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HIGHLIGHTS OF THIS ISSUE

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

- SALARY STABILIZATION**—Pay Board regulations on executive and variable compensation; effective 11-14-71 3357
- AGRICULTURAL STABILIZATION AND CONSERVATION**—USDA amendments to rules for local committee elections; effective 2-15-72 3349
- NATIONAL PARKS**—Interior Dept. revision of rules for the fee program; effective 2-15-72 3350
- VETERANS' LIFE INSURANCE**—VA amendment setting up a dividend deposit or credit option; effective 2-8-72 3352
- COPPER COMPOUND PESTICIDES**—
EPA amendment exempting certain copper solutions from the tolerance requirement; effective 2-15-72 3352
FDA proposed tolerance for copper solutions used in potable water; comments within 30 days 3366
- TOBACCO INSPECTION AND PRICE SUPPORT**—USDA proposed revision of rules governing the extension of services to new markets and additional sales 3362
- TOMATOES FOR CANNING**—USDA proposed revision of standards; comments by 11-30-72 3363
- ENVIRONMENTAL IMPACT**—Environmental Quality Council listing of information on statements received by various Federal agencies 3377

(Continued Inside)

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HIGHLIGHTS—Continued

TV FAIRNESS DOCTRINE—		NEW ANIMAL DRUG— FDA notice of an eye and ear ointment deemed adulterated.....	3375
FCC notice to solicit views on guidelines for editorial advertising; comments by 3-8-72....	3383		
FCC time extension to 2-23-72 for comments on broadcast access as a result of product advertising	3383	TV PROGRAM IDENTIFICATION— FCC order relaxing enforcement of pattern transmission standards	3388
TV PRIME TIME ACCESS—		ECONOMIC POLICY— Federal Open Market Committee notice of its directives and record of actions of 11-16-71, 12-14-71, and 12-23-71	3392, 3393
FCC rule waiver to allow the presentation of and "off-network" program.....	3386		
FCC rule waiver to permit winter Olympic coverage in Salt Lake City.....	3387		

Contents

AGRICULTURE DEPARTMENT

See also Commodity Credit Corporation; Consumer and Marketing Service; Rural Electrification Administration.

Rules and Regulations

Agricultural stabilization and conservation committees; selection and eligibility requirements

Notices

Blackfeet Indian tribe in Montana; feed grain donations....

ATOMIC ENERGY COMMISSION

Notices

Metropolitan Edison Co. and Jersey Central Power & Light Co.; amended determination to suspend certain construction activities pending completion of environmental review.....

Northern State Power Co.; order extending provisional construction permit completion date....

CIVIL SERVICE COMMISSION

Rules and Regulations

Pay administration; allotments and assignments from Federal employees

COAST GUARD

Rules and Regulations

Captain of the Port areas; Twelfth Coast Guard District...

COMMERCE DEPARTMENT

See Import Programs Office; International Commerce Bureau.

COMMODITY CREDIT CORPORATION

Notices

Louisiana, Michigan, Utah, and Wyoming; designation of emergency areas for purposes of livestock feed program.....

CONSUMER AND MARKETING SERVICE

Rules and Regulations

Dried prunes produced in California; handling; correction....

Proposed Rule Making

Grapefruit grown in Arizona and certain parts of California; suspension

Tobacco; extension of inspection and price support services to new markets and to additional sales on designated markets....

Tomatoes; standards for grade evaluation for processing.....

Notices

Egg products; uniform standards and origin labeling; correction

EMPLOYMENT STANDARDS ADMINISTRATION

Notices

Extension of expiration dates of Davis-Bacon area wage determinations; variation from certain labor standards.....

ENVIRONMENTAL PROTECTION AGENCY

Rules and Regulations

Exemptions from tolerances for pesticide chemicals in or on raw agricultural commodities; copper

Proposed Rule Making

Environmental impact statements; procedures for preparation; correction.....

ENVIRONMENTAL QUALITY COUNCIL

Notices

Environmental impact statements; public availability.....

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Transition area; alteration.....

Proposed Rule Making

Transition area; designation....

FEDERAL COMMUNICATIONS COMMISSION

Rules and Regulations

Domestic public radio services; point-to-point microwave radio service; correction.....

Notices

Fairness doctrine and public interest standards:
Further notice of inquiry.....
Order extending time.....

