CCC.

a. *Commodity Loan and Service Division.* The Commodity Loan and Service Division formulates and administers operating policies, and instructions applicable to commodity programs. This involves contact with farmers on commodity loans, CCC bin storage and programs and procedures applicable to emergency livestock feed programs, grazing programs and freight rate reduction programs. The Division establishes policies, and supervises participation of cooperatives as representatives of their members' participation in CCC programs. It reviews, analyzes and evaluates program operations of State and county offices to insure workable and effective procedures and methods and carries out assigned defense activities.

b. *Commodity Stabilization Division.* The Commodity Stabilization Division formulates and administers operating policies and instructions applicable to commodity programs involving direct contact with farmers on production adjustment, incentive and indemnity programs assigned to ASCS State and county committees and offices. It develops regulations relating to on-farm applications of these programs; prepares instructions for use of State and county offices; provides uniform program and policy clarification and interpretation; prepares program regulations and instructions applicable to State and county committees and offices which are common to more than one division; develops methods of determining amounts of commercially recoverable sugar; prepares operating instructions for direct purchases of fruits and vegetables, potatoes, and other commodities as requested; and carries out assigned defense activities.

c. *Conservation and Land Use Programs Division.* The Conservation and Land Use Programs Division formulates and administers policies, programs and procedures applicable to agricultural conservation, regional conservation, emergency conservation, long-term diversion and cropland adjustment programs. It develops related regulations and instructions; and develops list of approved practices and rates of payment for cost-sharing and approves State agricultural conservation programs. It also keeps posted on current research in this field in order that the results may be applied to the agricultural conservation program. The Conservation and Land Use Programs Division provides liaison with other offices of the Department and other agencies in developing and administering rural development activities. It reviews, analyzes, and evaluates program operations of State and county offices to insure workable and effective procedures and methods; and carries out assigned defense activities.

d. *Emergency Preparedness Division.* The Emergency Preparedness Division formulates and administers policies, programs, and procedures applicable to emergency defense production, control and requirements planning. It plans and coordinates programs for emergency salvage of agricultural products and the rehabilitation of farmlands and structures; provides coordinating services to USDA State, County and Metropolitan Area Defense Boards and services USDA Emergency Program Coordinators; develops program dockets, regulations and instructions and legislative proposals; provides centralized service on damage assessment of resources under USDA jurisdiction; and provides technical services to State and county offices.

e. *Program Performance Division.* The Program Performance Division formulates and administers policies and procedures to insure that State and county ASC Committees determine or obtain satisfactory assurance of farm operators' compliance with farm programs in which they participate. It is responsible for formulating and administering overall plans and policies for procuring, processing, and using aerial photography and for the sale of aerial photographs to other government agencies and to individuals. The Division keeps posted on current developments in the field of aerial photography including the use of satellites; receives, reviews and processes producers' appeals from prior determinations; receives and processes requests for producer relief; prepares regulations and instructions applicable to State and county committees and offices which are related to compliance, aerial photography and appeals; and carries out assigned defense activities.

f. *Area Directors.* The Area Directors have responsibility within specific geographic areas for the administration of assigned ASCS programs within ASCS State and county offices, and the Caribbean Area Office. The Area Directors are responsible for the activities of ASC State Committees within the established policies and procedures and assist in coordinating the program activities of ASCS State and county offices in their respective areas. They make recommendations to the Deputy Administrator, State and County Operations, for appointments to the ASC State Committee and other items pertinent to personnel matters in their respective areas. The Area Directors also carry out assigned defense activities.

(1) *ASC State Committees and the Director, ASCS Caribbean Area Office.* ASC State Committees and the Director, ASCS Caribbean Area Office recommend and suggest agricultural programs applicable to the State or Area. ASCS State Offices participate in the administration, and direct and coordinate the administration by county offices, of agricultural conservation and stabilization, production adjustment, price support, land use, diversion, cropland adjustment, sugar and other assigned programs, as well as assigned defense activities and natural disaster responsibilities. The ASC State Committees and the Director of the ASCS Caribbean Area Office report to the

Area Director having responsibility for the geographic area to which the specific State or area is assigned.

(a) *ASC County Committees.* ASC County Committees recommend and suggest to the ASC State Committee agricultural programs applicable to the county. ASCS County Offices administer agricultural conservation and stabilization, production adjustment, price support, land use, diversion, cropland adjustment, sugar and other assigned programs requiring direct dealings with the farmer; and carry out assigned defense activities. The ASC County Committees report to their respective ASC State Committees.

4. *Deputy Administrator, Commodity Operations.* The Deputy Administrator, Commodity Operations formulates policies and programs pertaining to production adjustment, price support, purchase, sale or disposal in domestic outlets and commercial warehouses. The Deputy Administrator, Commodity Operations, is primarily responsible for the administration of the acquisition, storage (except CCC-owned bin storage), transportation, processing, management, domestic disposition of CCC-owned commodities, and export disposition of tobacco, peanuts, tung oil, and gum naval stores, including maintenance of trade relationships, the Sugar Act, and the International Sugar Agreement. The Deputy Administrator, Commodity Operations, is responsible for field operations to implement functions assigned to the Export Marketing Service in accordance with policies and procedures established by the Export Marketing Service. The Deputy Administrator, Commodity Operations, provides administrative and program direction and supervision to assigned divisions and offices as set forth below. The Deputy Administrator, Commodity Operations, is also Deputy Vice President of the CCC.

a. *Cotton Division.* The Cotton Division formulates broad policies and programs pertaining to production adjustment, price support, purchase, management and disposal to domestic outlets for upland cotton, extra long staple cotton, cotton products, linters and other fibers. The Cotton Division formulates and coordinates operating policy and programs for the acquisition, management and disposition of assigned commodities. It develops guides and standards for use in evaluating and appraising policy and program operations; develops program dockets, regulations relating to State and county allotments, quotas, yields and rates, and legislative proposals; and carries out assigned defense activities.

b. *Grain Division.* The Grain Division formulates broad policies and programs pertaining to production adjustment, price support, purchase, sale, management, and disposal to domestic outlets for grain, grain products, and other related or assigned commodities. The Grain Division formulates and coordinates operating policy and programs for the acquisition, management and disposition of assigned commodities and for the wheat processor certificate program. It develops guides and standards for use in evaluating and appraising policy and program operations; develops program dockets, regulations relating to State and county allotments, quotas, yields and rates, and legislative proposals; and carries out assigned defense activties.

c. *Livestock and Dairy Division.* The Livestock and Dairy Division formulates broad policies and programs pertaining to production adjustment, price support, dairy indemnification, purchase, sale, management, and disposal to domestic outlets for livestock, meat products, wool, mohair, poultry, poultry products, milk, butterfat, and their products, and other assigned commodities. The Livestock and Dairy Division formulates and coordinates operating policy and programs for the acquisition, management and disposition of assigned commodities. It develops guides and standards for use in evaluating and appraising policy and program operations. It also develops program dockets and legislative proposals; and carries out assigned defense activities.

d. *Oilseeds and Special Crops Division.* The Oilseeds and Special Crops Division formulates broad policies and programs pertaining to production adjustment, price support, purchase, commercial warehousing, sale, management and disposal to domestic outlets for soybeans, flax, dry beans, rice, castor beans, fats, oils, oil seed meal, and other assigned commodities, and for peanuts, tung nuts, and gum naval stores to both domestic and foreign outlets. The Oilseeds and Special Crops Division formulates and coordinates operating policy and programs for the acquisition, management and disposition of commodities, including those carried out through producer associations. It develops guides and standards for use in evaluating and appraising policy and program operations. The Oilseeds and Special Crops Division develops program dockets, regulations relating to State and county allotments, quotas, yields and rates, and legislative proposals; and carries out assigned defense activities.

e. *Sugar Division.* The Sugar Division formulates broad policies and programs pertaining to administration of the Sugar Act, U.S. participation in or liaison with the International Sugar Organization, international standards, production adjustment, price support, purchase, sale, supply management and disposal to domestic outlets for honey, sugar, sugarcane, sugar beets, molasses, and sugar-containing products. Formulates and coordinates operating policy and programs for the acquisition and disposition of assigned commodities. It develops guides and standards for use in evaluating and appraising policy and program operations; develops program dockets, regulations relating to State and county allotments, yields, rates and legislative proposals; and carries out assigned defense activities.

f. *Tobacco Division.* The Tobacco Division formulates broad policies and programs pertaining to production adjustment, price support, purchase, commercial warehousing, sale, management and disposal to outlets for tobacco, tobacco products, and by-products. It formulates and coordinates operating policy and programs for the acquisition, management and disposition of commodities; develops guides and standards for use in evaluating and appraising policy and program operations. The Tobacco Division is responsible for planning, directing, and coordinating operational policies, programs and procedures for the tobacco program carried out through producer associations. It develops program dockets, regulations relating to State and county allotments, quotas, yields and rates, and legislative proposals; and carries out assigned defense activities.

g. *Transportation and Warehousing Division.* The Transportation and Warehousing Division, in consultation with the Commodity Divisions, develops and recommends policies, programs, and procedures for commercial storage, processing, packaging and transportation of ASCS–CCC commodities. The Transportation and Warehousing Division provides technical advice, assistance, direction, and coordination in supplying processed commodities for domestic and export donation and in the carrying out of the traffic management and program operations. It reviews and analyzes such operations, and makes recommendations for improvements. The Transportation and Warehousing Division serves as focal point and liaison with Department of Transportation, Export Marketing Service, Foreign Agricultural Service, Agency for International Development, and the voluntary relief agencies. It maintains the Traffic Library of the Department; and carries out assigned defense activities.

h. *Commodity Offices.* There are three ASCS Commodity Offices which report to the Deputy Administrator, Commodity Operations. The commodity offices execute assigned inventory management, acquisition, disposition and related programs and activities. For assigned programs, the commodity offices direct methods analysis, systems design and automatic data processing programing compatible with overall standards and conventions for ASCS activities. They provide input/output terminals for communications to ASCS central computer facilities; and carry out assigned defense activities. These commodity offices are located at the following addresses and have program responsibilities for the areas indicated:

(1) Kansas City ASCS Commodity Office, ASCS, U.S. Department of Agriculture, Federal Building, 8930 Ward Parkway, Kansas City, MO 64114.

The Kansas City Commodity Office has nationwide responsibility for grain, soybeans, and dry edible beans.

(a) *Branch offices.* The Kansas City Commodity Office maintains branch offices at Chicago, Ill.; Minneapolis, Minn.; and Portland, Oreg. These offices carry out assigned responsibilities in connection with the acquisition, transportation, disposition, and management

of commodities. The Branch Office Managers report to the Director, Kansas City Commodity Office.

(2) Minneapolis ASCS Commodity Office, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, 6400 France Avenue South, Minneapolis, MN 55435.

The Minneapolis Commodity Office has nationwide responsibility for processed commodities.

(a) *Branch office.* The Minneapolis Commodity Office maintains a branch office at Houston, Tex. This office carries out assigned responsibilities in connection with the performance of freight forwarding services for the Gulf and South Atlantic Coasts. The Branch Office Manager reports to the Director, Minneapolis Commodity Office.

(3) New Orleans ASCS Commodity Office, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Wirth Building, 120 Marais Street, New Orleans, LA 70112.

The New Orleans Commodity Office has nationwide responsibilty for cotton, cottonseed, and cottonseed products, castor oil, and tung oil.

5. *Deputy Administrator, Management.* The Deputy Administrator, Management is primarily responsible for the overall management programs in ASCS and CCC, including administrative services, budget formulation and administration, fiscal and claims management and systems, operations and analysis, work measurement, manpower utilization and management improvement, personnel management, organization analysis, and employee development and training programs. The Deputy Administrator, Management is also responsible for providing the Export Marketing Service with management support services consisting of budgetary, fiscal and accounting functions related to program and administrative activities, and administrative services and personnel functions. These services will be performed by the organizational units reporting to the Deputy Administrator, Management. The Deputy Administrator, Management provides administrative and program direction and coordination to assigned divisions, staffs and offices as set forth below. In addition, the Deputy Administrator, Management carries out assigned defense activities. The Deputy Administrator, Management is also Deputy Vice President of the CCC.

a. *Administrative Services Division.* The Administrative Services Division formulates and administers an administrative services program on records, procedures, forms, communications, procurement, property, leasing, printing, and related office services. The Administrative Services Division operates or supervises the operations of administrative services in Washington, D.C., and provides technical direction over administrative services activities of field offices; and carries out assigned defense activities.

b. *Budget Division.* The Budget Division formulates and administers ASCS and CCC budget plans, policies, presentations and procedures, covering all funds utilized, including administrative expense funds, corporate capital funds, funds appropriated for payments to farmers, funds allocated from other sources, and other funds. The Budget Division coordinates legislative reports, and exercises technical direction over budgetary activities of the ASCS field offices; and carries out assigned defense activities.

c. *Data Division.* The Data Division manages a central data system which provides to ASCS divisions and offices information in numeric, graphic or narrative form. The Data Division provides for gathering and presenting data accurately and promptly as needed and for disseminating uniform data for executive, legislative and public information use. The Data Division performs reports management and forms coordination functions.

d. *Fiscal Division.* The Fiscal Division formulates and administers fiscal and claims policies for ASCS and CCC; develops, implements, and installs systems, accounts, methods and procedures relating to CCC financing and to accounting for programs and program activities financed with ASCS and CCC and other funds, including administrative funds; analyzes financial and operating data and prepares financial statements; exercises technical direction over fiscal activities of ASCS offices and fiscal agents, and performs fiscal, claims and other functions as assigned; and carries out assigned defense activities.

e. *Operations Evaluation and Improvement Division.* The Operations Evaluation and Improvement Division formulates policies and programs for effective and timely identification, definition, analysis and alternate solutions of problems directly related to management and program effectiveness. It provides national leadership and coordination to agency improvement programs for achieving progressive management and uniform operations; develops and maintains work measurement, manpower utilization, cost reduction and management improvement activities; and provides leadership in formulating and developing program training activities.

f. *Personnel Division.* The Personnel Division formulates and administers a personnel management program for ASCS-CCC and Export Marketing Service, including position classification, organizational analysis, recruitment, employment qualifications, performance standards, employee relations, incentive awards, employee development, and training, and related personnel services. It provides technical advice, assistance, and coordination in the development and direction of a complete personnel management program for ASCS county office employees; provides technical direction over personnel management activities of ASCS field offices; and carries out assigned defense activities.

g. *Management Field Office, Kansas City, Mo.* The Management Field Office, Kansas City, Mo., is responsible for planning and conducting a comprehensive management, personnel fiscal, and office services program designed to meet the operational needs of ASCS and other USDA field offices, as assigned. It carries out operations of the approved national accounting systems for control of specified appropriated program and administrative funds of ASCS–CCC programs and other funds as assigned; and carries out assigned defense activities.

6. *Consultants and Staff Assistants.* The Consultants and Staff Assistants formulate broad recommendations leading to new or improved Agency policies and programs. They evaluate and appraise policies and programs recommended by other elements of the Agency and by others. They also provide leadership to the Agency's Planning, Programming, and Budgeting (PPB) activities.

7. *Information Division.* The information Division formulates and administers a comprehensive information service program including current releases, background statements, technical and popular publications, educational services, annual and special reports, radio and television scripts, and other information material for authorized dissemination to the public and to the trade. The division cooperates with the Office of Information and other agencies in the preparation and presentation of information programs and materials. The Information Division provides supporting services to the Export Marketing Service for the preparation and issuance of information releases on agricultural export activities.

8. *ADP Division.* The ADP Division translates ASCS and CCC information processing requirements into specific ADP objectives and programs. In conjunction with management, staff, and operating units it formulates plans for acquisition, development, and implementation of appropriate ADP capabilities. The Division monitors development, operation, and maintenance of information and data processing activities; coordinates and sponsors the formulation of information processing standards; and represents ASCS in technological matters concerning interagency data exchanges/interfaces and with higher authorities monitoring ADP acquisitions.

a. *ASCS Data Processing Center (Kansas City, Mo.).* The ASCS Data Processing Center (Kansas City, Mo.) plans and directs the national ASCS data processing center. It operates a large scale time-sharing computer system, provides methods analysis, system design, and automatic data processing programing functions for assigned programs. It conducts program accounting functions for specified ASCS–CCC programs.

b. *New Orleans Data Processing Center (Interim), (New Orleans, La.).* The New Orleans Data Processing Center (Interim) (New Orleans, La.) directs and administers all activities (excluding systems design and development) relating to automatic data processing programming and operating services to USDA agencies, primarily New Orleans Commodity Office and Office of Management Improvement, Management Data

Service Center. It carries out other automatic data processing services as assigned.

* * * * *

VI. *Availability of information.* Submittals or requests for information or materials with respect to the programs and functions of this Service may be directed to the following officers of the Agricultural Stabilization and Conservation Service who are responsible for the programs or functions concerned, at the addresses shown below:

* * * * *

B. *Field locations.* 1. Chief Aerial Photography Laboratory, Program Performance Division, ASCS, U.S. Department of Agriculture, 45 South French Broad Avenue, Asheville, NC 28801.

2. Chief, Aerial Photography Laboratory, Program Performance Division, ASCS, U.S. Department of Agriculture, 2505 Parleys Way, Salt Lake City, UT 84109.

* * * * *

6. State Executive Director, ASCS State Offices at the following addresses.

* * * * *

f. Colorado State ASCS Office, ASCS, U.S. Department of Agriculture, Room 219, 2490 West 26th Avenue, Denver, CO 80211.

* * * * *

mm. Rhode Island State ASCS Office, ASCS, U.S. Department of Agriculture, Federal Building, Room 506, U.S. Courthouse, Kennedy Plaza, Providence, RI 02903.

* * * * *

xx. Wyoming State ASCS Office, ASCS, U.S. Department of Agriculture, 100 East B Street, Casper, WY 82602.

* * * * *

Effective date: Upon publication in the FEDERAL REGISTER (1–14–72).

Signed at Washington, D.C., on January 10, 1972.