Program identification patterns; memorandum opinion and order

Hearings, etc.:

American Telephone and Telegraph Co. (2 documents) ..
Friendly Broadcasting Co.....
Mutual Insurance Company of Omaha ..
New Laurel Radio Station, Inc., et al.....
Station KUTV, Salt Lake City, Utah

(Continued on next page)

**FEDERAL INSURANCE
ADMINISTRATION**

Rules and Regulations
Insurance coverage and rates;
special definitions; correction... 3350

**FEDERAL POWER
COMMISSION****Notices**

Sun Oil Co. et al.; applications for
certificates, abandonment of
service and petitions to amend
certificates 3390

FEDERAL RESERVE SYSTEM**Notices**

Associated Bank Services, Inc.:
Order approving acquisition of
bank 3391
Order denying acquisition of
bank 3391
Federal Open Market Committee:
Continuing authority directive
with respect to domestic open
market operations 3392
Current economic policy direc-
tives (2 documents) 3392, 3393

**FOOD AND DRUG
ADMINISTRATION****Proposed Rule Making**

Copper; tolerance for residues... 3366

Notices

Fort Dodge Laboratories, Inc.;
Nolvapent; drug deemed
adulterated 3375

**HEALTH, EDUCATION, AND
WELFARE DEPARTMENT**

See also Food and Drug Admin-
istration.

Rules and Regulations

Procurement by formal advertis-
ing; solicitation of bids 3353
Responsible prospective contrac-
tors; standards for determina-
tion 3353

**HOUSING AND URBAN
DEVELOPMENT DEPARTMENT**

See also Federal Insurance
Administration.

Notices

Assistant Secretary for Housing
Management; redelegation and
delegation of authority with re-
spect to emergency prepared-
ness 3376
Regional Administrators et al.;
designation as contracting offi-
cer and redelegation of author-
ity with respect to major-
disaster field functions 3376

IMPORT PROGRAMS OFFICE**Notices**

Decisions on applications for duty-
free entry of scientific articles
(12 documents) 3371-3375

INTERIOR DEPARTMENT

See also Land Management Bu-
reau; National Park Service.

Notices

Statements of changes in financial
interests:
Hocker, Otis B. 3368
Remalia, William R. 3368

**INTERNATIONAL COMMERCE
BUREAU****Notices**

Roger Bingham Stewart Macna-
mara; order denying export
privileges 3369

**INTERSTATE COMMERCE
COMMISSION****Rules and Regulations**

Car service; Burlington Northern
Inc. authorized to operate over
tracks of Chicago and North
Western Railway Co. 3354
Special procedures for tariff filings
under wage and price stabiliza-
tion program; privately owned
public utilities 3354

Notices

Fourth section application for
relief 3397
Motor carriers:
Temporary authority applica-
tions 3397
Transfer proceedings 3399

LABOR DEPARTMENT

See Employment Standards
Administration.

LAND MANAGEMENT BUREAU**Notices**

Nevada; filing of plat of survey
and order providing for open-
ing of lands 3368

NATIONAL PARK SERVICE**Rules and Regulations**

Recreation fees; entrance and
user fees 3350

PAY BOARD**Rules and Regulations**

Stabilization of wages and sal-
aries; executive and variable
compensation 3357

POSTAL SERVICE**Rules and Regulations**

Settlements; damage or loss of
postal property 3352

**RURAL ELECTRIFICATION
ADMINISTRATION****Notices**

Brazos Electric Power Coopera-
tive, Inc.; draft environmental
statement 3369
Buckeye Power, Inc.; final envi-
ronmental statement 3369

**SECURITIES AND EXCHANGE
COMMISSION****Notices***Hearings, etc.:*

Able Associates and Able Re-
tirement Fund 3393
Narragansett Electric Co. 3393
National Securities Funds 3394
Topper Corp. 3395

**SMALL BUSINESS
ADMINISTRATION****Notices**

Assistant Administrator for Ad-
ministration and Operations
and Associate Administrator for
Investment; transfer of func-
tions and title changes 3396
Enterprises Now, Inc.; application
for license as minority enter-
prise small business investment
company 3395
Space Coast SBIC, Inc.; issuance
of small business investment
company license 3396
Washington; declaration of disas-
ter loan area 3395

TARIFF COMMISSION**Notices**

Closed toe circular hosiery knit-
ting machines and devices; ex-
tension of time for filing
written views 3396
Paper stitchers; dismissal of
complaint 3396

TRANSPORTATION DEPARTMENT

See Coast Guard; Federal Avia-
tion Administration.