KENNETH E. FRICK,
Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc.72–598 Filed 1–13–72;8:50 am]

Commodity Credit Corporation

UPLAND COTTON

Determination of "Shortfall" for 1971–72 Marketing Year

Pursuant to section 407 of the Agricultural Act of 1949, as amended (79 Stat. 1197, as amended; 7 U.S.C. 1421 et seq.), the Secretary of Agriculture has determined that the "shortfall" for upland cotton in the 1971–72 marketing year is 690,000 bales. Section 407 provides, in part, that the Commodity Credit Corporation shall sell or make available for unrestricted use at current market prices in each marketing year a quantity of upland cotton equal to the amount by which the production of upland cotton is less than the estimated requirements for domestic use and for export for such marketing year.

The 1971–72 "shortfall" is the amount by which the domestic use and export requirements for upland cotton in the 1971–72 marketing year will exceed the 1971 production of such cotton. The requirements for domestic use and export during the 1971–72 marketing year are currently estimated to be about 11 million bales. The Cotton Production Report issued by the Statistical Reporting Service on December 8, 1971, indicates that 1971 production of upland cotton will total about 10,310,000 running bales. On the basis of these estimates, the 1971–72 shortfall for upland cotton is 690,000 bales.

CCC has offered upland cotton for sale for unrestricted use at current market prices every other week in the 1971–72 marketing year, and a total of 250,333 bales have been sold from August 1 through December 8, 1971. The bales sold have been applied against the shortfall. CCC's remaining inventory of upland cotton totals only about 20,000 bales. Thus, an amount of upland cotton equal to the shortfall cannot be sold or made available by CCC during the 1971–72 marketing year.

Signed at Washington, D.C., on January 10, 1972.

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

[FR Doc.72–597 Filed 1–13–72;8:50 am]

Office of the Secretary

DULUTH BOARD OF TRADE

Order Vacating Designation as Contract Market Under Commodity Exchange Act

Pursuant to section 7 of the Commodity Exchange Act (7 U.S.C. 11), I hereby vacate the designation of the Duluth Board of Trade of Duluth, Minn., as a contract market, effective March 15, 1972. The said exchange, which was designated as a contract market on May 11, 1923, has requested that such designation be vacated.

Issued this 10th day of January 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72–555 Filed 1–13–72;8:46 am]

ATOMIC ENERGY COMMISSION

NATIONAL ACCELERATOR LABORATORY, BATAVIA, ILL.

Notice of Availability of General Manager's Final Environmental Statement

Notice is hereby given that a document entitled "Final Environmental Statement—National Accelerator Laboratory, Batavia, Illinois," issued pursuant to the Atomic Energy Commission's implementation of section 102(2)(C) of the National Environmental Policy Act of 1969 is being placed in the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20545, and in the Commission's Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439; the San Francisco Operations Office, 2111 Bancroft Way, Berkeley, CA 94704; the New York Operations Office, 376 Hudson Street, New York, NY 10014; and the Oak Ridge Operations Office, Post Office Box E, Oak Ridge, TN 37830. The National Accelerator Laboratory will be a high energy physics laboratory centered around a particle accelerator, a 500-BeV proton synchrotron. A long-range goal of such experimentation is the discovery of the most fundamental laws governing the structure of the material universe. Included with the Statement are the comments received from Federal and State agencies on the draft statement of which notice of availability was published in the FEDERAL REGISTER, 36 F.R. 2636, dated February 9, 1971, and the AEC's response to these comments.

The Environmental Statement, including the comments and AEC's responses, will be furnished upon request addressed to the Assistant General Manager for Operations, U.S. Atomic Energy Commission, Washington, D.C. 20545.

Dated at Germantown, Md., 7th day of January 1972.

For the Atomic Energy Commission.

W. B. MCCOOL,
Secretary of the Commission.

[FR Doc.72–551 Filed 1–13–72;8:46 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 19386–19387; FCC 72–11]

FAJARDO BROADCASTING CORP., AND CARLOS A. LOPEZ-LAY

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Fajardo Broadcasting Corp., Fajardo, P.R., requests: 1090 kc., 10 kw., DA, Day, Docket No. 19386, File No. BP–18324; Carlos A. Lopez-Lay, Frederiksted, St. Croix, V.I., requests: 1090 kc., 500 w., DA, Day, Docket No. 19387, File No. BP–18486; for construction permits.

1. The Commission has before it for consideration the above-captioned mutually exclusive applications, and an informal objection directed against Fajardo Broadcasting Corp. by Pan Caribbean Broadcasting Corp., licensee of station WMDD, Fajardo, P.R.

2. Examination of the financial section of the Fajardo Broadcasting Corp. application reveals that the applicant will require $160,710 to meet the first-year construction and operating costs. This total consists of: Equipment

costs, $58,710; land and buildings, $10,000; miscellaneous, $20,000; and first-year working capital, $72,000. Applicant proposes to meet these costs with funds to be supplied equally by the two major stockholders. However, since the stockholders' balance sheets are not current, it will be necessary for Fajardo Broadcasting Corp. to establish its financial qualifications in hearing.

3. An analysis of the program survey conducted by Fajardo Broadcasting Corp. reveals that its attempt to ascertain the community needs, interests, and problems as set forth in the Primer [1] is defective. Since the applicant has failed to provide a description of the community's composition, furnish an account of the contacts made with members of the general public, and list the community problems proffered by the individuals interviewed, we are unable at this time to determine whether the applicant is aware of and responsive to the needs of the area. Thus, a Suburban [2] issue will be included.

4. A Suburban issue is also required with respect to Carlos Lopez-Lay. The applicant made personal contacts with more than 87 members of the general public and community leaders who were represented "as adequate a cross section of the population as was feasible." But a description of the community's composition indicating the minority, racial, or ethnic breakdown was not made. In light of this, we are unable to determine whether the persons contacted constitute a representative cross-section of the community.

5. Pan Caribbean Broadcasting Corp., licensee of station WMDD, Fajardo, P.R., has filed an informal objection to the Fajardo Broadcasting Corp.'s application. It has submitted an affidavit in which the landowner of the applicant's proposed transmitter site, as identified by the coordinates submitted to the Commission, denies any commitment to sell or lease a portion of his farm for broadcasting purposes. Since the applicant has not attempted to rebut this allegation, a site availability issue will be included and Pan American made a party to the proceeding.

6. Carlos Lopez-Lay proposes a two-element directional antenna to suppress the radiation towards co-channel station WRSJ, San German, P.R. The calculated value of radiation in the null towards WRSJ is less than 1 mv/m and the MEOV is as low as 3.2 mv/m. In addition, we note that the terrain in the immediate vicinity of the site appears to be quite rugged and as a result reradiation and signal scatter may occur. In view of these considerations and since the proposed site is located less than 1 mile from the coastline, a question obtains as to whether a satisfactory proof of performance can be accomplished and whether in fact the proposed array can be adjusted and maintained within the proposed values of radiation. Accordingly, an appropriate issue in this regard is required.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

(1) To determine the areas and populations which would receive primary service from the proposed operations and the availability of other primary aural (1 mv/m or greater in the case of FM) service to such areas and populations.

(2) To determine the efforts made by the applicants to ascertain the community needs and interests of the area to be served and the means by which the applicants propose to meet those needs and interests.

(3) To determine, with respect to the application of Fajardo Broadcasting Corp.:

(a) Whether John G. Hoagland and James W. Miller have sufficient liquid assets to finance construction and operation of the proposed station.

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

(4) To determine whether the transmitter site proposed by Carlos A. Lopez-Lay is suitable with regard to conditions which may exist in the vicinity of the antenna system and whether he will be able to adjust and maintain the directional antenna system as proposed.

(5) To determine whether the transmitter site proposed by Fajardo Broadcasting Corp. is available to the applicant.

(6) To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would better provide a fair, efficient and equitable distribution of radio service.

(7) To determine, in light of the evidence adduced pursuant to the foregoing issues which, if either, of the applications should be granted.

9. *In is further ordered,* That the informal objection filed by Pan Caribbean Broadcasting Corp. is granted to the extent indicated above and is denied in all other respects.

10. *It is further ordered,* That Pan Caribbean Broadcasting Corp. is made a party to the proceeding.

11. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants and party respondent herein, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall, within 20 days of the mailing of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

12. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible, and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

Adopted: January 5, 1972.

Released: January 10, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[3]

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

[FR Doc.72-585 Filed 1-13-72;8:49 am]

[1] Primer on Ascertainment of Community Problems by Broadcast Applicants, 36 F.R. 4092, 27 FCC 2d 650 (1970).

[2] Suburban Broadcasters, 20 RR 951 (1961).

[3] Commissioner H. Rex Lee absent.

[FCC 72-33]

STATION KUTV, SALT LAKE CITY, UTAH

Memorandum Opinion and Order Regarding Prime Time Waiver

In the matter of request for waiver of "prime time access rule" (§ 73.658(k)), by Station KUTV, Salt Lake City, Utah.

1. The Commission here considers a request for waiver of the "prime time access rule", § 73.658(k), filed on December 27, 1971, by KUTV, Inc., licensee of Station KUTV, Salt Lake City, Utah, for one date only, Monday, January 17, 1972. The rule involved, in general, limits, stations in the top 50 markets (including Salt Lake City) to no more than three hours of network programs each evening in "prime time", which for KUTV is 7–11 p.m., m.t.[1] KUTV's request is occasioned by the fact that its network, NBC, is presenting two 90-minute "special" programs that evening ("S' Wonderful" and the Bob Hope special) instead of its regular entertainment programming (which consists of the 1-hour "Laugh-In" show and a 2-hour movie).

2. More generally, KUTV's request reflects the fact that in the mountain time zone, unlike the rest of the Nation, NBC's Tonight show is presented in part during hours which are "prime time" for those stations which retain the 7–11 p.m. designation (this program starts live at 11:30 p.m., e.s.t., 10:30 p.m., c.s.t., outside of prime time in those zones; like nearly all network programs except sports, it is presented by mountain zone stations on a delayed basis, but NBC refuses to let it be carried with more than a 1-hour delay and a resulting starting time of 10:30 p.m., m.t.). KUTV normally deals with

[1] On Oct. 6, 1971, the Commission granted stations in the mountain time zone permission to redesignate the hours 6 to 10 p.m. (m.t.) as prime time instead of 7–11, in recognition of some special problems which stations in this portion of the country have. However, unlike the Denver and Phoenix markets, none of the Salt Lake City stations have done this.

this situation on Mondays by starting its NBC prime-time material (Laugh-In) at 6:30 p.m., before prime hours, and carrying half-hour local programs at 7:30 and 10 p.m. However, it states that physical limitations—"our limited number of videotape machines"—preclude following this pattern where two 90-minute shows are involved. Thus, it wishes to start NBC programing on this occasion at 7 p.m. running the two special programs at 10 p.m. and then the Tonight show at 10:30. Waiver is said to be necessary to permit the public to see these well-publicized specials as well as the first part of the prominent Tonight show.

3. In view of all of the circumstances—including the "one-time" nature of the request, the fact that special network programs are involved, and the basic scheduling problems which mountain zone stations have (particularly NBC affiliates for the reason mentioned)—the Commission believes that waiver as requested is warranted in this case: *Accordingly, it is ordered,* That as to Station KUTV, Salt Lake City, Utah, the provisions of § 73.658(k) are waived, for January 17, 1972, only, to permit the presentation of up to 3½ hours of network programs between 7 and 11 p.m. that evening.

Adopted and released: January 7, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-586 Filed 1-13-72;8:49 am]

STANDARD BROADCAST APPLICATION READY AND AVAILABLE FOR PROCESSING

Notice is hereby given, pursuant to section 1.571(c) of the Commission's rules, that on February 18, 1972, the following standard broadcast application will be considered as ready and available for processing.

BP-19133 New, Kotzebue, Alaska.
Kotzebue Broadcasting, Inc.
Req: 670 kc., 5 kw., U.

Pursuant to §§ 1.227(b)(1) and 1.591(b) of the Commission's rules, an application, in order to be considered with this application or with any other application on file by the close of business February 18, 1972, which involves a conflict necessitating a hearing with this application, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business February 17, 1972.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast application pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time of filing and other requirements relating to such pleadings.

Adopted: January 10, 1972.

Released: January 11, 1972.

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

[FR Doc.72-582 Filed 1-13-72;8:48 am]

[Report No. 578]

COMMON CARRIER SERVICES INFORMATION[1]

Domestic Public Radio Services Applications Accepted for Filing[2]

JANUARY 10, 1972.

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 list below, 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 previously 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 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 below 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 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).

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

4014-C2-P-(2)-72—Page Boy Inc. (KEA860), for additional facilities to operate on a frequency of 35.22 MHz at a new site to be identified as location No. 3: 920 Crooked Hill Road, Islip, NY.

4016-C2-P-72—J. W. Spencer, doing business as Spencer Communications Service (New), for a new two-way station to be located at 912 South Dixie Highway, Stuart, FL, to operate on 152.090 MHz.

4017-C2-P-72—Robert H. Larson, doing business as Oregon Mobile Radio (New), for a new two-way station to be located northwest corner of Medford Airport, Medford, Oreg., to operate on 152.18 MHz.

4018-C2-P-72—Robert S. Ditton (KOA605), for additional channel to operate on a frequency of 152.21 MHz at station located Ahtanum Ridge, 5 miles south of Yakima, Wash.

3896-C2-TC-72—Minnesota Telephone Co. (KAF651), consent to transfer of control from National Telephone Co., Transferor to Continental Telephone Corp., Transferee, International Falls, Minn.

4020-C2-P-72—Southwestern Bell Telephone Co. (KAA818), for additional channel to operate on 152.66 MHz at station located 2651 Olive Street, St. Louis, MO; add test frequency 157.92 MHz and change the antenna system for test facilities operating in the 150 MHz band. Test location: Same as base and 1010 Pine Street, St. Louis, MO.

4021-C2-P-72—United Telephone Co. of the West (KAQ626), for additional facilities to operate on 152.84 MHz at station located 2802 Avenue D, Scottsbluff, Nebr.

4054-C2-P-72—Phone Depots, Inc., doing business as Mobilfone Radio System (KCA748), to relocate facilities operating on 152.21 MHz, to 1 Strawberry Hill Court, Stamford, CT., and change antenna system for same.

4053-C2-P-72—Page Boy, Inc. (KEA860), for additional facilities to operate on 35.22 MHz at a new site to be identified as location No. 4: 6.9 miles north of Bridgeport, Conn.

4081-C2-P-(3)-72—The Pacific Telephone & Telegraph Co. (KMD991), for additional base channel to operate on 152.72 MHz, replace existing base and test transmitters operating on 152.69 MHz base and 157.95 MHz test. Location: 516 Third Street, Santa Rosa, CA.

4082-C2-P-72—Physicians & Surgeons Exchange, Inc. (New), for a new one-way station location: 110 West Berry Street, Fort Wayne, IN. Frequency: 35.580 MHz.

4083-C2-AL-72—Two-Way Radio, Inc. (KKT412), consent to assignment of license from Two-Way Radio, Inc., Assignor to Ranch Radio, Inc., Assignee, Bryan, Tex.

4090-C2-AL-72—Meadville Telephone Co. (KLF545), consent to assignment of license from Meadville Telephone Co., Assignor to Kittanning Telephone Co., Assignee, Meadville, Pa.

Corrections

2438-C2-P-72—Paging, Inc. (New), correct to read: For a new two-way station to be located at Route No. 57, 0.2 mile east of Martinsville, Va., to operate on 152.12 MHz. All other particulars are to remain as reported in Public Notice No. 569, dated Nov. 8, 1971.

[3] Commissioner Bartley and Johnson dissenting, and Commissioner H. Rex Lee absent.

INFORMATIVE: It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference. Frequency 152.12 MHz.

Alabama

Alabaster Carphone Co. (New), 811–C2–P–72.
Paresco, Inc. (New), 1486–C2–P–72.

It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference. Frequency 152.21 MHz.

Massachusetts

Peabody Telephone Answering Service (KCC786), 7370–C2–P–69.
F & L Telephone Secretarial Service (KCC480), 5980–C2–P–71.

RURAL RADIO SERVICE

4084–C1–P/L–72—Knox La Rue, doing business as Atlas Radiophone (New), for a new rural subscriber station to be located on Medford Island, approximately 12.5 miles southeast of Rio Vista, Calif., to operate on 158.64 MHz.

POINT-TO-POINT MICROWAVE RADIO SERVICE

3992–C1–P–72—American Telephone & Telegraph Co. (KQF58), to add frequency 4030V MHz toward Ayersville, Ohio.
3993–C1–P–72—American Telephone & Telegraph Co. (KQA88), to add frequency 4070V MHz toward West Unity, Ohio.
3994–C1–P–72—American Telephone & Telegraph Co. (KVU74), to add frequencies 4170V MHz toward Southfield, Mich., and 3910H MHz toward Milford, Mich.
3995–C1–P–72—American Telephone & Telegraph Co. (KQE91), to add frequency 3870 MHz toward Plymouth Junction, Mich.
3996–C1–P–72—American Telephone & Telegraph Co. (KQG23), to add frequencies 4130V MHz toward Plymouth Junction, Mich., and 4130V MHz toward Detroit, Mich.
3997–C1–P–72—American Telephone & Telegraph Co. (KQA83), to add frequencies 4170V MHz toward Southfield, Mich.
3998–C1–P–72—American Telephone & Telegraph Co. (KQF60), to add frequency 3870H MHz toward Lacey, Mich.
3999–C1–P–72—American Telephone & Telegraph Co. (KQF61), to add frequency 3910H MHz toward Parma and Saranac, Mich.
4000–C1–P–72—American Telephone & Telegraph Co. (KQH35), to add frequencies 3870H MHz toward Lacey, Mich., and 3710H MHz toward Ada, Mich.
4001–C1–P–72—American Telephone & Telegraph Co., new station. Frequencies 3750H MHz toward Saranac, Mich., and 3750V MHz toward Grand Rapids, Mich.
4002–C1–P–72—American Telephone & Telegraph Co. (KQH36), to add frequency 3710V MHz toward Ada, Mich.
4003–C1–P–72—American Telephone & Telegraph Co. (KQD79), to add frequency 3710V MHz toward Kalamazoo, Mich.
4004–C1–P–72—American Telephone & Telegraph Co. (KQA26), to add frequency 4090H MHz toward Kalamazoo, Mich.
4005–C1–P–72—Mountain States Telephone & Telegraph Co. (KXQ86), to add frequency 2162.0H MHz toward Miles City, Mont.
4006–C1–P–72—Mountain States Telephone & Telegraph Co. (New), to add frequencies 2120.0V MHz toward Fallon, Mont., and 2112.0H MHz toward Miles City, Mont.
4007–C1–P–72—Mountain States Telephone & Telegraph Co. (New), to add frequencies 2178.0H MHz toward Glendive Junction, Mont., and 2170.0V MHz toward Miles City Radio, Mont.
4008–C1–P–72—Mountain States Telephone & Telegraph Co. (KPH75), to add frequency 2128.0H MHz toward Fallon, Mont.
4009–C1–P–72—The Pacific Telephone & Telegraph Co. (KMQ30), to add frequency 6108.3H MHz toward Mount Gleason, Calif.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

4010–C1–P–72—The Pacific Telephone & Telegraph Co. (KNK48), to add frequencies 11,225V MHz toward Mount Emma, Calif., and 11,465H MHz toward Mount Emma, Calif., and 6360.3H MHz toward Sherman Oaks, Calif.
4011–C1–P–72—The Pacific Telephone & Telegraph Co. (WBO39), to add frequencies 10,855V and 11,095H MHz toward Palmdale, Calif., and 10,816V and 11,055H MHz toward Mount Gleason, Calif.
4012–C1–P–72—The Pacific Telephone & Telegraph Co. (KNK63), to add frequencies 11,265V MHz and 11,505H MHz toward Mount Emma, Calif.

The following applicants propose to establish omnidirectional facilities for the provision of common carrier "Subscriber-Programmed" television service.

4013–C1–P–72—Microband Corp. of America (New), a new station at Memphis, Tenn. Latitude 35°08'43" N., longitude 90°03'05" W. Frequencies: 2152.325 (visual) and 2150.20 (aural) toward various receiving points of system and 2158.50 (visual) and 2154.00 (aural) toward various receiving points of system.
4087–C1–P–72—Peninsula Broadcasting Corp. (New), a new station at Third and Woodis Streets, Norfolk, Va. Latitude 36°51'19" N., longitude 76°18'10" W. Frequencies: 2152.325V MHz (visual) and 2150.20V MHz (aural) and 2158.50V MHz (visual) and 2154.00V MHz (aural) toward various receiving points of system.

(INFORMATIVE: Applicant, New York-Penn Microwave Corp., is modifying its original proposal for Specialized Common Carrier Radio Service between Washington, D.C., and Boston, Mass., and points in between, by filing the five new applications listed below.)

4031–C1–P–72—New York-Penn Microwave Corp. (New), C.P. for new station at Mine Ridge, 3.2 miles southeast of Strasburg, Pa., latitude 39°56'43" N., longitude 76°08'11" W. Frequency 6019.3V MHz on azimuth 249°04' toward Shrewsbury and 6049.0H MHz on azimuth 31°39' toward Morgantown.
4032–C1–P–72—New York-Penn Microwave Corp. (New), C.P. for new station 3.5 miles northwest of Morgantown, Pa., latitude 40°11'43" N., longitude 75°56'07" W. Frequency 6301.0H MHz on azimuth 211°47' toward Mine Ridge and 6390.0V on azimuth 66°58' toward West Rockhill.
4033–C1–P–72—New York-Penn Microwave Corp. (WDD68), location: West Rockhill, 2 miles northwest of Sellersville, Pa., latitude 40°23'02" N., longitude 75°21'02" W. Frequency 6167.6V MHz on azimuth 247°21' toward Morgantown and 6137.9V MHz on azimuth 61°43' toward Cushetunk Mountain.
4034–C1–P–72—New York-Penn Microwave Corp. (New), C.P. for new station on Cushetunk Mountain, 2.6 miles south of Lebanon, N.J., latitude 40°35'53" N., longitude 74°49'32" W. Frequency 6375.2V MHz on azimuth 242°03' toward West Rockhill and 6301.0V on azimuth 67°38' toward South Orange.
4035–C1–P–72—New York-Penn Microwave Corp. (New), C.P. for new station 1 mile northwest of South Orange, N.J., latitude 40°45'47" N., longitude 74°17'39" W. Frequency 6123.1H MHz on azimuth 247°59' toward Cushetunk Mountain and 10,875H MHz on azimuth 93°30' toward New York.
4037–C1–P–72—Eastern Microwave, Inc. (KEM58), C.P. to add a point of communication at Mount Greylock, Mass., using frequency 5960.0H MHz on azimuth 89°42'. Location: Helderberg Mountain, 1.75 miles northwest of New Salem, N.Y., at latitude 42°38'12" N., longitude 73°59'45" W. Applicant proposes to provide the signal of WPIX(TV) to the former Northco Microwave system customers to improve existing service.
4038–C1–P–72—Frank K. Spain doing business as Microwave Service Co. (KLH80), C.P. to add a point of communications 1 mile northwest of Saltillo, Miss., by intercepting frequencies 6012.5V and 6212.5V MHz from an existing microwave route on azimuth 11°46'. Station location: 2.5 miles north of Tupelo, Miss., at latitude 34°19'24" N., longitude 88°42'39" W. Applicant proposes to provide the television signals of WREC–TV and WHBQ–TV of Memphis, Tenn., to Cablevision, Inc., in Saltillo, Miss.
4039–C1–MP–72—General Telephone Co. of the Northwest (WAY64), 426 Casino Road, Everett, WA, latitude 47°55'19" N., longitude 122°13'34" W. To add frequencies 6226.9V and 6345.5V MHz toward Deer Creek Flats, Wash.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

4040–C1–MP–72—General Telephone Co. of the Northwest (WAY65), 1.5 miles west of Index, Wash., latitude 47°49'59" N., longitude 121°34'42" W. To add frequencies 5974.8 and 6093.5V MHz toward Everett, Wash., and 10,855V and 11,095V MHz toward Maloney Lookout, Wash.

4041–C1–MP–72—General Telephone Co. of the Northwest (WAY66), 1.5 miles southeast of Skykomish, Wash., latitude 47°41'42" N., longitude 121°20'11" W. To add frequencies 11,385V and 11,625V MHz toward Deer Creek Flats, Wash. 11,545H and 11,665H double passive reflector at Delberts Ridge, latitude 47°44'57" N., longitude 121°08'56" W., to Stevens Pass, Wash.

4042–C1–MP–72—General Telephone Co. of the Northwest (WAY67), 3 miles northeast of Scenic, Wash., latitude 47°44'51" N., longitude 121°05'22" W. To add frequencies 11,015H and 11,135H MHz toward Maloney Lookout (WAY66) via passive reflectors, and frequencies 6256.5H, 6375.2H, and 2112.4H MHz toward new point of communication located at Miners Ridge, Wash., via passive reflector.

4043–C1–P–72—General Telephone Co. of the Northwest (New), 6004.5H, 6123.1H, and 2162.4H MHz towards Stevens Pass, Wash., via passive reflector Delberts Ridge, Wash. Add frequencies 5952.6V, 6063.8V, and 2167.2V MHz toward Chelan Butte.

4044–C1–P–72—General Telephone Co. of the Northwest (KTF80), 6197.2V, 6315.9V, and 2117.2V MHz toward Miners Ridge, Wash. Frequencies 11,265H, 11,505H, and 2126.8H MHz toward Harmony Heights, Wash. Station location: 2.9 miles southwest of Chelan, Wash.

4045–C1–P–72—General Telephone Co. of the Northwest (New), 8 miles northwest of Brewster, Wash. Frequencies: 10,735H, 10,975H, and 2176.8H MHz toward Chelan Butte, Wash., and 10,835V and 11,075V MHz toward Brewster Flats, Wash.

4046–C1–P–72—General Telephone Co. of the Northwest, Inc. (KTF78), 5 miles northeast of Brewster, Wash. Frequencies 11,365V and 11,605V MHz toward Harmony Heights, Wash., and 11,345H, 11,465H, and 11,585H MHz toward Pearl Mountain, Wash.

4047–C1–P–72—General Telephone Co. of the Northwest, Inc. (KTF79), 3 miles southeast of Bridgeport, Wash. Frequencies: 10,815H, 10,935H, and 11,055H MHz toward Brewster Flats, Wash., and 10,775V, 10,895V, 11,115V, and 2179.2V MHz toward Sulphur Canyon, Wash.

4048–C1–P–72—General Telephone Co. of the Northwest, Inc. (New), 13 miles west of Coulee City, Wash. Frequencies: 11,305V, 11,425V, 11,665V, and 2129.2V MHz toward Pearl Mountain, Wash., and 6197.2V, 6256.5V, 6315.9V, and 2122.0V MHz toward Two Springs Canyon, Wash.

4049–C1–P–72—General Telephone Co. of the Northwest, Inc. (KTF813), 4.5 miles north-northeast of Winchester, Wash. Frequencies: 2172.0H, 5945.2V, 6004.5V, and 6063.8V MHz toward Sulphur Canyon, Wash.

4050–C1–P–72—Pacific Power & Light Co. (KPE25), Kalispell, Mont. Frequency 6160.0V MHz toward Blacktail Mountain via passive reflector.

4051–C1–P–72—Pacific Power & Light Co. (New), 216 First Street, East Polson, Mont. Frequencies: 10,795H and 11,035H MHz toward passive reflector via passive reflector, latitude 47°40'17" N., longitude 114°09'56" W.

4052–C1–P–72—Pacific Power & Light Co. (KPG94), Blacktail Mountain, Mont. Frequencies: 6235V MHz toward Kalispell, Mont., via passive reflector and 11,245H and 11,485 MHz toward Kalispell via passive reflector, latitude 47°40'17" N., longitude 114°09'56" W.

INFORMATIVE: Applicant, MCI Michigan, Inc., is modifying its original proposal for specialized common carrier radio service between Toledo, Ohio, and Detroit, Mich., and other major cities in Michigan by filing two new applications as listed below.

4073–C1–P–72—MCI Michigan, Inc. (New), Site 15, Fowlerville, Mich., C.P. for a new station 1.5 miles north of Fowlerville, Mich., at latitude 42°41'04" N., longitude 84°04'14" W. Frequencies: 6197.2H MHz on azimuth 233°03' toward Leslie, Mich., and 6197.2V MHz on azimuth 14°20' toward Lennon, Mich.

4074–C1–P–72—MCI Michigan, Inc. (New), Site 25, Northville, Mich., C.P. for a new station 4.5 miles northwest of Northville, Mich., at latitude 42°27'44" N., longitude 83°34'17" W. Frequencies: 6226.9H MHz on azimuth 214°35' toward Ann Arbor, Mich., and 3770.0V MHz on azimuth 49°40' toward Pontiac, Mich., and 6226.9V MHz on azimuth 124°49' toward Dearborn, Mich.

4076–C1–P–72—American Telephone & Telegraph Co. (KEL79), 911 10th Avenue, New York, NY. Frequencies: 3910H and 5974.9V MHz toward Roslyn Harbor, N.Y.

POINT-TO-POINT MICROWAVE RADIO SERVICE—continued

4077–C1–P–72—American Telephone & Telegraph Co. (KYS89), Roslyn Harbor, 0.1 mile northeast of Roslyn, N.Y. Frequencies: 3870H and 6226.9V MHz toward New York, N.Y., and 4030V and 6226.9V MHz toward Stamford, Conn.

4078–C1–P–72—American Telephone & Telegraph Co. (KYS88), intersection of Catoona and Mayno Lane, Stamford, Conn. Frequencies: 4070V and 5974.8H MHz toward Roslyn Harbor, N.Y., and 4150V and 5974.8H MHz toward South Salem, N.Y.

4079–C1–P–72—American Telephone & Telegraph Co. (KYS87), 1.4 miles southeast of South Salem, N.Y. Frequencies: 4110V and 6226.9V MHz toward Stamford, Conn., and Putnam Valley, N.Y.

4080–C1–P–72—American Telephone & Telegraph Co. (KTQ67), Putnam Valley, 3.9 miles east of Cold Spring, N.Y. Frequencies: 4150V and 5974.8H MHz toward South Salem, N.Y.

4085–C1–AL–(2)–72—Evangeline Telephone Co. (KLS40) (KLS41), consent to assignment of license from General Telephone of the Southwest, Assignor, to Evangeline Telephone Co., Assignee.

Major Amendment

4616–C1–P–70—New York-Penn Microwave Corp. (New), station location: 2647 University Boulevard West, Wheaton, MD. Delete frequency 6182.4 MHz; change polarization of frequency 6301.0 MHz to horizontal toward Taylorsville.

4617–C1–P–70—New York-Penn Microwave Corp. (New), station location: 1.7 miles south-southwest of Taylorsville, MD. Replace frequencies 5989.7 and 6108.3 MHz with frequency 6167.6 toward Wheaton. Delete frequency 6078.6 MHz toward Shrewsbury and 6167.6 toward Baltimore.

4618–C1–P–70—New York-Penn Microwave Corp. (New), station location: 4340 Park Heights Avenue, Baltimore, MD. Delete frequency 6360.3 MHz toward Taylorsville.

4619–C1–P–70—New York-Penn Microwave Corp. (New), station location: 1.6 miles north-northeast of Shrewsbury, Pa. Add frequency 6271.4V MHz toward Mine Ridge a new point of communication. Delete frequency 6330.7 MHz toward Taylorsville and frequencies 6182.4 and 6301.0 MHz toward York.

4621–C1–P–70—New York-Penn Microwave Corp. (New), station location: Empire State Building, 350 Fifth Avenue, New York, NY. Add frequency 11,525H MHz toward new point of communication at South Orange and delete frequency 11,135 MHz toward New Rochelle.

4622–C1–P–70—New York-Penn Microwave Corp. (New), station location: 271 North Avenue, New Rochelle, NY. Delete frequency 11,225 MHz toward New York and 6330.7 MHz toward Ridgefield.

4623–C1–P–70—New York-Penn Microwave Corp. (New), station location: 1.1 miles west of Ridgefield, Conn. Delete frequency 6078.6 MHz toward New Rochelle and 5989.7 MHz toward Watertown. Delete frequency 6019.3 MHz and change polarization of frequency 6137.9 MHz to horizontal toward Long Hill.

4624–C1–P–70—New York-Penn Microwave Corp. (New), station location: 2.2 miles east-northeast of Long Hill, Conn. Delete frequency 11,095 MHz toward Bridgeport and 6390.0 MHz toward Ridgefield. Replace frequencies 10,815 and 11,135 MHz with frequency 10,895 toward Hamden. Change transmitter (Lenkurt 76D3) output power to 2 watts.

4625–C1–P–70—New York-Penn Microwave Corp. (New), station location: 140 Fairfield Avenue, Bridgeport, CT. Delete frequency 11,505 toward Long Hill and change transmitter (Lenkurt 76D3) output power to 2 watts.

4626–C1–P–70—New York-Penn Microwave Corp. (New), station location: Baldwin Parkway, Hamden, Conn. Replace frequencies 11,225 and 11,545 MHz with frequency 11,305V MHz toward Long Hill.

4627–C1–P–70—New York-Penn Microwave Corp. (New), station location: 1.8 miles west-southwest of Watertown, Conn. Delete frequency 6241.7 MHz toward Ridgefield and 6390.0 MHz toward Avon.

4628–C1–P–70—New York-Penn Microwave Corp. (New), station location: 2.8 miles south-southeast of Avon, Conn. Delete frequency 11,135 MHz toward Hartford and 6108.3 MHz toward Wales. Change polarization of frequency 6019.3 MHz to vertical and delete frequency 6137.9 MHz toward Watertown. Delete frequency 5960.0 MHz and change polarization of frequency 6078.6 MHz to vertical toward Granville. Change transmitter (Lenkurt 76D3) output power to 2 watts.

4629–C1–P–70—New York-Penn Microwave Corp. (New), station location: 1 Tower Square, Hartford, CT. Delete frequency 11,545 MHz toward Avon and change transmitter (Lenkurt 76D3) output power to 2 watts.

4630–C1–P–70—New York-Penn Microwave Corp. (New), station location: 2.8 miles southwest of Granville, Mass. Replace frequencies 10,815 and 11,135 MHz with frequency 11,365V MHz toward Springfield. Delete frequency 6212.0 and change polarization of frequency 6330.7 MHz to vertical toward Avon.

4631–C1–P–70—New York-Penn Microwave Corp. (New), station location: Bridge and Chestnut Streets, Springfield, Mass. Replace frequencies 11,225 and 11,545 MHz with frequency 11,075H MHz toward Granville.

4632–C1–P–70—New York-Penn Microwave Corp. (New), station location: 1.4 miles northwest of Wales, Mass. Delete frequency 6360.3 MHz toward Avon and 6212.0 MHz toward Harrisville.

4633–C1–P–70—New York-Penn Microwave Corp. (New), station location: 4.3 miles northwest of Harrisville, R.I. Delete frequency 5960.0 MHz toward Wales; 11,135 MHz toward Worcester; 6137.9 MHz and change polarization of frequency 6019.3 MHz to vertical toward Providence. Delete frequency 5989.7 MHz toward Medfield.

4634–C1–P–70—New York-Penn Microwave Corp. (New), station location: 4.1 miles southwest of Worcester, Mass. Delete frequency 11,545 MHz toward Harrisville.

4635–C1–P–70—New York-Penn Microwave Corp. (New), station location: 111 Westminster Street, Providence, RI. Change polarization of frequency 6271.4 MHz to vertical and delete frequency 6390.0 MHz toward Harrisville.

4636–C1–P–70—New York-Penn Microwave Corp. (New), station location: 2.6 miles northnortheast of Medfield, Mass. Correct transmitter (Lenkurt 778A1) output power to 1.5 watts. Delete frequency 6271.4 MHz toward Boston and 6360.3 MHz toward Harrisville.

4637–C1–P–70—New York-Penn Microwave Corp. (New), station location: Prudential Building, Boston, Mass. Replace frequencies 6019.3 and 6137.9 MHz with frequency 6049.0V MHz toward Medfield.

All other particulars same as reported on Public Notice dated Apr. 13, 1970.

673–C1–P–72—Frank K. Spain doing business as Microwave Service Co. (New), change frequencies 6286.2 and 6404.8 MHz to 6301.0V and 6241.7V MHz on azimuth 89°50′. Station location: McNeill, Miss.

674–C1–P–72—Frank K. Spain doing business as Microwave Service Co. (New), change frequencies 6034.2 and 6152.8 MHz to 6049.0H and 6167.6H MHz on azimuth 86°20′. Station location: Howison, Miss.