VETERANS ADMINISTRATION**Rules and Regulations**

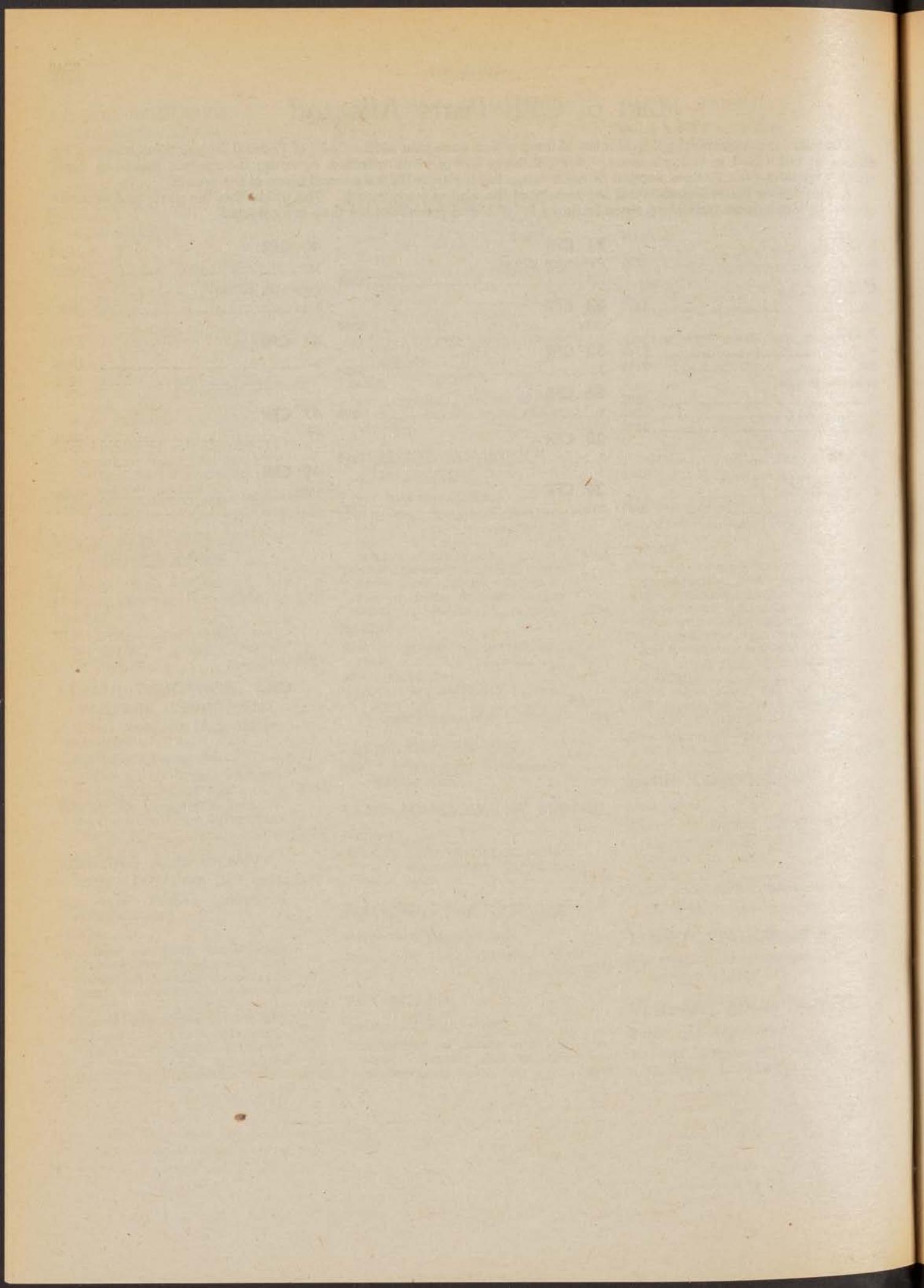
National service life insurance;
dividends; how paid 3352

List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1972, and specifies how they are affected.