675–C1–P–72—Frank K. Spain doing business as Microwave Service Co. (New), change frequencies 6197.2 and 6315.9 MHz to 6212.0V and 6330.7V MHz on azimuth 118°15′. Station location: Harleston, Miss.

676–C1–P–72—Frank K. Spain doing business as Microwave Service Co. (New), change frequency 10,715 MHz to 10,875H MHz on azimuth 32°25′. Station location: Poplarville, Miss.

684–C1–P–72—Frank K. Spain doing business as Microwave Service Co. (New), change frequency 10,715 MHz to 10,875H MHz on azimuth 342°55′ and change frequency 10,715 MHz to 10,875V MHz on azimuth 55°10′. Station location: Meridian, Miss.

686–C1–P–72—Frank K. Spain doing business as Microwave Service Co. (New), change frequency 10,755 MHz to 10,915H MHz on azimuth 359°45′. Station location: Moscow, Miss.

688–C1–P–72—Frank K. Spain doing business as Microwave Service Co. (New), change coordinates to latitude 33°05′30″ N., longitude 88°52′04″ W. Station location: Boon, Miss.

(All other particulars same as reported in Public Notice No. 557 dated Aug. 16, 1971.)

3869–C1–P–71—The Bell Telephone Co. of Pennsylvania (KYJ36), station location: 210 Pine Street, Harrisburg, PA. Delete frequency 11,285H MHz and change transmitters to Farinon Electric, SS11000–01 with an output power of 2 watts toward Manada.

3870–C1–P–71—The Bell Telephone Co. of Pennsylvania (KYJ37), station location: Manada, 2.7 miles northwest of Grantville, Pa. Change type of transmitters to Farinon Electric SS11000–01 with an output power of 2 watts and delete frequency 10,835H MHz toward Harrisburg. Change type of transmitters to Farinon Electric, SS6000–2Y with an output of 2.5 watts and delete frequency 11,425H MHz toward Manala. Change type of transmitters to Farinon Electric, SS11000–01 with an output of 2 watts and delete frequency 11,645H MHz toward Pottsville via a double passive reflector on Sharp Mountain, Pa.

3872–C1–P–71—The Bell Telephone Co. of Pennsylvania (New), change type of transmitters to Farinon Electric, SS–11000–01 with an output of 2 watts and delete frequency 10,715H MHz toward Bethel via a double passive reflector on Sharp Mountain, Pa.

All other particulars same as reported on Public Notices dated Feb. 1, 1971, and Aug. 23, 1971.

INFORMATIVE: Applicant, MCI Michigan, Inc., is amending 12 of its previously filed applications for authority to construct a new specialized common carrier service in a two State area from Toledo, Ohio, to Detroit, Mich., and serving a number of other major cities in Michigan. The applications now being amended were originally filed in February 1970. They appeared in Public Notice, Feb. 16, 1970, FCC Report No. 479A. No prior amendments to these applications have been filed. Each application that is now amended is referenced to the date filed. In addition two new sites are now proposed. The amendments and new applications are necessitated to insure compliance with the new engineering standards set forth in the Commission's first report and order in Docket No. 18920, effective July 15, 1971, and informative guidelines published regarding frequency coordination in Report No. 562, FCC Common Carrier Services Information released September 20, 1971.

4332–C1–P–70—MCI Michigan, Inc. (New), Site 13, Leslie, Mich. Change proposed station location to a new station 1.9 miles north of Leslie, Mich., at latitude 42°28′46″ N., longitude 84°26′16″ W. Correct azimuths and frequencies to frequencies 5974.8 MHz on azimuth 122°37′ toward Chelsea, Mich., 5974.8 MHz on azimuth 341°23′ toward Lansing, Mich., and 5945.2 on azimuth 52°49′ toward Fowlerville, Mich. Delete frequencies 10,835 and 11,075 MHz on azimuth 194°10′ toward Jackson, Mich., and 6256.5 and 6375.2 MHz on azimuth 327°24′ toward Lansing, Mich.

4333–C1–P–70—MCI Michigan, Inc. (New), Site 14, Lansing, Mich. Proposed station to be located at 124 West Allegan Street, Lansing, MI. Correct coordinates to latitude 42°43′58″ N., longitude 84°33′13″ W. Correct azimuths and frequencies to frequency 6197.2 MHz on azimuth 161°18′ toward Leslie, Mich. Delete frequencies 6093.5 and 6152.8 MHz on azimuth 147°15′ toward Leslie, Mich., and 6004.5 and 6123.1 MHz on azimuth 42°38′ toward Owosso, Mich.

4334–C1–P–70—MCI Michigan, Inc. (New), Site 16, Lennon, Mich. Change proposed station location to a new station 2.5 miles southwest of Lennon, Mich., at latitude 42°57′58″ N., longitude 83°58′21″ W. Correct azimuths and frequencies to frequencies 5945.2 MHz on azimuth 194°24′ toward Fowlerville, Mich., 5945.2 MHz on azimuth 356°12′ toward Layton Corners, Mich., and 6093.5 MHz on azimuth 76°13′ toward Flint, Mich. Delete frequencies 6226.9 and 6345.5 MHz on azimuth 222°54′ toward Lansing, Mich., and 6286.2 and 6404.8 MHz on azimuth 34°34′ toward Layton Corners, Mich. Delete Lansing, Mich., as a point of communication.

4336–C1–P–70—MCI Michigan, Inc. (New), Site 19, Flint, Mich. Proposed station to be located at 1 East Flint Street, Flint, MI. Correct coordinates to latitude 43°01′00″ N., longitude 83°41′23″ W. Correct azimuths and frequencies to frequency 6345.5 MHz on azimuth 256°25′ toward Lennon, Mich. Delete frequencies 6256.5 and 6375.2 MHz on azimuth 312°36′ toward Layton Corners, Mich., as a point of communication.

4338–C1–P–70—MCI Michigan, Inc. (New), Site 20, Chelsea, Mich. Change proposed station location to a new station 2.3 miles west of Chelsea, Mich., latitude 41°18′35″ N., longitude 84°04′54″ W. Correct azimuths and frequencies to frequencies 6197.2 MHz on azimuth 302°52′ toward Leslie, Mich., 6226.9 MHz on azimuth 255°17′ toward Jackson, Mich., and 6226.9 MHz on azimuth 97°11′ toward Ann Arbor, Mich. Delete frequencies 6345.5 MHz on azimuth 108°22′ toward Ann Arbor, Mich., 6197.2 and 6315.9 MHz on azimuth 251°29′ toward Jackson, Mich.

4339–C1–P–70—MCI Michigan, Inc. (New), Site 21, Ann Arbor, Mich. Proposed station to be located at 555 East William Street, Ann Arbor, MI. Correct coordinates to latitude 42°16′39″ N., longitude 83°44′34″ W. Correct azimuths and frequencies to frequencies 10,775.0 and 11,175.0 MHz on azimuth 237°22′ toward Bridgewater, Mich., 5974.8 MHz on azimuth 277°25′ toward Chelsea, Mich., and 5974.8 MHz on azimuth 34°28′ toward Northville, Mich. Delete frequencies 5974.8 and 6093.5 MHz on azimuth 147°11′ toward Maybee, Mich., 6004.5 and 6123.1 MHz on azimuth 106°19′ toward Riverview, Mich., and 6093.5 MHz on azimuth 288°33′ toward Chelsea, Mich. Delete Maybee, Mich., and Riverview, Mich., as points of communication.

Major Amendments—Continued

4340–C1–P–70—MCI Michigan, Inc. (New), Site 22, Bridgewater, Mich. Change proposed station location to a new station 2.5 miles northwest of Bridgewater, Mich., latitude 42°11'07" N., longitude 83°56'10" W. Correct azimuths and frequencies to frequencies 5974.8 MHz on azimuth 158°13' toward Petersburg, Mich., and 11,665.0 and 11,265.0 MHz on azimuth 57°14' toward Ann Arbor, Mich. Delete frequencies 6226.9 and 6345.5 MHz on azimuth 155°38' toward North Shores, Mich., and 6256.5 and 6375.2 MHz on azimuth 327°19' toward Ann Arbor, Mich. Delete North Shores, Mich., as a point of communication.

4341–C1–P–70—MCI Michigan, Inc. (New), Site 23, Petersburg, Mich. Change proposed station location to a new station 7.7 miles south of Petersburg, Mich., latitude 41°47'01" N., longitude 83°43'18" W. Correct azimuths and frequencies to frequencies 6226.9 MHz on azimuth 338°21' toward Bridgewater, Mich., and 11,485.0 and 11,245.0 MHz on azimuth 133°16' toward Toledo, Ohio. Delete frequencies 5945.2 and 6063.8 MHz on azimuth 335°44' toward Maybee, Mich., and 10,875.0 and 11,115.0 MHz on azimuth 206°34' toward Toledo, Ohio. Delete Maybee, Mich., as a point of communication.

4342–C1–P–70—MCI Michigan, Inc. (New), Site 24, Toledo, Ohio. Proposed station to be located at 5319 Madison Avenue, Toledo, OH. Correct coordinates to latitude 41°39'04" N., longitude 83°32'03" W. Correct azimuths and frequencies to frequencies 10,735.0 and 11,135.0 MHz on azimuth 313°23' toward Petersburg, Mich. Delete frequencies 11,405.0 and 11,645.0 MHz on azimuth 26°29' toward North Shores, Mich. Delete North Shores, Mich., as a point of communication.

4343–C1–P–70—MCI Michigan, Inc. (New), Site 27, Dearborn, Mich. Change proposed station location to a new station at Village Plaza, 23400 Michigan Avenue, Dearborn, MI, latitude 42°18'12" N., longitude 83°15'42" W. Correct azimuths and frequencies to frequencies 5945.2 MHz on azimuth 305°02' toward Northville, Mich., and 10,735.0 and 11,135.0 MHz on azimuth 80°41' toward Detroit, Mich. Delete frequencies 6226.9 and 6345.5 on azimuth 286°40' toward Ann Arbor, Mich., and 11,285.0 and 11,365.0 MHz on azimuth 28°38' toward Detroit, Mich. Delete Ann Arbor, Mich., as a point of communication.

4344–C1–P–70—MCI Michigan, Inc. (New), Site 28, Detroit, Mich. Change proposed station location to a new station at Guardian Building, 500 Griswold Street, Detroit, MI, latitude 42°19'47" N., longitude 83°02'46" W. Correct azimuth and frequencies to frequencies 11,625.0 and 11,225.0 MHz on azimuth 260°49' toward Dearborn, Mich. Delete frequencies 10,835.0 and 10,995.0 MHz on azimuth 208°44' toward Riverview, Mich., and 11,155.0 and 10,915.0 MHz on azimuth 330°01' toward Pontiac, Mich. Delete Riverview, Mich., and Pontiac, Mich., as points of communication.

4345–C1–P–70—MCI Michigan, Inc. (New), Site 26, Pontiac, Mich. Proposed station to be located in Pontiac State Bank Building, 28 North Saginaw Street, Pontiac, MI. Correct coordinates to latitude 42°38'14" N., longitude 83°17'30" W. Correct azimuth and frequency to frequency 3730.0 MHz on azimuth 229°52' toward Northville, Mich. Delete frequencies 11,245.0 and 11,485.0 MHz on azimuth 149°53' toward Detroit, Mich. Delete Detroit, Mich., as a point of communication.

[FR Doc.72–525 Filed 1–13–72;8:45 am]

FEDERAL POWER COMMISSION

[Project 237]

MOUNT DIABLO MERIDIAN, CALIF.

Order Partially Vacating Withdrawal

JANUARY 6, 1972.

In order to effectuate a proposed land exchange, application has been filed by the Forest Service, U.S. Department of Agriculture for vacation of the land withdrawal for Project No. 237 insofar as it pertains to the following described lands of the United States:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 17 N., R. 10 E.,
Sec. 4, lots 9, 10, 15, 16 (part of SW¼), lots 12, 14 (part of S½NW¼);
Sec. 9, lot 2 (part of N½NW¼).

This order also pertains to other lands withdrawn for Project No. 237. All of the lands, consisting of approximately 6,600 acres, are listed below. The lands lie within the Tahoe National Forest and are located along a 20-mile long corridor between the existing Jackson Meadows Reservoir on the Middle Yuba River and Missouri Bar (near the town of North Bloomfield) on the South Yuba River.

The lands are variously withdrawn pursuant to filings on July 25, 1921, and April 6, 1922, of original and amended applications for preliminary permit for Project No. 237 for which the Commission gave notices of land withdrawal to the General Land Office by letters dated August 19, 1921, and April 13, 1922. The original application for the preliminary permit was filed by the Excelsior Water and Mining Co. The amended application was filed by its successor, the Excelsior Water and Power Co.

All of the lands were withdrawn for possible conduit location in connection with a plan which contemplated diversion of the Middle Yuba River, at Jackson Meadow, to the suggested Anthony House reservoir (never constructed) on Deer Creek, a tributary of the main stem of the Yuba River. The lands in sec. 17, T. 18 N., R. 11 E., contain a suggested powerhouse site proposed in connection with said plan.

The application for Project No. 237 was rejected by the Commission on October 3, 1925 at which time a license was issued to the Nevada Irrigation District for competing Project No. 338 (relicensed as part of Project No. 2266) which is constructed and diverts the subject reach of the Middle Yuba River to Lake Spaulding. Consequently, the diversion proposed in Project No. 237 is no longer feasible.

No plans are known to be under consideration for hydroelectric development on the lands described below.

The Commission finds: Inasmuch as the lands are no longer needed for power development, the withdrawal for Project No. 237 should be vacated to the extent that it pertains to the lands described below.

The Commission orders: The land withdrawal for Project No. 237 is hereby vacated insofar as pertains to the lands described below.

By the Commission.

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

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 17 N., R. 10 E.,
Sec. 2, S½NE¼, NE¼SW¼, S½SW¼, NW¼SE¼;
Sec. 3, SE¼NE¼, NW¼, SE¼SW¼, NE¼SE¼, S½SE¼;
Sec. 4, NE¼, S½NW¼, SW¼;
Sec. 9, N½NW¼, SW¼NW¼;
Sec. 10, N½N½.
T. 18 N., R. 10 E.,
Sec. 24, S½SE¼;
Sec. 25, lot 4, N½NE¼, NE¼NW¼, S½NW¼, N½SW¼, SW¼SW¼;
Sec. 34, SE¼SW¼, S½SE¼;
Sec. 35, NE¼, NW¼SW¼, N½SE¼, SW¼SE¼;
Sec. 36, lots 1, 2, 9, 10, 11, 12, W½NE¼, NW¼NW¼, NW¼SE¼.
T. 18 N., R. 11 E.,
Sec. 10, S½NE¼, NE¼SW¼, N½N½SW¼SW¼, N½SE¼SW¼, N½S½SE¼SW¼, NW¼SE¼;
Sec. 12, N½N½, SE¼;
Sec. 14, N½SW¼, NW¼SE¼;
Sec. 15, S½SW¼, N½SE¼, SW¼SE¼;
Sec. 16, NE¼NE¼, S½NE¼, SW¼, NW¼SE¼, S½SE¼;
Sec. 17, lot 6, E½SE¼;
Sec. 19, lots 9 and 10;
Sec. 20, NE¼NE¼, W½NE¼, E½NW¼, SW¼NW¼, N½SW¼, SW¼SW¼;
Sec. 21, N½N½;
Sec. 30, lots 1, 2, N½ of 3, 8, 9, and 10, N½NE¼, SW¼NE¼, NW¼SE¼;
Sec. 31, lot 1, NE¼NW¼.
T. 18 N., R. 12 E.,
Sec. 2, lots 1, 2, 3, 4, SE¼NW¼;
Sec. 6, S½S½;
Sec. 7, lots 1, 2, 3, NE¼NE¼, W½NE¼, E½NW¼, NE¼SW¼.
T. 19 N., R. 12 E.,
Sec. 24, E½, SE¼NW¼, N½SW¼, SW¼SW¼;
Sec. 26, NW¼NE¼, NE¼NW¼, S½NW¼;
Sec. 32, SE¼SE¼;
Sec. 34, N½NW¼, SW¼NW¼;
Sec. 36, W½NW¼.

Approximately 6,600 acres.

[FR Doc.72–572 Filed 1–13–72;8:47 am]

[Docket No. E–7689]

ARIZONA PUBLIC SERVICE CO.

Notice of Extension of Time

JANUARY 7, 1972.

On December 27, 1971, Arizona Public Service Co. filed a request for an extension of time within which to answer the petition to intervene filed by Trico Electric Cooperative, Inc., on December 13, 1971, in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to and including January 7, 1972, within which answers may be filed to the petition to

intervene filed by Trico Electric Cooperative, Inc.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-573 Filed 1-13-72;8:47 am]

[Docket No. CP72-169]

ARKANSAS LOUISIANA GAS CO.

Notice of Application

JANUARY 10, 1972.

Take notice that on December 29, 1971, Arkansas Louisiana Gas Co. (applicant), Post Office Box 1734, Shreveport, LA 71163, filed in Docket No. CP72-169 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas in interstate commerce for resale to Oklahoma Natural Gas Gathering Corp. and Pioneer Gas Products Co. from Major County, Okla., all as more fully set forth in the application which is 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 application should on or before January 31, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-574 Filed 1-13-72;8:47 am]

[Docket No. E-7602, R-427]

CENTRAL TELEPHONE & UTILITIES CORP.

Order Granting Motion for Consideration

JANUARY 7, 1972.

On May 19, 1971, the Commission issued an order in Docket No. E-7602 providing for hearing suspending in part and rejecting in part proposed rate schedule changes, initiating proceedings under section 206 of the Federal Power Act, and allowing intervention. The filing was accepted for the purpose of initiating proceedings under 205 of the Act insofar as Municipals[1] were concerned but was rejected for such purposes insofar as the Cooperatives[2] were concerned. However, the portion of the proposed rate increased filing applicable to the Cooperatives was treated under 206 of the Act.

The stated reason in the Commission's order for treating the filing differently as applied to the Cooperatives on one hand and the Municipals on the other was that the Cooperatives contracts and the company rate schedule did not contain language from which it might be reasonably inferred that the parties contemplated rate changes on a unilateral basis while in the case of the Municipals such language was in their contracts. Specifically all of the Municipals' contracts contain the paragraph:

The rate schedule above referred to constitutes the present rate of Company for the class of service contracted for and is subject to change by order of the legally constituted ratemaking body having jurisdiction over the Companies rates.