5 CFR		21 CFR		40 CFR	
550.....	3355	PROPOSED RULES:		180.....	3352
6 CFR		121.....	3366	PROPOSED RULES:	
201.....	3357	24 CFR		6.....	3367
7 CFR		1911.....	3350	41 CFR	
7.....	3349	33 CFR		3-1.....	3353
993.....	3349	3.....	3350	3-2.....	3353
PROPOSED RULES:		36 CFR		47 CFR	
29.....	3362	6.....	3350	21.....	3354
51.....	3363	38 CFR		49 CFR	
909.....	3366	8.....	3352	1033.....	3354
14 CFR		39 CFR		1311.....	3354
71.....	3349	273.....	3352		
PROPOSED RULES:					
71.....	3367				



Rules and Regulations

Title 7—AGRICULTURE

Subtitle A—Office of the Secretary of Agriculture

[Amdt. 1]

PART 7—AGRICULTURAL STABILIZATION AND CONSERVATION COMMITTEES

Selection of Committees, and Eligibility Requirements

Public notice was published in the FEDERAL REGISTER October 23, 1971, volume 36, No. 206, page 20532, that rule changes were proposed in connection with method of election, tie votes, eligibility to hold office, date committeemen take office, and the effective period of the oath of office. Public comments on the proposed changes were invited through November 25, 1971. No comments were received opposing or favoring the proposed changes. Therefore, pursuant to the authority vested in the Secretary of Agriculture by 16 U.S.C. 590h(b) to prescribe regulations for county and community committeemen, the regulations at 7 CFR Part 7, are hereby amended as follows:

1. Paragraph (a) of § 7.11 is amended to require mail type elections in all counties unless waived as follows:

§ 7.11 Election of community committee and delegates to the county convention.

(a) Except as provided in paragraph (c) of this section, the eligible voters in a community shall elect annually a community committee composed of three members and shall elect first and second alternates to serve as acting members of the community committee in the order elected in case of the temporary absence of a member, or to become a member of the community committee in the order elected in case of the resignation, disqualification, removal, or death of a member. An acting member of the community committee shall have the same duties and the same authority as a member. The election shall be conducted by the mail ballot method in all counties, except that the Deputy Administrator may authorize use of the meeting or polling place method in a specific county where such is deemed justified. Where elections are by mail or by polling place, the county committee shall give advance public notice that nominations may be made by petition. Election shall be by secret ballot and by plurality vote, with each eligible voter having the option of writing in the names of candidates of his own choice. Except as provided in paragraph (c) of this section, the three regular members of the community committee shall be the delegates to the county convention and the first and second alternates to the community committee shall also be in that order alternate dele-

gates to the county convention: *Provided, however,* That a person may not serve as delegate if he has been a member of the county committee for that county during the 90 days preceding the community election. Failure to elect the prescribed number of alternates at the regular election shall not invalidate such election or require a special election to elect additional alternates.

2. Section 7.13 is amended to provide that tie votes shall be uniformly settled by lot as follows:

§ 7.13 Tie votes.

(a) Tie votes in community committee elections held by mail or polling place method shall be settled by lot. Tie votes in such elections held by the meeting method which cannot be settled by further balloting on the same day shall be settled by lot. In one-community counties, a tie vote in determining the chairman and vice chairman which cannot be settled by further balloting on the same day shall be settled by lot.

(b) In the county convention, tie votes which cannot be settled by further balloting on the same day shall be settled by lot.

3. Paragraph (h) of § 7.15 is amended to provide that community committeemen as well as county committeemen are not eligible to hold office past age 70 unless waived as follows:

§ 7.15 County committeemen, community committeemen, and delegates.

(h) Not have passed his 70th birthday by the date his term of office, or new term of office, begins unless this provision is waived by the State committee.

4. Section 7.18 is changed to provide authority for elected committeemen to take office on the first day of January whether or not it is a work day. The section is amended to read as follows:

§ 7.18 County and community committeemen.

The terms of office of county and community committeemen and alternates to such office shall begin on a date fixed by the Deputy Administrator which shall be after their election and not later than the first day in the next January. *Provided, however,* That before any such county committeeman or alternate county committeeman may take office he shall sign a pledge that he will faithfully, fairly, and honestly perform to the best of his ability all of the duties devolving on him as a committeeman. A term of office shall continue until a successor is elected and qualified as provided in §§ 7.11 and 7.12.

(Secs. 4, 8, 49 Stat. 164, 1149, as amended; 16 U.S.C. 590d, 590h(b))

It is to the benefit of the public that these amendments be made effective at the earliest possible date. Accordingly, good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Effective date: Publication in the FEDERAL REGISTER (2-15-72).

Signed at Washington, D.C., on February 9, 1972.

EARL L. BUTZ,
Secretary of Agriculture.