In their petition for rehearing the Municipals seek in general to have the Commission change its order of May 19, by rejecting Central's filing under section 205 of the Act because: (1) The paragraph cited in the Commission's order as justification for initiating the 205 proceeding contemplates a change in their effective rate schedules only after an investigation by the Commission under 206 of the Act; and (2) the Commission's construction of the Municipals' contracts as set out in the order of May 19 would sanction "Central's patent and unjustifiable discrimination against its Municipal wholesale customers with respect to terms and conditions of service."

[1] The Kansas Municipal Defense Group consisting of the cities of Cawker, Cimmarron, Coats, Glasco, Glen Elder, Holyrood, Isabel, Jamestown, Lucas, Luray, Mankato, Montezuma and Tipton, Kans.

[2] Valley Electric Cooperative Association, Inc.; The C.M.S. Electric Cooperative Association, Inc.; The C&W Rural Electric Cooperative Association, Inc.; Jewell-Mitchell Cooperative, Inc.; Ninnescah Rural Electric Cooperative Association, Inc.; Norton-Decatur Cooperative Electric Co., Inc.; The Smoky Hill Electric Cooperative Association, Inc.; Sumner-Cowley Electric Cooperative, Inc.; and Victory Electric Cooperative Association, Inc.

On July 16, 1971, the Commission issued an order Granting Rehearing for the purpose of further consideration. On August 10, 1971, the Commission granted rehearing in its order Granting Rehearing and Amending Previous Order. In this order all parties were required to respond to the Municipals' petition in writing.

On December 15, 1971, Central Telephone & Utilities Corp. (Central) filed a motion with the Commission requesting that the entire proceeding be considered under section 206 of the Federal Power Act if the Commission should decide that the filing could not be accepted for both the Municipals and Cooperatives under section 205.

Since the Commission is of the opinion that its original order of May 19, 1971, was correct,[3] the filing cannot be accepted for both the Municipals and the Cooperatives under section 205. Therefore, the Commission is disposed to grant Central's motion and treat the filing under section 206 of the Act. This effectively moots the questions raised by the Municipals in their petition for rehearing. In granting Central's motion the Commission will further vacate so much of Order No. 437 A-3 as pertains to this proceeding.

The Commission further finds: (1) It is in the public interest to grant the motion of Central that the entire filing in this case be adjudicated under section 206 of the Federal Power Act.

The Commission orders: (A) That the entire filing in the Docket be adjudicated under section 206 of the Federal Power Act.

(B) That the relief sought in the Municipals petition for rehearing of the Commissions orders of May 19, 1971, is hereby denied because the issues raised therein are moot.

(C) The Commission hereby vacates so much of the Commission Order No. 437 A-3 issued November 19, 1971, as relates to this proceeding by ordering all reference to Central stricken from Appendix A of Order No. 437 A-3.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-575 Filed 1-13-72;8:47 am]

[Docket No. E-7691]

CLEVELAND ELECTRIC ILLUMINATING CO. ET AL.

Notice of Rate Schedule Filing

JANUARY 10, 1972.

Take notice that on November 30, 1971, the CAPCO Group filed an interconnection agreement known as the

[3] Reinforcing the reasoning in the Commission's order of May 19, 1971, is the Commission's Opinion No. 608, issued Jan. 3, 1972, in Carolina Power & Light Co., Docket No. E-7564. See also: Capital Electric Power Ass'n v. F.P.C., CADC, No. 71-1237, May 13, 1971, certiorari denied, No. 71-397, Nov. 9, 1971.

CAPCO transmission facilities agreement and the CAPCO administration agreement, both dated September 14, 1967, and executed November 1, 1971.

The transmission agreement is filed as an initial rate schedule and the parties to the agreement are The Cleveland Electric Illuminating Co. (CEI), Duquesne Light Co. (DL), Ohio Edison Co. (OE), and its wholly owned subsidiary Pennsylvania Power Co., and The Toledo Edison Co. (TE).

The transmission network is intended to permit utilization by the parties of their various capacity entitlements in generating units and obligations to each other pursuant to the CAPCO basic generating capacity agreement and the CAPCO basic operating agreement, respectively.

The proposed transmission agreement provides for the construction, operation and maintenance of a transmission network between the five companies to effectuate their intention to coordinate generating operations among themselves and other systems with a sharing of benefits and responsibilities.

Each party will own all the transmission facilities in its service area. A party's share of the total cost of transmission facilities will be borne, as appropriate, by ownership and operation of CAPCO Lines, and by the net effect of payments and receipt of payments with respect to the obligation to bear fixed charges and operating expenses as delineated in the proposed Exhibit B and Section 3.05 of the proposed agreement.

Additional CAPCO Lines shall be provided for by the executive committee with investment responsibility allocated among the parties pursuant to section 4.02 of the transmission agreement.

The transmission facilities of each party is to be mutually available for the purposes of the agreement, with each party allowed, after notice, to make changes it deems desirable to its own system.

The proposed agreement is to be interpreted so as not to conflict or interfere with the performance of any agreement between any party and another party or nonparty. The parties are free to enter into new agreements with other parties or systems to the extent that it does not impair operations or ability to perform under the agreement.

The agreement shall continue in effect until termination is mutually agreed upon by all the parties, with notice of withdrawal from the generating agreement being deemed notice of withdrawal from this agreement.

The parties have requested waiver of the Commission's notice requirement to permit an effective date of September 30, 1971.

Any person desiring to be heard or to make any protest with any reference to said application should on or before January 25, 1972, 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 or to participate as a party in any hearing therein must file petitions to interevene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-576 Filed 1-13-72;8:47 am]

[Docket No. RP71-50]

EASTERN SHORE NATURAL GAS CO.

Order Permitting Tracking Rate Increase to Become Effective and Limiting Authority to Track Purchased Gas Cost Increases

JANUARY 7, 1972.

Eastern Shore Natural Gas Co. (Eastern Shore), on December 3, 1971, tendered for filing revised tariff sheets to its FPC Gas Tariff, Original Volume No. 1 [1] designed solely to track the rate increase filed by its supplier Transcontinental Gas Pipeline Corp. (Transco) in Docket No. RP72-78. The revised tariff sheets reflect proposed rate changes which would increase charges to its jurisdictional customers by $61,063 annually.

Eastern Shore requests waiver of notice under the Commission's regulations in order to permit its proposed increased rates to become effective on January 1, 1972, coincidental with the effective date of Transco's proposed increase in Docket No. RP72-78. Eastern Shore states that it received insufficient notice from Transco to enable it to make its filing within the required 30-day notice period for an effective date coincidental with that of Transco.

The proposed increases are consistent with the tracking authorization granted Eastern Shore by the Commission's letter order issued May 18, 1971, in Docket No. RP71-50. Eastern Shore has shown sufficient reason for waiver of the 30-day notice requirement. Accordingly, we will accept the proposed revised tariff sheets to become effective on January 1, 1972. However, we are of the opinion that the unlimited tracking authority provided in our letter order of May 18, 1971, is not appropriate nor in the public interest. Under the circumstances we believe it is reasonable to limit Eastern Shore's tracking authority to a period of 6 months from the date of issuance of this order. Accordingly, we will amend our letter order of May 18, 1971, to provide for such limitation. However, our action herein will be specifically made subject to the pending rule making proceeding with respect to purchased gas adjustment clauses in Docket No. R-406.

The Commission finds:

(1) Good cause has been shown for waiver of the 30-day notice requirement of the Commission's regulations under the Natural Gas Act in order to permit the revised tariff sheets tendered for filing by Eastern Shore on December 3, 1971, to become effective on January 1, 1972.

(2) It is reasonable and proper and in the public interest in carrying out the provisions of the Natural Gas Act to amend our letter order issued May 18, 1971, in order to limit the tracking authority provided in that order, as hereinafter ordered and conditioned.

(3) In view of all the facts and circumstances in this case, the Commission's action herein is consistent with the Economic Stabilization Act of 1970, as amended, and regulations existing thereunder.

The Commission orders:

(A) The 30-day notice requirement of the Commission's regulations under the Natural Gas Act is hereby waived and the revised tariff sheets designated in footnote 1 above are permitted to become effective on January 1, 1972, consistent with the tracking authorization provided in the letter order to Eastern Shore, issued May 18, 1971, in Docket No. RP71-50.

(B) The letter order issued May 18, 1971, in Docket No. RP71-50 is amended to limit the tracking authorization provided in that order to a period of 6 months from the date of issuance of this order, subject to further orders issued in Docket No. RP71-50 and to the pending rulemaking proceedings in Docket No. R-406.

(C) In all other respects, the letter order of May 18, 1971, in this proceeding shall remain in full force and effect.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc. 72-577 Filed 1-13-72;8:48 am]

[Docket No. E-7679]

FLORIDA POWER CORP.

Order Accepting for Filing

JANUARY 10, 1972.

Order accepting for filing and suspending proposed tariff changes, providing for hearing, establishing procedures, permitting interventions and denying motion to reject filing.

On November 12, 1971, Florida Power Corp. (Florida Power) tendered for filing proposed changes in its FPC Electric Tariff, Original Volume No. 1, which would provide increased revenues of $3,147,458 on a 1970 test-year basis for firm wholesale electric service. Florida Power requests that its proposed rates become effective on January 11, 1972, for customers served under contracts whose term has expired and upon expiration

[1] Fourth Revised Sheets Nos. 6 and 9F, 10th Revised Sheets Nos. 18C and 18N, 11th Revised Sheet No. 9B, 14th Revised Sheet No. 18-A, 27th Revised Sheet No. 11, and 28th Revised Sheet No. 8. On Dec. 6, 1971, Eastern Shore tendered a new Fourth Revised Sheet No. 9F to correct an error in the proposed effective date.

of existing contracts for the remaining customers.

Florida Power states that this rate increase is necessary in order to finance large anticipated construction programs and to distribute fairly among retail and wholesale customers the rate increases by which revenues are raised. Florida Power also requests the Commission, if it suspends the proposed rates, to suspend them for only 1 day on the ground that the notice requirements of the contracts compelled the company to forego a wholesale rate increase for a period in excess of 5 months. Florida Power further requests the Commission to permit the filing more than 90 days before application to customers with unexpired contracts for simultaneous disposition of all matters concerning the proposed rates.

Petitions to intervene were timely filed on December 28, 1971, by a group of nine cooperative customers [1] and jointly by the Twelve City Power Supply Committee and 12 municipal customers [2] (Cities) of Florida Power. All the petitioners state that their interests will be directly affected by Florida Power's proposed rate changes, that their interests cannot be adequately represented by other parties, and that they may be bound by the Commission's action in this proceeding.

In their December 28 filing the cooperatives protest the proposed increased rates and certain provisions of the tariff and new wholesale contracts as unjust and unreasonable. In addition, the cooperatives urge that Statement N should be required before acceptance of Florida Power's filing and that if suspension of the effective date is appropriate, the suspension period should be 5 months. The cooperatives further allege that Florida Power's contract with Peace River Electric Cooperative, Inc. (Peace River), does not permit termination or a unilateral change in rates until July 1, 1972.

The failure of Florida Power to file Statement N does not justify rejection of the filing, but it is necessary for Statement N to be filed and the company should be required to do so within 15 days of the issuance of this order. Provision should be made in Florida Power's proposed tariff for the new rates applicable to Peace River to be charged not earlier than the expiration of its present contract with Florida Power.

In their December 28 filing the Cities protest Florida Power's proposed tariff and increased rates, move that the company's filing be rejected, and request that the tariff, if not rejected, be suspended for 5 months. As grounds for rejection the Cities state that the tariff filing fails to satisfy the substantive standards of the economic stablization program, including the desired 2½ percent rate of inflation and the four guidelines published in CCH, Economic Controls, paragraph 3030.05. The Cities also assert that certain proposed provisions of the tariff and absence of other provisions violate antitrust law and policy and that Florida Power has engaged in anticompetitive practices in the past.

In view of all the facts and circumstances in this case, the Commission's action herein of permitting the subject rate increases to become effective, subject to refund, at the expiration of the suspension period ordered herein pending Commission determination of the justness and reasonableness of such increased rates is consistent with the Economic Stabilization Act of 1970, as amended, and regulations existing thereunder. Florida Power's filing will therefore not be rejected on this ground. The Cities' motion for rejection on other grounds should be denied. Nonetheless, some issues which the Cities have raised should be developed in an evidentiary proceeding. Upon consideration we also find that it would not be appropriate to waive the 90-day notice requirement at this time and that further consideration may be given to Florida Power's request upon submission of service agreements with the customers whose contracts have not yet expired.

The Commission finds:

(1) The proposed increased rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful.

(2) It is necessary and appropriate in the public interest and in carrying out the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates, charges, classifications, services, and other provisions contained in Florida Power Corp.'s proposed FPC Electric Tariff, and that such tariff be suspended and the use thereof deferred as hereinafter provided.

(3) Good cause has not been shown for suspension for less than 5 months.

(4) Florida Power made its filing 59 days before the proposed effective date and did not request waiver of the 60-day notice requirement. The suspension period will therefore begin running from January 12, 1972.

(5) The participation in this proceeding of the above-named petitioners may be in the public interest.

The Commission orders:

(A) Pursuant to the authority of the Federal Power Act, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act, a public hearing shall be held concerning the lawfulness of the rates, charges, classifications, services, and other provisions contained in Florida Power Corp.'s proposed FPC Electric Tariff, commencing with a prehearing conference to be held on April 18, 1972.

(B) Pending such hearing and decision thereon, Florida Power's proposed changes in its FPC Electric Tariff, Original Volume No. 1, is accepted for filing and is suspended and its use deferred until June 12, 1972.

(C) The Cities' motion to reject the company's filing is denied.

(D) Florida Power's request for waiver of the 90-day notice requirement as to certain unexpired contracts is denied.

(E) The above-named petitioners are hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting rights and interests specifically set forth in their respective petititons to intervene: *And provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that they, or any of the, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(F) At the prehearing conference the direct evidence of Florida Power, intervenors and the Commission staff shall be admitted into the record, subject to appropriate motions, if any, by the parties to the proceeding, and procedures adopted for an orderly and expeditious hearing.

(G) On or before April 7, 1972, the Commission staff shall serve its prepared testimony and exhibits, if any. The prepared testimony and exhibits, if any, of intervenors shall be served on or before April 21, 1972. Rebuttal evidence, if any, of Florida Power Corp. shall be served on or before May 9, 1972. Cross-examination of the evidence filed shall commence at 10 a.m., on May 23, 1972, in a hearing room of the Federal Power Commission.

(H) In the event this proceeding is not concluded prior to the termination of the suspension period herein ordered, the placing of the tariff changes applied for in this proceeding into effect subject to refund with interest while pending Commission determination as to their justness and reasonableness is consistent with the purposes of the Economic Stabilization Act of 1970, as amended.

(I) Within 15 days of the issuance of this order, Florida Power shall file Statement N as required by the Commission's regulations under the Federal Power Act.

(J) The Chief Examiner or any other designated by him for that purpose (see Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in these proceedings and shall prescribe relevant procedural matters not herein provided.

By the Commission.

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

[FR Doc.72-578 Filed 1-13-72;8:48 am]

[1] Central Florida Electric Cooperative, Inc., Clay Electric Cooperative, Inc., Glades Electric Cooperative, Inc., Peace River Electric Cooperative, Inc., Sumter Electric Cooperative, Inc., Suwanee Valley Electric Cooperative, Inc., Talquin Electric Cooperative, Inc., Tri-County Electric Cooperative, Inc., and Withlacoochee River Electric Cooperative, Inc.

[2] Cities of Alachua, Bartow, Bushnell, Chattahoochee, Fort Meade, Mount Dora, Newberry, Ocala, Quincy, Lake Helen, Leesburg, and Williston, Fla.

[Docket No. CI72-394]

HUMBLE OIL & REFINING CO.

Notice of Application

JANUARY 12, 1972.

Take notice that on January 5, 1972, Humble Oil & Refining Co. (applicant), Post Office Box 2180, Houston, TX 77001, filed in Docket No. CI72-394 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. (Transco) from the Pecan Island Field, Vermilion Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas to Transco from the date of Commission authorization through December 31, 1972, within the contemplation of section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70) at the rate of 35 cents per Mcf at 15.025 p.s.i.a. Applicant proposes to sell a maximum daily volume of 15,000 Mcf of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before January 24, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-568 Filed 1-13-72;8:50 am]

[Docket No. CP72-161]

TOWN OF MOULTON, IOWA ET AL.

Notice of Application

JANUARY 6, 1972.

Take notice that on December 17, 1971, the town of Moulton, Iowa 52572, filed pursuant to section 7(a) of the Natural Gas Act and Allerton Gas Co., Allerton, Iowa 50008, filed pursuant to section 7(c) of the Natural Gas Act an application in Docket No. CP72-161 for an order of the Commission directing Michigan Wisconsin Pipe Line Co. (respondent) to establish physical connection of its natural gas transmission facilities with the distribution facilities proposed to be constructed by the town of Moulton, Iowa, and to deliver to Moulton volumes of natural gas for the account of the Allerton Gas Co. and for a certificate of public convenience and necessity authorizing the sale of natural gas by Allerton to Moulton, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Respondent currently is authorized to deliver and to sell to Allerton 2,100 Mcf of natural gas per day by order issued in Docket No. CP71-236 on August 30, 1971. Applicants state that Allerton's recent authorized increase of 600 Mcf of natural gas per day was to serve in part an anticipated increase in the requirements of industrial consumers which has not materialized. Therefore, applicants request that respondent be directed to establish physical connection of its natural gas transmission facilities with proposed distribution facilities of Moulton and to deliver to Moulton 452 Mcf of natural gas allocated to Allerton. Moulton proposes to construct, own and operate approximately 4.46 miles of a 6.10-mile lateral line and requests that respondent construct 1.64 miles of the lateral line and a metering station. Applicants state that the total cost to Moulton of constructing its distribution system and lateral line will be approximately $221,000 which will be financed by issuance of gas revenue bonds.