[FR Doc.72-2258 Filed 2-14-72;8:51 am]

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

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

Order Amending the Order, as Amended, Regulating Handling; Correction

In the order amending the order, as amended, regulating handling, F.R. Doc. 72-803, appearing at page 861 in the January 20, 1972, issue of the FEDERAL REGISTER, the citation in the 16th and 17th lines of the first paragraph reading "July 16, 1971 (F.R. Doc. 71-10345; 36 F.R. 13397)," is deleted.

Dated: February 9, 1972.

RICHARD E. LYNG,
Assistant Secretary.

[FR Doc.72-2229 Filed 2-14-72;8:49 am]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 71-NW-22]

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

Alteration of Transition Area

On December 12, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 24124) stating the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Portland, Oreg., transition area.

Interested persons were given 30 days in which to submit written comments. No objections to the proposed amendment were received.

In consideration of the foregoing, the proposed regulation is hereby adopted without change.

Effective date. This amendment shall be effective 0901 G.m.t. 30 March 1972.

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

Issued in Seattle, Wash., on February 3, 1972.

J. H. TANNER,
Acting Director.

In § 71.181 (37 F.R. 2143), as amended, is further amended as follows:

* * * that airspace south of Portland extending upward from 10,000 feet MSL, bounded on the north by the 60-mile circle centered on Portland International Airport, on the east by the west edge of V-165, on the south by the north edge of V-121, and on the west by the east edge of V-23 E.

[FR Doc.72-2205 Filed 2-14-72; 8:47 am]

Title 24—HOUSING AND URBAN DEVELOPMENT

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

[Docket No. R-71-116]

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

PART 1911—INSURANCE COVERAGE AND RATES

Special Definitions

Correction

In F.R. Doc. 72-968, appearing at page 1036, in the issue for Saturday, January 22, 1972, the word "or" in the last line of § 1911.1 should read "of".

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

SUBCHAPTER A—GENERAL

[CGFR 72-26]

PART 3—COAST GUARD AREAS, DISTRICTS, MARINE INSPECTION ZONES, AND CAPTAIN OF THE PORT AREAS

Twelfth Coast Guard District

This amendment establishes two new Captain of the Port areas at Monterey, Calif., and Humboldt Bay, Calif., and revises the boundary of the Captain of the Port, San Francisco. The reason for the establishment of the two Captain of the Port areas is that there has been a tremendous growth in terms of population, industry and shipping which require a more direct supervision by the

Coast Guard in law enforcement and pollution control. The expansion of the boundaries of the Captain of the Port, San Francisco together with the designation of the two Captains of the Port at Monterey and Humboldt Bay will put all ports and coastal waters of the Twelfth Coast Guard District under the jurisdiction of a designated Captain of the Port.

Since this is a matter relating to agency organization, it is exempted from notice of proposed rule making and public notice and procedure thereon by 5 U.S.C. 555.

Accordingly, Part 3 is amended by adding two new §§ 3.60-50 and 3.60-60, and by revising § 3.60-55 to read as follows:

Subpart 3.60—Twelfth Coast Guard District

§ 3.60-50 Monterey Captain of the Port.

(a) The Monterey Captain of the Port Office is in Monterey, Calif.

(b) The Monterey Captain of the Port area comprises all the navigable waters of the United States and contiguous land areas within the following boundaries: A line beginning at latitude 37°14'00" N., longitude 122°39'00" W.; thence to latitude 37°14'00" N., longitude 121°40'00" W.; thence to latitude 35°00'00" N., longitude 120°20'00" W.; thence to the mouth of the Santa Maria River at latitude 34°58'00" N., longitude 120°39'00" W.; thence to latitude 34°58'00" N., longitude 120°58'00" W.; thence to latitude 36°40'00" N., longitude 122°35'00" W.; thence to the point of beginning.

§ 3.60-55 San Francisco Captain of the Port.

(a) The San Francisco Captain of the Port Office is in San Francisco, Calif.

(b) The San Francisco Captain of the Port area comprises all the navigable waters of the United States and contiguous land areas within the following boundaries: A line beginning at latitude 40°00'00" N. on the California coast thence to longitude 123°30'00" W.; thence to latitude 38°40'00" N., longitude 121°25'00" W.; thence to latitude 37°40'00" N., longitude 121°10'00" W.; thence to Pescadero Point on the coast at latitude 37°14'00" N.; thence to latitude 39°00'00" N., longitude 124°00'00" W.; thence to the point of beginning.

§ 3.60-60 Humboldt Bay Captain of the Port.