Applicants further request that a certificate of public convenience and necessity be issued to Allerton authorizing the sale of natural gas by Allerton to Moulton and Allerton be exempted from Part 154 of the Commission's regulations under the Natural Gas Act but for the filing of one special rate schedule covering this sale (18 CFR 154.52), or in the alternative that the Commission waive jurisdiction over the entire sale of natural gas by Allerton to Moulton.

Any person desiring to be heard or to make any protest with reference to said application should on or before January 31, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-579 Filed 1-13-72;8:48 am]

[Docket Nos. RI71-970, etc.]

WARREN PETROLEUM CORP. ET AL.

Notice of Extension of Time

JANUARY 7, 1972.

Warren Petroleum Corp., Complainant vs. Sun Oil Co., Respondent, Docket No. RI71-970; Sun Oil Co., Dockets Nos. CI71-788 and CI72-156.

On January 3, 1972, Staff Counsel filed a motion for an extension of time to and including January 20, 1972, within which to answer the petition to intervene filed by Cities Service Oil Co. on December 27, 1971, in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to and including January 20, 1972, within which answers may be filed to the petition to intervene filed by Cities Service Oil Co.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-580 Filed 1-13-72;8:48 am]

[Docket Nos. CP72-12, CP72-89]

WESTERN GAS CORP.

Order Amending Order Issuing Certificate of Public Convenience and Necessity, Redesignating FPC Rate Schedule, and Cancelling Docket Number

JANUARY 6, 1972.

On September 29, 1971, Western Gas Corp. (Western) filed in Docket No. CP 72-89 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Western to continue in lieu of Southern Gas Co. (Southern), certificate holder in Docket No. CP72-12, the sale of natural gas to Texas Eastern Transmission Corp., all as more fully set forth in the application.

Western merged Southern effective July 1, 1971, and proposes to continue without change the sale of natural gas authorized in Docket No. CP72-12 effective August 17, 1971. Concurrently with its certificate application, Western filed a notice of succession to Southern Gas Co. FPC Rate Schedule No. 1.

After due notice by publication in the FEDERAL REGISTER on October 30, 1971 (36 F.R. 20913), no petition to intervene, notice of intervention, or protest to the granting of the application has been filed.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the order issuing a certificate in Docket No. CP72-12 should be amended as hereinafter ordered, that the related rate schedule should be redesignated, and that Docket No. CP72-89 should be canceled.

The Commission orders: (A) The order issuing a certificate in Docket No. CP72-12 is amended by substituting Western Gas Corp. in lieu of Southern Gas Co. as certificate holder, and in all other respects said order shall remain in full force and effect.

(B) Southern Gas Co. FPC Rate Schedule No. 1 is redesignated as Western Gas Corp. FPC Rate Schedule No. 1 effective as of August 17, 1971.

(C) Docket No. CP72-89 is canceled.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.72-581 Filed 1-13-72;8:48 am]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Modification to Area Wage Determination Decisions for Certain States

Modification to area wage determination decisions for specified localities in Illinois, Iowa, Louisiana, Michigan, Mississippi, Minnesota, Oklahoma, and Texas.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	*Date*
AM-330, AM-331, AM-332, AM-333, AM-341, AM-342, AM-343, AM-344, AM-2379, AM-6250.	Aug. 13, 1971.
AM-383	Aug. 18, 1971.
AM-489, AM-491, AM-492, AM-493, AM-494, AM-495, AM-496.	Aug. 20, 1971.
AM-2447, AM-2452, AM-2453, AM-2454, AM-2459, AM-3602, AM-3611, AM-3612, AM-3627.	Aug. 25, 1971.
AM-7489	Nov. 12, 1971.
AM-7716	Nov. 19, 1971.

are hereby modified as set forth below.

These modifications are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, "Procedure for Predetermination of Wage Rates," and of Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications are effective from their date of publication in the FEDERAL REGISTER until the end of the period for which the determinations being modified were issued and are to be used in accordance with the provisions of 29 CFR Part 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determination, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. number 553 is set forth in the document being modified.

The modifications to the area wage determination decisions listed above are set forth below.

Signed at Washington, D.C., this 7th day of January 1972.

HORACE E. MENASCO,
Administrator, Employment Standards Administration.

MODIFICATIONS

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-330—36 F.R. 15155, Cook County, Ill., Modification No. 4						
CHANGE:						
Boilermakers	$8.35	$0.50	$0.75	2%	$0.01	
Boilermakers' helpers	8.25	.50	.75	2%	.01	
WD No. 331—36 F.R. 15161, Du Page County, Ill., Modification No. 4						
CHANGE:						
Boilermakers	8.35	.50	.75	2%	.01	
Boilermakers' helpers	8.25	.50	.75	2%	.01	
WD No. AM-332—36 F.R. 15166, Kane County, Ill., Modification No. 4						
CHANGE:						
Boilermakers	8.35	.50	.75	2%	.01	
Boilermakers' helpers	8.25	.50	.75	2%	.01	
WD No. 333—36 F.R. 15170, Lake County, Ill., Modification No. 2						
CHANGE:						
Boilermakers	8.35	.50	.75	2%	.01	
Boilermakers' helpers	8.25	.50	.75	2%	.01	
WD No. 341—36 F.R. 15213, Will County, Ill., Modification No. 4						
CHANGE:						
Boilermakers	8.35	.50	.75	2%		
Boilermakers' helpers	8.25	.50	.75	2%	.01	
WD No. AM-343—36 F.R. 15218, Winnebago County, Ill., Modification No. 3						
CHANGE:						
Cement masons:						
Building	6.50	.15	.20			
Heavy and highway	6.50	.15	.20			
Boilermakers	8.35	.50	.75	2%	.01	
Boilermakers' helpers	8.25	.50	.75	2%	.01	
WD No. 343—36 F.R. 15223, Boone, De Kalb, Du Page, Kane, Kendall, Lake, McHenry and Will Counties, Ill. Modification No. 4						
CHANGE:						
Cement masons:						
Boone County	6.50	.15	.20			
WD No. AM-344—36 F.R. 15231, Bureau, Carroll, Henry, Jo Daviess, Lee, Ogle, Rock Island, Stephenson, Whiteside and Winnebago Counties, Ill. Modification No. 2						
CHANGE:						
Cement masons:						
Winnebago County	6.50	.15	.20			
WD No. AM-2,447—36 F.R. 16793, Black Hawk County (Waterloo), Iowa, Modification No. 2						
CHANGE:						
COUNTY:						
Black Hawk (city of Waterloo and abutting municipalities):						
WD No. AM-2,452—36 F.R. 16809, Johnson County (Iowa City), Iowa, Modification No. 1						
CHANGE:						
COUNTY:						
Johnson (city of Iowa City and abutting municipalities). Also change:						
Carpenters:						
Carpenters	6.245	.20	.15		.03	
Piledrivermen	6.495	.20	.15		.03	
Cement Masons	6.26					
Painters:						
Brush	6.30					
Paperhangers; structural steel; swing stage to 55 feet	6.55					
Spray	6.95					
WD No. AM-2,453—36 F.R. 16813, Linn County (Cedar Rapids), Iowa, Modification No. 1						
CHANGE:						
COUNTY:						
Linn (city of Cedar Rapids and abutting municipalities). Also change:						
Carpenters:						
Carpenters	6.47	.25			.02	
Millwrights; piledrivermen	6.82	.25			.02	
Cement masons	6.26	.21				
Painters:						
Brush	6.30					
Paperhangers; structural steel; swing state to 55 feet	6.55					
Spray	6.95					
WD No. AM-2,454—36 F.R. 16816, Polk County (Des Moines), Iowa, Modification No. 1						
CHANGE:						
COUNTY:						
Polk (city of Des Moines and abutting municipalities). Also change:						
Asbestos workers	8.025	.35	.25			
Cement masons:						
Cement masons	6.85					
Hanging, traveling scoffold slip form work mach. travel; float operator; color work	6.975					
Ironworkers:						
Ornamental; reinforcing; structural	6.635	.185	.50			
Laborers:						
General laborers	5.91	.275	.275			
Mortar mixers; motor buggies, when pouring concrete; Power tool operators. (Air tools, concrete vibrator, gunite, nozzlemen, electric drills and hammers)	6.01	.275	.275			
Plasterers' tenders	6.035	.275	.275			
Powder men	6.06	.275	.275			
Air tool, power tampers and other similar self-powered tools weighing 50 pounds and over	6.11	.275	.275			
All tunnel work	6.16	.275	.275			
Paving breakers weighing 50 pounds and over	6.21	.275	.275			
Plasterers	6.925					
Truck drivers	5.91					

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. 2,459— 36 F.R. 16833, Woodbury County (Sioux City), Iowa, Modification No. 1						
CHANGE:						
COUNTY:						
Woodbury (city of Sioux City and abutting municipalities). Also change:						
Asbestos workers	6.98	.01			.03	
WD No. AM-3,627—36 F.R. 16738, Caddo and Bossier Parishes, La., Modification No. 4						
CHANGE:						
Carpenters:						
Carpenters; soft floor layers, linoleum	5.65					
Piledrivers	5.90					
Millwrights	6.15					
Modification No. 2 in the FEDERAL REGISTER issued Dec. 24, 1971, to read Modification No. 3.						
WD No. AM-385—36 F.R. 15822, Huron County, Mich., Modification No. 4						
CHANGE:						
Painters (west of Highway 53):						
Brush	6.15	.35	.30			
Spray	6.90	.35	.30			
WD No. AM-489—36 F.R. 16461, Harrison and Pearl River Counties, Miss., Modification No. 3						
ADD:						
Glaziers	5.00				.03	
CHANGE:						
Painters-commercial:						
Brush and rollers	4.75				.03	
Spray	6.00				.03	
Structural steel under 30 feet:						
Brush and roller	5.00				.03	
Spray	6.00				.03	
WD No. AM-491—36 F.R. 16466, Highway Area I, Miss., Modification No. 1						
Mississippi-3-Area 1 D						
OMIT: Wage schedule originally issued.						
ADD:						
Air tool operator	1.75					
Asphalt raker	2.25					
Bricklayer	4.13					
Carpenter	2.75					
Carpenter helper	2.25					
Cement mason (finisher)	2.75					
Concrete saw operator	2.50					
Electrician	3.50					
Electrician helper	2.50					
Form setter	3.20					
Grade checker	2.25					
Ironworker, reinforcing	2.50					
Ironworker, helper reinforcing	2.00					
Ironworker, structural	2.50					
Laborer, unskilled	1.60					
Mason tender (cement mason helper)	2.00					
Mechanic helper	2.20					
Painter (structural steel)	2.50					
Piledriverman	2.50					
Truck driver	1.86					
Welder	2.50					
Power equipment operators:						
Aggregate spreader operator	2.25					
Air compressor operator	2.50					
Asphalt distributor-spreader operator	2.25					
Asphalt plant	2.50					
Backhoe or shovel operator	2.75					
Bulldozer operator	2.60					
Concrete batch plant operator	2.60					
Concrete finishing machine operator	3.00					
Curing machine operator	2.00					
Concrete paving machine operator	3.25					
Concrete spreader machine operator	2.50					
Crane, dragline operator	2.75					
Earth auger	2.50					
Fireman	2.50					
Joint filler	2.00					
Joint setter	2.38					
Loader operator (all types)	2.50					
Mechanic	2.75					
Mixer operator (all types)	2.50					
Motor patrol operator	2.75					
Mulcher operator	1.75					
Oiler-greaser	2.00					
Piledriver operator	2.75					
Roller operator (self-propelled)	2.09					
Scales (all types)	2.50					
Scraper operator	2.75					
Striping machine operator	3.25					
Tractor operator (track type)	2.50					
Tractor operator (wheel type)	1.60					
Trenching machine	2.50					
Mud-jack operator	2.50					
Concrete breaker and Hydro-hammer operator	2.00					

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
WD No. AM-492—36 F.R. 16467, Highway Area 2, Miss. Modification No. 1						
Mississippi-3-Area 2 D						
OMIT: Wage schedule originally issued.						
ADD:						
Air tool operator	1.80					
Asphalt raker	2.00					
Bricklayer	3.50					
Carpenter	2.80					
Carpenter helper	2.25					
Cement mason (finisher)	2.80					
Concrete saw operator	2.45					
Electrician	4.00					
Electrician helper	2.75					
Form setter	2.75					
Grade checker	2.50					
Ironworker, reinforcing	2.50					
Ironworker helper, reinforcing	2.00					
Ironworker, structural	2.50					
Laborer, unskilled	1.60					
Mason tender (cement mason helper)	2.25					
Mechanic helper	1.85					
Painter (structural steel)	3.50					
Piledriverman	2.80					
Truck driver	1.60					
Welder	2.25					
Power equipment operators:						
Aggregate spreader operator	2.20					
Air compressor operator	2.50					
Asphalt distributor-spreader operator	2.20					
Asphalt plant	2.55					
Backhoe or shovel operator	2.75					
Bulldozer operator	2.50					
Concrete batch plant operator	2.50					
Concrete finishing machine operator	2.53					
Curing machine operator	1.75					
Concrete paving machine operator	2.50					
Concrete spreader machine operator	2.25					
Crane, dragline operator	2.75					
Guard rail post driver	2.50					
Earth auger	2.75					
Fireman	2.50					
Joint filler	1.75					
Loader operator (all types)	2.25					
Mechanic	2.50					
Mixer operator (all types)	2.25					
Motor patrol operator	2.80					
Mulcher operator	1.75					
Oiler-greaser	1.75					
Piledriver operator	3.10					
Roller operator (self-propelled)	2.00					
Scales (all types)	1.90					
Scraper operator	2.60					
Striping machine operator	3.25					
Tractor operator (track type)	2.25					
Tractor operator (wheel type)	1.70					
Trenching machine	2.05					
Concrete breaker and Hydo-hammer operator	2.25					
WD No. AM-493—36 F.R. 16468, Highway Area 3, Miss., Modification No. 1						
Mississippi-3-AREA 3 D						
OMIT: Wage schedule originally issued.						
ADD:						
Air tool operator	2.25					
Asphalt raker	2.25					
Bricklayer	3.00					
Carpenter	3.00					
Carpenter helper	2.25					
Cement mason (finisher)	3.00					
Concrete saw operator	2.60					
Electrician	3.50					
Electrician helper	2.50					
Form setter	3.00					
Grade checker	2.25					
Ironworker, reinforcing	2.50					
Ironworker helper, reinforcing	2.00					
Ironworker, structural	2.50					
Laborer, unskilled	1.60					
Mason tender (cement mason helper)	2.50					
Mechanic helper	2.25					
Painter (structural steel)	3.17					
Piledriverman	2.60					
Truck driver	1.75					
Welder	3.00					
Trenching Machine Operator	2.25					
Power equipment operators:						
A frame truck (winch)	2.50					
Aggregate spreader operator	2.25					
Air compressor operator	2.50					
Asphalt distributor-spreader operator	2.25					
Asphalt plant	2.50					
Backhoe or shovel operator	2.50					
Bulldozer operator	2.75					
Concrete batch plant operator	2.80					
Concrete finishing machine operator	3.00					
Curing machine operator	2.25					
Concrete paving machine operator	3.00					
Concrete spreader machine operator	2.75					
Crane, dragline operator	3.00					
Guard rail post driver	3.00					
Earth auger	3.05					
Fireman	2.75					
Joint filler	2.25					
Joint setter	2.50					

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Mississippi–3–AREA 3 D—Continued						
OMIT: Wage schedule originally issued.						
ADD:						
Power equipment operators—Continued						
Loader operator (all types)	2.50					
Mechanic	2.90					
Mixer operator (all types)	2.35					
Motor patrol operator	2.85					
Mulcher operator	1.75					
Oiler-greaser	2.20					
Piledriver operator	3.25					
Roller operator (self-propelled)	2.20					
Steel machine operator	2.25					
Scales (all types)	2.35					
Scraper operator	2.75					
Striping machine operator	3.25					
Tractor operator (track type)	2.50					
WD No. AM–494—36 F.R. 16469, Highway Area 4, Miss., Modification No. 1						
Mississippi–3–AREA 4 D						
OMIT: Wage schedule originally issued.						
ADD:						
Air tool operator	2.25					
Asphalt raker	2.44					
Bricklayer	4.00					
Carpenter	3.00					
Carpenter helper	2.50					
Cement mason (finisher)	2.75					
Concrete saw operator	2.05					
Electrician	3.45					
Electrician helper	2.50					
Form setter	2.50					
Grade checker	2.00					
Ironworker, reinforcing	2.50					
Ironworker helper, reinforcing	2.25					
Ironworker, structural	2.75					
Laborer, unskilled	1.60					
Mason tender (cement mason helper)	2.00					
Mechanic helper	2.30					
Painter (structural steel)	3.38					
Piledriverman	2.75					
Truck driver	1.75					
Welder	2.75					
Power equipment operators:						
Aggregate spreader operator	2.25					
Air compressor operator	2.50					
Asphalt distributor-spreader operator	2.25					
Asphalt plant	2.50					
Backhoe or shovel operator	2.85					
Bulldozer operator	2.75					
Concrete batch plant operator	3.00					
Concrete finishing machine operator	2.90					
Curing machine operator	2.25					
Concrete paving machine operator	3.00					
Concrete spreader machine operator	2.80					
Crane, dragline operator	3.00					
Earth auger	2.75					
Fireman	2.35					
Joint setter	2.25					
Loader operator (all types)	2.35					
Mechanic	2.75					
Mixer operator (all types)	2.25					
Motor patrol operator	2.80					
Mulcher operator	1.75					
Oiler-greaser	2.00					
Piledriver operator	3.00					
Roller operator (self-propelled)	2.25					
Scales (all types)	1.90					
Scraper operator	2.75					
Striping machine operator	3.25					
Tractor operator (track type)	2.10					
Tractor operator (wheel type)	1.60					
Trenching machine	2.25					
Mud-jack operator	2.25					
WD No. AM–495—36 F.R. 16470, Highway Area 5, Miss., Modification No. 1						
Mississippi–3–Area 5 D						
OMIT: Wage schedule originally issued.						
ADD:						
Air tool operator	2.00					
Asphalt raker	2.00					
Bricklayer	3.25					
Carpenter	3.00					
Carpenter helper	2.40					
Cement mason (finisher)	2.75					
Concrete saw operator	2.50					
Electrician	4.10					
Electrician helper	2.50					
Form setter	2.50					
Grade checker	2.25					
Ironworker, reinforcing	2.50					
Ironworker helper, reinforcing	2.00					
Ironworker, structural	2.50					
Laborer, unskilled	1.60					
Mason tender (cement mason helper)	2.50					
Mechanic helper	2.25					
Painter (structural steel)	3.25					
Piledriverman	2.75					
Truck driver	1.75					
Welder	2.85					
Power equipment operators:						
"A" frame truck (winch)	2.25					
Aggregate spreader operator	2.25					
Air compressor operator	2.25					
Asphalt distributor-spreader operator	2.31					
Asphalt plant	2.50					