(a) The Humboldt Bay Captain of the Port Office is in Samoa, Calif.

(b) The Humboldt Bay Captain of the Port area comprises all the navigable waters of the United States and contiguous land areas within the following boundaries: A line beginning on the coast at the California-Oregon border at latitude 42°00'00" N. and extending due east along the California-Oregon State line to latitude 42°00'00" N., longitude 123°30'00" W.; thence to latitude 40°00'00" N., longitude 123°30'00" W.; thence to the coast at latitude 40°00'00" N.; thence to latitude

40°25'00" N., longitude 124°40'00" W.; thence to the point of beginning.

(80 Stat. 383, as amended, 63 Stat. 545, sec. 6(b), 80 Stat. 937; 5 U.S.C. 552, 14 U.S.C. 633, 49 U.S.C. 1655(b); and 49 CFR 1.45 and 1.46)

Effective date. This amendment is effective on February 16, 1972.

Dated: February 9, 1972.

C. R. BENDER,
Admiral, U.S. Coast Guard
Commandant.

[FR Doc.72-2245 Filed 2-14-72; 8:50 am]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 6—MISCELLANEOUS FEES

Recreation Fees; Entrance and User Fees

The Act of July 15, 1968 (82 Stat. 354) as amended by the Act of July 7, 1970 (84 Stat. 410) repealed, as of December 31, 1971, section 2 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897, 16 U.S.C. 460L), under which the Golden Eagle fee program was established.

Therefore, pursuant to the authority contained in the Act of August 31, 1951 (65 Stat. 290; 31 U.S.C. 483a), section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), and 245 DM1 (34 F.R. 13879) as amended, § 6.7 of Title 36 of the Code of Federal Regulations is renamed Recreation Fees and is hereby revised as set forth below. The purpose of the revision is to provide for the National Park Service fee program. No annual entrance permit is available under these revised regulations.

Any charges imposed and collected under § 6.7 shall be covered into a special account in the Land and Water Conservation Fund and will be available upon appropriation, to the collecting agency for any of its authorized outdoor recreation functions.

The fees prescribed herein will continue in effect pending action by the Congress on the Golden Eagle fee program.

While it is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process, it is deemed unnecessary to do so in this instance since the revision serves to continue in effect provisions of the current fee program and the revised regulations do not further restrict members of the public.

Due to immediate need for this revision, it will take effect upon publication of this notice in the FEDERAL REGISTER (2-15-72).

Section 6.7 is hereby renamed and revised as follows:

§ 6.7 Recreation fees.

There shall be two general types of recreation fees: Entrance fees and user fees. Both types of fees shall be charged on a daily basis.

(a) Fees for daily entrance permits.

(1) There shall be two fees for daily entrance permits charged at Designated Fee Areas where entrance fees are charged: One applicable to those entering by private, noncommercial vehicle and one applicable to those entering by any other means.

(2) The fee for a daily permit applicable to those entering by private, noncommercial vehicle shall be \$1 to \$3 per vehicle per day. The daily permit shall be valid only at the one Designated Fee Area for which it is purchased. The daily permit shall admit, without further payment, the purchaser and all who accompany him in a private, noncommercial vehicle for a single visit or series of visits during its period of validity.

(3) The fee for a daily permit charged at Designated Fee Areas, applicable to those entering by any means other than private, noncommercial vehicle shall be \$0.50 to \$1.50 per person per day and shall be valid only at the one Designated Fee Area for which it is purchased.

(4) Any of the permits provided for in subparagraphs (2) and (3) of this paragraph shall be valid for a single visit or series of visits to the Designated Fee Area for which it was purchased during the same calendar day for which it was purchased. In addition, at areas in which overnight use is permitted, such permits shall be valid for departure only until noon of the day following purchase, except as otherwise posted.

(b) Validation and display of entrance permits. (1) All daily entrance permits shall be nontransferable, except that the permits issued pursuant to paragraph (a) (2) of this section may be used by members of the purchaser's immediate family (spouse and children).

(2) Every permit shall be kept on the person of its owner, except that, whenever a person enters a Designated Fee Area by private, noncommercial vehicle, during the period that the vehicle used in such entry remains within the Designated Fee Area, the daily entrance permit shall be displayed on the sun visor or the dashboard on the left side of such vehicle in a manner to be readily visible to persons outside the vehicle unless different manner of display is prescribed by instructions posted at the area.