MODIFICATIONS—Continued

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
Mississippi–3–Area 5 D—Continued						
OMIT: Wage schedule originally issued.						
ADD:						
Power equipment operators—Continued						
Backhoe or shovel operator	2.50					
Bulldozer operator	2.60					
Concrete batch plant operator	2.50					
Concrete finishing machine operator	2.75					
Concrete paving machine operator	2.75					
Concrete spreader machine operator	2.75					
Crane, dragline operator	3.00					
Guard rail post driver	2.50					
Earth auger	2.75					
Fireman	2.50					
Joint filler	2.50					
Joint setter	2.30					
Loader operator (all types)	2.50					
Mechanic	2.75					
Mixer operator (all types)	2.25					
Motor patrol operator	2.80					
Mulcher operator	1.60					
Oiler-greaser	2.25					
Piledriver operator	3.17					
Roller operator (self-propelled)	2.25					
Scales (all types)	2.13					
Scraper operator	2.75					
Striping machine operator	3.25					
Tractor operator (track type)	2.50					
Tractor operator (wheel type)	1.80					
Trenching machine	1.70					
Crusher feeder operator	2.25					
WD No. AM–496–36 FR 16471, Highway Area 6, Mississippi, Modification No. 1						
Mississippi–3–Area 6 D						
OMIT: Wage schedule originally issued.						
ADD:						
Air tool operator	2.00					
Asphalt raker	2.45					
Bricklayer	4.25					
Carpenter	3.25					
Carpenter helper	2.75					
Cement mason (finisher)	3.00					
Concrete saw operator	3.37					
Electrician	5.40					
Electrician helper	3.27					
Form setter	2.50					
Grade checker	2.15					
Ironworker, reinforcing	3.00					
Ironworker helper, reinforcing	2.25					
Ironworker, structural	3.00					
Laborer, unskilled	1.90					
Mason tender (cement mason helper)	2.35					
Mechanic helper	2.00					
Painter (structural steel)	3.50					
Piledriverman	3.00					
Truck driver	2.00					
Tugboat operator	2.50					
Welder	3.49					
Power equipment operators:						
"A" frame truck (winch)	2.25					
Aggregate spreader operator	2.71					
Air compressor operator	2.25					
Asphalt distributor-spreader operator	2.50					
Asphalt plant	2.75					
Backhoe or shovel operator	3.00					
Bulldozer operator	3.00					
Concrete batch plant operator	2.75					
Concrete finishing machine operator	3.00					
Curing machine	2.75					
Concrete paving machine operator	3.00					
Concrete spreader machine operator	2.50					
Crane, dragline operator	3.25					
Guard rail post driver	2.50					
Earth auger	2.50					
Fireman	3.00					
Joint filler	2.75					
Loader operator (all types)	2.75					
Mechanic	3.20					
Mixer operator (all types)	2.75					
Motor patrol operator	3.00					
Mulcher operator	1.90					
Oiler-greaser	2.25					
Piledriver operator	3.35					
Roller operator (self-propelled)	2.00					
Scales (all types)	1.90					
Scraper operator	3.00					
Striping machine operator	3.25					
Tractor operator (track type)	2.25					
Tractor operator (wheel type)	2.00					
Trenching machine	2.50					
Sub grade machine operator	3.00					
Crusher feeder operator	2.50					
WD No. AM–6,350–36 F.R. 22106, St. Louis County, Minn., City of Duluth, Modification No. 1						
CHANGE:						
Carpenters; piledrivermen	7.35	.25		.30		
Millwrights	7.57	.25		.30		
Soft floor layers	7.35	.25		.30		
WD No. AM–8,379–36 F.R. 15402, St. Louis County, Minn., City of Duluth, Modification No. 2						
CHANGE (Building construction):						
Carpenters; piledrivermen	7.35	.25		.30		
Millwrights	7.57	.25		.30		
Soft floor layers	7.35	.25		.30		
(Site prep. excav. and incid. paving, heavy and highway construction):						
Carpenters	6.78	.25		.30		
Piledrivermen	6.78	.25		.30		

[FR Doc.72–450 Filed 1–13–72;8:45 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

JANUARY 11, 1972.

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 107583 Sub 50, Salem Transportation Co., Inc., assigned for hearing March 6, 1972, at Philadelphia, Pa., in a hearing room to be later designated.

MC-F-11219, Marsh Motor Haulage, Inc.—Purchase—(1) Action Van Service, Inc., (2) Youngblood Van & Storage Co., Inc., (3) Martin Van & Storage Co., Inc., now assigned January 21, 1972, at Washington, D.C., postponed to January 19, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 117565 Sub 38, Motor Service Co., Inc., assigned January 12, 1972, at Columbus, Ohio, canceled and application dismissed.

MC 118989 Sub 67, Container Transit, Inc., now being assigned for hearing on February 11, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 61788 Sub 28, Georgia-Florida-Alabama Transportation Co., now being assigned February 28, 1972, in Room 305, 1252 West Peachtree Street NW., Atlanta, GA.

MC 18088 Sub 54, Floyd & Beasley Transfer Co., Inc., MC 113528 Sub 19, Mercury Freight Lines, Inc., MC 65697 Sub 46, Theatres Service Co., MC 35320 Sub 127, T.I.M.E.-DC, Inc., MC 41432 Sub 116, East Texas Motor Freight Lines, Inc., MC 105881 Sub 46, M R & R Trucking Co., now being assigned February 28, 1972, in Room 305, 1252 West Peachtree Street NW., Atlanta, GA.

MC-F-11249, Roadway Express, Inc.—Purchase (Portion)—Chippewa Motor Freight, Inc., assigned for hearing March 8, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC-F-11312, Montgomery Tank Lines, Inc.—Purchase (Portion)—Milk Transport, Inc., assigned for hearing March 13, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 51146 Sub 227, Schneider Transport & Storage, Inc., assigned for hearing on March 7, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 60014 Sub 28, Aero Trucking, Inc., assigned for hearing March 6, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC-F-11247, T.I.M.E.-DC, Inc.—Purchase—Ascot Trucking Corp., and MC 35320 Sub 126, T.I.M.E.-DC, Inc., assigned for hearing on March 15, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC-F-1120, The Mason and Dixon Lines, Inc.—Purchase—Econ, Inc., assigned February 23, 1972, at Chicago, Ill., is postponed indefinitely.

MC-FC-72239, Denny Truck Lines, Inc., Transferee and Stevens Truck Lines, Inc. (Internal Revenue Service-Successor in Interest), Transferor, MC-F-11167, H. C. Gabler, Inc.—Purchase (Portion)—Stevens Truck Lines, Inc. (Internal Revenue Service—Successor in Interest), F-11199, Mercury Motor Express, Inc.—Purchase (Portion) Stevens Truck Lines, Inc. (Internal Revenue Service—Successor in Interest), F-11197, Rogers Transfer, Inc.—Purchase (Portion)—Stevens Truck Lines, Inc. (Internal Revenue Service—Successor in Interest), F-11230, Bowen Trucking, Inc.—Purchase (Portion)—Stevens Truck Lines, Inc. (Internal Revenue Service—Successor in Interest), F-11231, Davis & Randall, Inc.—Purchase (Portion)— Stevens Truck Lines, Inc. (Internal Revenue Service—Successor in Interest), F-11266, Redwing Refrigerated, Inc.—Purchase (Portion) Stevens Truck Lines, Inc. (Internal Revenue Service—Successor in Interest), and MC 135454 Sub 3, Denny Truck Lines, Inc., now assigned January 31, 1972, at Washington, D.C., postponed indefinitely.

MC 115841 Sub 387, Colonial Refrigerated Transportation, Inc., assigned January 17, 1972, at Omaha, Nebr., is canceled and transferred to Modified Procedure.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-593 Filed 1-13-72;8:49 am]

FOURTH SECTION APPLICATION FOR RELIEF

JANUARY 11, 1972.

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. 42336—*Soda ash to Arkadelphia, Ark.* Filed by Southwestern Freight Bureau, agent, (No. B-279), for interested rail carriers. Rates on soda ash, other than modified, in carloads, as described in the application, from Alchem, Stauffer, and Westvaco, Wyo., to Arkadelphia, Ark.

Grounds for relief—Market competition.

Tariff—Supplement 116 to Southwestern Freight Bureau, agent, tariff ICC 4832. Rates are published to become effective on February 12, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-592 Filed 1-13-72;8:49 am]

[Notice 5]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JANUARY 10, 1972.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 13134 (Sub-No. 28 TA), filed December 29, 1971. Applicant: GRANT TRUCKING, INC., Post Office Box 256, Oak Hill, OH 45656. 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: *Kyanite ore*, in bulk, in tank vehicles, from Dillwyn (Buckingham County), Va., to Chicago, Ill., and its commercial zone, for 180 days. Supporting shipper: Kyanite Mining Corp., Dillwyn, Va. 23936, Attention: Carroll B. Kay, Sales Manager and Treasurer. Send protests to: H.R. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations,, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC 77340 (Sub-No. 5 TA), filed December 6, 1971. Applicant: E. J. DICKIE TRUCKING COMPANY, Post Office Box 265, 521 Bogart Street, Bagdad, AZ 86321. Applicant's representative: Richard Minne, 609 Luhrs Building, Phoenix, Ariz. 85003. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk from the plant of Flintkote Co., U.S. Lime Division at Arrolime, Nev., to Bagdad, Ariz., for 180 days. Supporting shipper: Bagdad Copper Corp., Bagdad, Ariz. 86321. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 3427, Federal Building, Bureau of Operations, Phoenix, Ariz. 85025.

No. MC 80428 (Sub-No. 76 TA), filed December 28, 1971. Applicant: McBRIDE TRANSPORTATION, INC., Post Office Box 430, 289 West Main Street, Goshen, NY 10924. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, NY 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar, liquid invert, liquid dextrose, corn syrups and blends*

thereof, in tank vehicles, from Cleveland, Ohio, to points in New York and Pennsylvania, for 180 days. Supporting shipper: Cleveland Syrup Corp., 4999 Mead Avenue, Cleveland, OH. Send protests to: Robert A. Radler, Officer-in-Charge, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 107295 (Sub-No. 592 TA), filed December 27, 1971. Applicant: PRE-FAB TRANSIT COMPANY, a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings* (except oilfield commodities as described by the Commission in Mercer Extension—Oilfield Commodities 74 M.C.C. 459), from the facilities of Precision Polymers, Inc., in Calhoun County, Ark., to points in Alabama, Arkansas, Georgia, Illinois, Indiana, Kentucky, Kansas, Louisiana, Mississippi, Missouri, New Jersey, Ohio, Oklahoma, Tennessee, and Texas, for 180 days. Supporting shipper: Don Underwood, Plant Manager, Precision Polymers, Inc., East Camden, Ark. 71701. Send protests to: Harold C. Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 325 West Adams Street, Room 476, Springfield, IL 62704.

No. MC 107760 (Sub-No. 3 TA), filed December 27, 1971. Applicant: MOHAWK TRUCKING AND SALVAGE CO., 62 Elm Street, Johnston, RI 02919. Applicant's representative: Russell B. Curnett, 36 Circuit Drive, Edgewood Station, Providence, RI 02905. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal scrap*, in bulk, in dump vehicles, from Tewksbury, Mass., to Providence, R.I., for 180 days. Supporting shipper: Metals Processing Co., Post Office Box 6407, Providence, RI 02904. Send protests to: Gerald H. Curry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 187 Westminster Street, Providence, RI 02903.

No. MC 113460 (Sub-No. 4 TA), filed December 27, 1971. Applicant: CARL P. BLACKFORD, 3909 East 29th Street, Des Moines, IA 50317. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Newark, N.J.; South Bend, Ind.; and Detroit, Mich.; to Des Moines, Iowa, with *empty containers*, on return, for 180 days. Supporting shipper: Rite Veverage Co., Des Moines, Iowa. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 115162 (Sub-No. 241 TA), filed December 28, 1971. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Composition board and moldings*, from the plantsite of U.S. Plywood-Champion Papers, Inc., at Orangeburg, S.C., to points in Alabama, Arkansas, Florida, Louisiana, Mississippi, Missouri, Texas, and Memphis, Tenn., and (2) *plywood*, from the plantsites of U.S. Plywood-Champion Papers, Inc., at Orangeburg and Charleston, S.C., to points in Arkansas, Missouri, and Memphis, Tenn., for 180 days. Supporting shipper: U.S. Plywood-Champion Papers, Inc., Knightsbridge Drive, Hamilton, Ohio 45011. Attention: George R. Johansen, Traffic Analyst. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 118270 (Sup-No. 6 TA), filed December 30, 1971. Applicant: PRODUCE TRANSPORT SERVICE, INC., 181 West Ramapo Avenue, Mahwah, NY 07430. Applicant's representative: Blanton P. Bergen, 137 East 36th Street, New York, NY 10016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and plantains*, in straight or mixed shipments, from Albany, N.Y., and Baltimore, Md., to points in Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, and Rhode Island, for 150 days. Supporting shipper: Chiquita Brands, Inc., 1250 Broadway, New York, NY 10001. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 124796 (Sub-No. 94 TA), filed December 30, 1971. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, Post Office Box 1257, City of Industry, CA 91747. Applicant's representative: J. Max Harding, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Auto parts and accessories; automotive jacks; cranes* (not self-propelled); *tools, hand, pneumatic and electric; and advertising materials, premiums, racks, display cases and signs* moving with the above-described commodities, for the account of Tenneco Inc., from Jackson, Mich., to Arden, N.C., for 180 days. Supporting shipper: Walker Manufacturing Co., a division of Tenneco Inc., 1201 Michigan Boulevard, Racine, WI 53402. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 125674 (Sub-No. 8 TA), filed January 3, 1972. Applicant: THE SENTINEL STAR EXPRESS COMPANY, doing business as JACK RABBIT EXPRESS, 64 East Concord Street, Post Office Box 1299, Orlando, FL 32802. 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 commodities requiring special equipment), moving in a consolidation, segregation and distribution service over regular routes serving all other points as off route points within a geographical territory described as follows: A territory bordered on the northwest and north of a line commencing at the Gulf of Mexico at Yankeetown, Fla., thence along State Road 40 to intersection with Interstate Highway 75; thence along Interstate Highway 75 to intersection with State Road 24; thence along State Road 24 to Waldo; thence along Highway 301 to the Florida-Georgia State line; thence along Florida-Georgia State line to the Atlantic Ocean; on the east by Atlantic Ocean; on the south by a line commencing at Punta Gorda, Fla., thence along U.S. Highway 17 to intersection with State Road 70; thence along State Road 70 to intersection with U.S. Highway 441; thence along U.S. Highway 441 to intersection with Martin County line; and on the southwest by the Martin, Palm Beach, Broward, and Dade County lines, subject to the following restriction: Applicant shall not transport any shipment weighing in the aggregate more than 1,000 pounds to one consignor to one consignee on any one day consisting of items weighing not more than 125 pounds per item, for 180 days. Supporting shippers: J. C. Penney Co., Inc., Post Office Box 5025, Atlanta, GA 30302; Xerox Corp., 3465 Brownsmill Road SE., Atlanta GA 30315; Eastman Kodak Co., Rochester, N.Y. 14650; Zayre of Georgia, 5300 Kennedy Road, Forest Park, GA; Amway Corp., 7575 East Fulton, Ada, MI 49301. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 126346 (Sub-No. 10 TA), filed December 28, 1971. Applicant: HAUPT CONTRACT CARRIERS, INC., Post Office Box 842, 226 North 11th Avenue, Wausau, WI 54401. Applicant's representative: Charles W. Singer, 33 North Dearborn Street, Chicago, IL 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Transmissions and power pumps, parts and accessories*, for transmissions and power pumps, and *materials, equipment, and supplies* used in the manufacture and distribution of transmissions and power pumps, between La Salle, Ill., and Ames, Iowa. Restriction: The above requested authority is restricted to service under contract with the Sundstrand Corp., for 180 days. Supporting shipper: Sunstrand Corp., 4751 Harrison Avenue, Rockford, IL 61101. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 206, Madison, WI 53703.

No. MC 133095 (Sub-No. 17 TA), filed December 28, 1971. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., 2603 West Euless Boulevard, Post Office Box 434, Euless, TX 76039. Applicant's representative: Rocky Moore (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol and alcoholic beverages*, from Brooklyn, N.Y., to points in Oklahoma, Texas, Louisiana, New Mexico, and Arkansas, for 180 days. Supporting shipper: Monsieur Henri Wines, Ltd., 131 Morgan Avenue, Brooklyn, NY. Send protests to: H. C. Morrison, Sr., Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 9A27 Federal Building 819 Taylor Street, Fort Worth, TX 76102.