(c) User fees. (1) User fees are payable for the use of sites, facilities, equipment, or services provided by the United States, especially for recreationists in Designated Fee Areas which include, but are not limited to well-developed campsites, picnic areas, guide services, elevators, winter sport facilities, and special purpose recreational vehicle use privileges. User fees may be charged at Designated Fee Areas singly, or in addition to entrance or admission fees.

(2) User fees shall be selected from within the range of fees in accord with the criteria set forth below:

(i) The direct and indirect cost to the United States of establishing and maintaining the area;

(ii) The quality and variety of recreation opportunities offered in the area;

(iii) The amount charged for admission to or the use of comparable State, local, and private areas;

(iv) The impact of the fee on potential development of other outdoor recreation areas and facilities in the locality by State and local governments and by private investors;

(v) The contribution of State and local governments and private contributions to the maintenance and development of the area.

(3) User fees may be charged for additional types of sites, facilities, equipment, and services not listed below.

Sites	Range of user fees
Camp and trailer sites.....	\$1 to \$4 for overnight use.
Picnic sites.....	\$0.50 to \$1 per site per day.
Group camping and picnicking sites....	\$0.25 to \$0.50 per person per day. ¹

¹ The Superintendents may select group use

rates in lieu of the above "Camp and trailer sites" fee or the above "picnic sites" fee or both, and may establish a minimum group use charge of at least \$3 per day per group without regard to group size or other provisions of this part.

(4) User fees may be charged if the site contains or is within a reasonable distance of the following facilities:

Basic facility	Camp and trailer site requirements	Picnic site requirements
Access and circulatory roads ¹	X	X
Parking ¹	X	X
Drinking water.....	X	X
Toilet facilities.....	X	X
Refuse containers.....	X	X
Picnic tables ²	X	X
Firegrates ² or fireplaces.....	X	X
Adequate tent or trailer spaces.....	X	

¹ Except at campsites accessible only by boat.
² Not applicable to trailer sites.

OTHER FACILITIES AND SERVICES

Vehicle and trailer parking.....	To be established at a daily, weekly, or monthly rate in accord with the criteria set forth in subparagraph (2) of this paragraph.
Elevators.....	At least \$0.10 per person per round trip.
Ferries and other means of transportation.....	To be established at a rate in accord with the criteria set forth in subparagraph (2) of this paragraph.
Overnight shelters.....	To be established at a daily rate in accord with the criteria set forth in subparagraph (2) of this paragraph.
Guided tours.....	To be established at a rate in accord with the criteria set forth in subparagraph (2) of this paragraph.
Special purpose vehicles.....	At least \$1 per individual vehicle permit issued.

(d) *Wrongful entry.* No person shall enter or use park areas, use park camping grounds, or otherwise participate in Park Service programs or activities for which fees have been designated without first paying the required fees. Any violation of this provision is punishable as provided in § 1.3 of this chapter.

(e) *Exceptions, exclusions, and exemptions.* In the application of the provisions of this part, the following exceptions, exclusions, and exemptions shall apply:

(1) Nothing contained herein shall authorize Federal hunting or fishing licenses or fees;

(2) No fee shall be charged for the use of any water;

(3) No fee shall be charged for travel by private, noncommercial vehicle over any National Parkway or any road or highway established as part of the national Federal-aid system, which, although it is part of a larger area, is commonly used by the public as a means of travel between two places, either or both of which are outside the area;

(4) No fee shall be charged any person in the exercise of a right of access to privately owned lands;

(5) No daily entrance fee shall be charged at any area where more than 50 percent of the land within such area has been donated to the United States by a State, unless the Governor of such State or has designee has been advised of such fee at least 60 days prior to its establishment and unless any recommendation of

such Governor and all legal and other obligations of the United States to such State with respect to such areas have been taken into consideration;

(6) No fee shall be charged for access to waters or shorelines by those classes of persons which have rights thereto under treaty or law;

(7) No fee shall be charged for commercial or other activities not related to recreation; or for organized tours or outings conducted for educational or scientific purposes by bona fide institutions established for these purposes; nor shall any fee be charged hospital inmates involved in medical therapy;

(8) No entrance fee shall be charged any person conducting State, local, or Federal Government business;

(9) No entrance fee shall be charged at any entrance to Great Smoky Mountains National Park unless such fees are charged at main highway and through-fare entrances.

(10) No fees shall be charged at Designated Fee Areas requiring such fees, for persons who have not reached their 16th birthday.