No. MC 133562 (Sub-No. 11 TA), filed December 27, 1971. Applicant: HOLIDAY EXPRESS CORPORATION, Post Office Box 204, Estherville, IA 51334. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the plantsite and storage facilities of Spencer Foods, Inc., at or near Hartley and Spencer, Iowa and Sioux Falls, S. Dak., to points in Alabama, Georgia, Florida, North Carolina, and Tennessee (except Memphis), for 180 days. Supporting shipper: Spencer Foods, Inc., Spencer, Iowa. Send protests to: Ellis L. Annett, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 136236 (Sub-No. 1 TA), filed December 30, 1971. Applicant: GATEWAY PACKERS LIMITED, 225 Isabel, Winnipeg, MB Canada. 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: *Paper*, from Minneapolis, Minn.; Tama, Iowa; Filer City, Mich.; and points in Wisconsin on and north of Interstate Highway No. 94 to ports of entry on the United States-Canada international boundary at or near Noyes, Minn., for 180 days. Supporting shipper: Smith Davidson & Lecky (Manitoba) Ltd., 1338 Clifton Street, Winnipeg 3, MB Canada. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 136258 (Sub-No. 1 TA), filed December 30, 1971. Applicant: HARDING TRUCKING, INC., Post Office Box 65, Whiting, IA 51063. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides*, from Dakota City, and West Point, Nebr., to Denison, Iowa, for 150 days. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, Nebr. 68731. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 136282 TA, filed January 3, 1972. Applicant: REDMAN TRANSPORTATION, INC., 7800 Carpenter Freeway, Dallas, TX 75247. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (A) *House trailers*, designed to be drawn by passenger automobiles; *buildings* in sections, mounted on wheeled undercarriages; and *recreational vehicles;* (B) *modules, parts, appliances, furniture, and accessories* for the commodities named in (A) above and when moving in the commodities named in (A) above; and (C) *wheels, axles, hitches, and undercarriages;* (1) between Alma, Mich., and Washington Court House, Ohio, on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; (2) between Richland and Americus, Ga., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee; (3) between Boaz, Ala., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia; (4) between Chandler, Ariz., on the one hand, and, on the other, points in Arizona, California, Colorado, Nevada, New Mexico, Texas, and Utah; (5) between Dyersburg, Tenn., on the one hand, and, on the other, points in Alabama, Arkansas, Illinois, Indiana, Kentucky, Mississippi, Missouri, and Tennessee;

(6) Between Ephrata and Honey Brook, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; (7) between Grand Island, Nebr., on the one hand, and, on the other, points in Arizona, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming; (8) between Athens, Burleson and Grand Prairie, Tex., on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas; (9) between Mebane, N.C., on the one hand, and, on the other, points in Alabama, Georgia, Kentucky, Maryland, North Carolina, South Carolina, Tennnessee, Virginia, West Virginia, and the District of Columbia; (10) between Topeka, Ind., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, West Virginia, and Wisconsin; (11) between Tulsa, Okla., on the one hand, and, on the other, points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, Texas, South Dakota, and Wyoming; and (12) between Alma, Mich., Washington Court House, Ohio; Americus and Richland, Ga., Boaz, Ala., Chandler, Ariz., Dyersburg, Tenn., Ephrata and Honey Brook, Pa., Grand Island, Nebr., Athens, Burleson, and Grand Prairie, Tex., Mebane, N.C., Topeka, Ind., and Tulsa, Okla. All service hereunder to be performed under continuing contracts with Redman Industries, Inc., and/or its wholly owned subsidiaries Redman Western Corp. and Redman Mobile Homes, Inc., for 180 days. Supporting shippers: Redman Industries, Inc. 7800 Carpenter Freeway, Dallas, TX 75247; Redman Western Corp., Subsidiary, plant at Chandler, Ariz. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 136284 TA, filed December 28, 1971. Applicant: BENHAM & COMPANY, INC., doing business as BENCO, Post Office Box 29, Mineola, TX 75773. Applicant's representative: James L. Lyon (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed* (except liquid animal feed in bulk), from Birmingham, Ala., to points in Texas, Arkansas, Oklahoma, and Louisiana, for 180 days. NOTE: Carrier does not intend to tack authority. Supporting shipper: Jim Dandy Co., Post Office Box 10687, Birmingham, AL 35202. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 136286 TA, filed January 3, 1972. Applicant: MICHEL TRANSPORT, INC., 4 Union Street, Arthabaska, PQ, Canada. Applicant's representative: J. Claude Paradis (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Snowmobiles*, from ports of entry on the international boundary lines, between the United States and Canada located at Norton and Derby, Vt., Champlain and Buffalo, N.Y., and Detroit, Mich., to points in Colorado, Indiana, Minnesota, New Hampshire, New York, Ohio, and Wisconsin, restricted to traffic moving under a continuing contract or contracts with Lionel Enterprises Inc., of Princeville, Quebec, Canada, for 180 days. Supporting shipper: Lionel Enterprises, Inc., Princeville, Quebec, Canada. Send protests to: District Supervisor Ross J. Seymour, Bureau of Operations, Interstate Commerce Commission, 424 Federal Building, Concord, N.H. 03301.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-591 Filed 1-13-72;8:49 am]

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PART II

PRICE COMMISSION

■

PRICE STABILIZATION

Public Utilities and Public Benefit Corporations

Title 6—ECONOMIC STABILIZATION

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Public Utilities and Public Benefit Corporations

The purpose of this amendment is to revise § 300.16 *Public utilities* and amend § 300.51 *Prenotification firms.* The revision of § 300.16 provides a detailed set of rules for the granting of price increases to public utilities. The amendment to § 300.51 requires public benefit corporations charged by law or contract with the responsibility of operating a mass transportation facility (the fares of which are not otherwise regulated) to obtain Price Commission approval before increasing any fare. That amendment reflects the requirements of section 215 of the Economic Stabilization Act of 1970, as added by the Economic Stabilization Act Amendments of 1971 (Public Law 92–210).

The revised § 300.16 is intended to cover the broad spectrum of persons providing utility services, whether or not under regulatory agency jurisdiction, and whether or not the particular utility service being furnished is subject to regulatory agency jurisdiction.

For regulated public utilities, during the first 90 days of the effectiveness of the revised section, its reporting requirements will apply only to prenotification firms and to price increases that would increase a utility's aggregate annual revenues by more than 1 percent.

Regulatory agencies are being requested to submit, during that 90-day period, proposals describing the kinds of rate increases subject to their jurisdiction that they consider should not be required to be reported because their inflationary impact would not be significant. Any such proposal approved by the Price Commission would apply the reporting requirements of the revised section only to the price increases not exempted under that proposal. In any case in which such a proposal is not submitted or is not approved by the Price Commission, each prenotification firm would be required to report all of its proposed rate increases.

For unregulated public utilities, the reporting requirements will apply to each price increase by a prenotification firm which, when cumulated with previous price increases which that public utility has made (or has applications pending) during that public utility's current fiscal year, would increase its aggregate annual revenues by more than 2½ percent.

The general rule provided by the revised section is that a public utility may charge a price in excess of a final price (that is, a price which is not in effect subject to accounting and refund) only if within the appropriate period specified in this section for review by the Price Commission, the Commission does not make a negative finding on any of the following: the increase is cost-based and does not reflect future inflationary expectations; is needed to assure continued, adequate, and safe service, or to provide for necessary expansion; will achieve the minimum rate of return or profit margin needed to attract capital at reasonable rates and not impair the credit of the public utility; has been certified as required; and is, in the opinion of the Price Commission, consistent with its goals.

Each regulatory agency will be required to certify, with respect to each rate increase it approves, the former price, the new price, and percentage of the increase; the dollar amount of the increase; the amount by which the public utility's profit margin or rate of return as a percentage of sales will be increased; that in its proceedings sufficient evidence was taken to determine whether the requirements stated in the preceding paragraph (except the last one) are or are not met; and that the price increase does or does not meet these requirements.

Provision is made for self-certification by a utility in cases where a regulatory agency has not approved a requested increase by the time a report is required under the revised section, or because the utility is not subject to the jurisdiction of a regulatory agency. Provision is also made for interim reports on increases that may go into effect subject to accounting and refund.

Each public utility subject to the reporting requirements of the revised section will be required to report each increase approved by a regulatory agency to the Price Commission, with a copy of the regulatory agency order and certification. The Price Commission will have 10 days after receiving the report to act upon it, or take no action.

With respect to any price increase by any public utility the Price Commission reserves the right, within the time limits set forth in the revised section, to require the public utility to furnish further information, delay the increase, suspend all or part of the increase, or limit, refuse, rescind, reduce, or modify the increase. For public utilities that are not prenotification or reporting firms, the Price Commission would have to exercise those rights within 10 days after a price increase has been approved by a regulatory agency or 10 days after it has gone into effect, whichever is earlier.

Because the purpose of this amendment is to provide immediate guidance and information as to the price stabilization rules in effect for public utilities, it is hereby found that notice and public procedure thereon is impracticable and that good cause exists for making it effective less than 30 days after publication.

(Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–558, 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92–210; Executive Order No. 11627, 36 F.R. 20139, Oct. 16, 1971; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

In consideration of the foregoing, Part 300 of Title 6 of the Code of Federal Regulations is amended as set forth below, effective January 17, 1972.

Issued in Washington, D.C., on January 12, 1972.

C. JACKSON GRAYSON, JR.,
Chairman, Price Commission.

1. Section 300.16 is revised to read as follows:

§ 300.16 Public utilities.

(a) *Definitions.* The following definitions apply in this section:

"Public utility" means a person that furnishes utility services to the public or a recognized segment of the public including—

(1) A person that furnishes utility services subject to the jurisdiction of a regulatory agency, including those utility service operations of the person that are not subject to the jurisdiction of a regulatory agency;

(2) A government agency or instrumentality that furnishes utility services that would be subject to the jurisdiction of a regulatory agency if furnished by a person other than a government agency or instrumentality; and

(3) A cooperative that furnishes utility services.

"Regulatory agency" means any commission, board, or other legal body that has jurisdiction to order increases or reductions, or both, of the prices charged by a public utility.

"Utility service" means any commodity or service affected with a public interest, including gas, electricity, telephone, telegraph, public transportation by vehicle or pipeline, water, and sewage disposal, but not including water or sewage disposal services furnished by a government agency or instrumentality.

(b) *Scope of reporting requirements—*(1) *Regulated public utilities.* Before April 18, 1972, the reporting requirements of this section apply to each price increase by a regulated public utility that is a prenotification firm which would increase that public utility's aggregate annual revenues by more than 1 percent. However, if a regulatory agency furnishes to the Price Commission—

(i) A proposal describing the types of price increases subject to its jurisdiction which it believes should not be reported under this section because their inflationary impact would not be significant; and

(ii) A statement of its reasons with respect to each type; and the Price Commission approves the proposal as submitted or as modified by it, then thereafter the reporting requirements of this section will apply only to price increases which are not exempted under the proposal. In any case in which a proposal or modification thereof has not been approved by the Price Commission, each price increase or proposed price increase by a public utility that is a prenotification firm which occurs after April 18, 1972, shall be reported to the Price Commission as provided in paragraphs (c) through (l) of this section.

(2) *Unregulated public utilities.* The reporting requirements of this section

apply to each price increase by an unregulated public utility that is a prenotification firm which, when cumulated with previous price increases which the public utility has made (including those for which it has applications pending) during its current fiscal year, would increase its aggregate annual revenues by more than 2½ percent.

(c) *Price increases to which reporting and certification requirements do not apply.* The reporting and certification requirements of this section do not apply to any price increase resulting from the pass-through of specific allowable costs, including taxes (except income taxes) and fuel costs, but not including labor costs, if the increase is not objected to by the appropriate regulatory agency and is authorized by statute, regulation, or order of the appropriate regulatory agency, or by an approved tariff provision.

(d) *General.* A public utility may charge a price in excess of a final price (a price which is not subject to accounting and refund) in effect on January 16, 1972, only if, within the appropriate period specified in this section for review by the Price Commission, the Commission does not make a negative finding on any of the following:

(1) The increase is cost-based and does not, unless specifically provided otherwise by the Price Commission, reflect future inflationary expectations;

(2) The increase is the minimum required to assure continued, adequate, and safe service or to provide for necessary expansion to meet future requirements;

(3) The increase will achieve the minimum rate of return or profit margin needed to attract capital at reasonable costs and not to impair the credit of the public utility;

(4) The public utility has obtained a certificate in accordance with paragraph (e) of this section, or, in a case to which paragraph (f) of this section applies, it has self-certified as required by that paragraph; and

(5) In the opinion of the Price Commission, the increase is consistent with the Commission's overall goal of holding average price increases across the economy to a rate of not more than 2½ percent a year.

(e) *Regulatory agency certification.* With respect to each price increase it approves, each regulatory agency shall certify in the order granting the increase or in a separate document the following:

(1) The former price, the new price, and the percentage increase;

(2) The dollar amount of increased revenue which the increase is expected to provide;

(3) The amount by which the increase will increase the utility's profits as a percentage of its total sales;

(4) The amount by which the increase will increase the utility's overall rate of return on capital;

(5) That sufficient evidence was taken in the course of its proceedings to determine whether the criteria set forth in paragraph (d)(1) through (4) of this section are or are not met by the price increase; and

(6) That the price increase does or does not meet those criteria or meets them only to a particular extent, with a statement of reasons why the price increase does or does not meet the criteria or meets them only to a particular extent.

(f) *Self-certification.* Whenever a public utility cannot obtain a certification in accordance with paragraph (e) of this section because the public utility is not subject to the jurisdiction of a regulatory agency or for any other reason not in conflict with this section, the public utility may put the increase into effect only after its chief executive officer, under penalty of perjury, certifies to the following:

(1) Why certification under paragraph (e) of this section was not obtained.

(2) A statement, with full explanation, that paragraph (d)(1) through (3) of this section has been complied with.

Each public utility that makes a certification under this paragraph must keep the certification available for inspection upon the reasonable request of any person.

(g) *Rate bureaus and conferences.* Whenever a price increase is proposed by a ratemaking association (rate-bureau, conference, or similar organization) authorized by law to act on behalf of its members, the regulatory agency or association may base its certification that the proposed increase conforms to paragraph (d)(1) through (3) of this section upon cost or other data compiled on the basis of association or industry averages. However, in such a case, the Price Commission may also require any public utility member of the association to submit any information that the Price Commission considers relevant.

(h) *Regulated public utilities—report a request for price increase.* Within 5 days after filing a request for a price increase with a regulatory agency, each regulated public utility to which the reporting requirements of this section apply shall report that request to the Price Commission, on a form prescribed by the Commission.

(i) *Regulated public utilities—interim report on increases put into effect subject to accounting and refund.* (1) At least 15 days before the effective date of a price increase allowed to go into effect by a regulatory agency subject to accounting and refund or by operation of law, each regulated public utility to which the reporting requirements of this section apply shall make an interim report on the increase to the Price Commission, on a form prescribed by the Commission. The report shall include a certification as required by paragraph (f) of this section. The Commission may take any action provided in paragraph (l) of this section until the expiration of 10 days after receiving the report required by paragraph (j) of this section.

(2) However, a public utility is not required to comply with subparagraph (1) of this paragraph if the regulatory agency has furnished a certification in the form required by paragraph (e) of this section, except for subparagraph (5) thereof. The regulatory agency shall furnish such a certification unless it informs the Price Commission that, with respect to the particular price increase, or a class of price increases that includes the particular price increase, the furnishing of such a certification is not feasible because the agency does not have sufficient information, or for other reasons satisfactory to the Price Commission.

(3) Notwithstanding any other provision of this section, no price of the kind covered by this paragraph (i) may be increased before the end of the maximum suspension period permitted by law unless the regulatory agency has certified to the Price Commission that there is good cause for an earlier effective date, together with its reasons therefor, and the Price Commission has approved that certification.

(j) *Regulated public utilities—report of approved increases.* Within 5 days after receiving final regulatory agency approval of a price increase, each public utility to which the reporting requirements of this section apply shall report the approved increase to the Price Commission on a form prescribed by the Commission, with a copy of the certification required by paragraph (e) of this section and a copy of the agency order approving the increase. During the 10-day period following its receipt of the report the Price Commission may take any action provided by paragraph (l) of this section.

(k) *Public utilities (regulated or unregulated)—reports of other increases.* Each public utility to which the reporting requirements of this section apply shall, whenever it proposes to place a price increase in effect which is not subject to paragraphs (h), (i), or (j) of this section, report that increase to the Price Commission, on a form prescribed by the Commission, at least 30 days before the effective date of the increase, with a copy of the appropriate certificate required by this section. At any time within 10 days after receiving the report, the Price Commission may take any action provided in paragraph (l) of this section, or it may take no action, in which case the increase may go into or remain in effect at the end of that 10-day period.

(l) *Price Commission actions.* With respect to any price increase by any public utility and within any time limits specified in this section, the Price Commission may—

(1) Require the public utility to furnish additional information regarding the increase;

(2) Delay the effective date of the increase pending further Commission action, but not longer than 10 days after the receipt of any information required under subparagraph (1) of this paragraph;

(3) Suspend all or part of the increase, pending further action by the Price Commission or by the regulatory agency; or

(4) Limit, refuse, rescind, reduce, or modify the increase.

(m) *Requirements for public utilities which are not required to report under this section.* In the case of a price increase proposed or put into effect by a public utility other than a firm required to report under this section, the Price Commission shall exercise its rights under this paragraph within 10 days after the public utility has received final approval from the regulatory agency for the price increase or within 10 days after the price increase has been placed in effect, whichever is earlier. However, if within the applicable 10-day period the Price Commission notifies the public utility that it needs additional information concerning the increase, these periods are extended until 10 days after the additional information is received.

(n) *State and locally owned public utilities—full recovery of costs.* Nothing in this section may be construed to prevent a public utility owned by a State or local government, or an agency or instrumentality thereof, from recovering the full costs of furnishing the utility service concerned.

(o) *Proposals submitted to the Price Commission.* Any regulatory agency may submit to the Price Commission written proposals for changes, deletions, and additions to this section. The submission shall contain the following:

(1) A statement of the problems experienced by it under this section.

(2) Its reasons why this section needs to be changed.

(3) A draft of alternate regulations designed to relieve the problem but to preserve the intended effect of this section.

2. Section 300.51 is amended by revising paragraph (j) and by adding a new paragraph (k) to read as follows:

§ 300.51 Prenotification firms.

* * * * *

(j) *Persons to whom section does not apply.* This section does not apply to the following:

(1) Public utilities covered by § 300.16.

(2) Providers of health services covered by §§ 300.18 and 300.19.

(3) Insurers covered by § 300.20.

(k) *Public benefit corporations.* For the purposes of this part, each public benefit corporation (within the meaning of section 215 of the Economic Stabilization Act Amendments of 1971 (Public Law 92–210)), charged by law or contract with the responsibility to operate a mass transportation facility or facilities, the fares of which are not otherwise regulated, shall be treated as if it were a prenotification firm subject to this section.

3. Paragraph (c) of § 300.52 is revised to read as follows:

§ 300.52 Reporting firms.

* * * * *

(c) *Persons to whom section does not apply.* This section does not apply to public utilities covered by § 300.16 or insurers covered by § 300.20.

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