(f) *Designation of fee areas.* (1) Entrance and user fees established pursuant to this section will be required only at those areas which have been formally designated as fee areas by the Director of the National Park Service. Notification to the public of such designations shall be accomplished by posting such information conspicuously at each area and by local public announcements, press releases, and other suitable means.

(2) No fee established pursuant to this section shall be effective until the area for which it is assessed has been posted as a designated fee area. Signs used for this purpose at park areas may be used in combination with, or incorporated into, entrance signs.

LAWRENCE C. HADLEY,
Acting Director,
National Park Service.

[FR Doc.72-2161 Filed 2-14-72; 8:45 am]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I—Veterans' Administration

PART 8—NATIONAL SERVICE LIFE INSURANCE

Dividends; How Paid

In § 8.26, paragraph (h) is added to read as follows:

§ 8.26 How paid.

(h) Any insured receiving an annual dividend in cash may return such dividend check or an equivalent amount of money in order to have the dividend retained under the deposit or credit option. The return of such dividend must be made during the lifetime of the insured and before the end of the calendar year during which the dividend was paid. Dividends returned under this provision are not available for the payment of premiums, receipt of interest, or calculation of cash value prior to the postmark date of the returned check.

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

This VA regulation is effective the date of approval.

Approved: February 8, 1972.

By direction of the Administrator,

[SEAL] FRED B. RHODES,
Deputy Administrator.

[FR Doc.72-2238 Filed 2-14-72; 8:49 am]

Title 39—POSTAL SERVICE

Chapter I—U.S. Postal Service

SUBCHAPTER D—ORGANIZATION AND ADMINISTRATION

PART 273—SETTLEMENTS

Part 273 is revised to read as follows:

Sec.

273.1 Acceptance of payment.

273.2 Reciprocal release of vehicle damage.

AUTHORITY: The provisions of this Part 273 issued under 39 U.S.C. 401, 2008(c).

§ 273.1 Acceptance of payment.

(a) *Payments in full settlement*—(1) *Definition.* A "payment in full settlement" is a payment equal to the full amount necessary to repair or replace damaged postal property. If the amount of a claim against a private party has

been mathematically computed incorrectly, a tender of payment of a lesser amount which merely reflects a correction of the computation may be considered as a payment in full settlement.

(2) *Acceptance of payments in full settlement.* Postmasters are authorized to accept payments in full settlement of claims for damage to Postal Service property. Postmasters accepting payments shall execute releases of further liability on these claims, and negotiate checks and drafts bearing language having the effect of a release. Releases will cover only damage to postal property in the specific case being settled, and will in no way attempt to settle a claim for injury to a postal employee.

(b) *Compromise settlements*—(1) *Definition.* A "compromise offer" is an offer of an amount less than that claimed for damage to postal property.

(2) *Claims of \$250 or less.* At post offices where the postmaster is in PES-16 or above, the postmaster is authorized to accept compromise offers in settlement of claims on which the postmaster initiated the collection action, when the damage to postal property does not exceed \$250. The postmaster, in these cases, will execute the necessary releases for property damage only. See paragraph (a) of this section. At post offices where the postmaster is in PES-15 or below, claims shall be processed in accordance with subparagraph (3) of this paragraph.

(3) *Claims in excess of \$250*—(i) *Vehicle damage claims.* Refer compromise offers on these claims to the Director, Postal Data Center, for further action.

(ii) *Nonvehicle damage claims.* Refer compromise offers on these claims to the Regional Postmaster General for negotiation and further action.

(iii) *Release forms.* Release forms and checks or drafts need not accompany the settlement papers.

(c) *Offers in kind.* In cases of damage to vehicles owned by the Postal Service where the private party is responsible, he or his insurer may offer to reimburse the cost of repairs of the damaged vehicle. In such cases, the payment may be made directly to the repairman, or to the postmaster and the repairman so that endorsement by the postmaster will constitute a release. If the private party or insurer insists on making payment to the postmaster only, deposit the check as postal funds, record it in Trust Fund Account 16601 of the postmaster, and draw a Treasury check in favor of the repairman. The check issued will be recorded as a withdrawal from Trust Fund Account 16602. Retain the repair invoice to support the details of the transaction. Postmasters with vehicle maintenance facilities may accept offers in kind up to a valuation of \$500; postmasters without vehicle maintenance facilities (non-personnel offices) may accept such offers up to \$100. Refer all offers in kind in excess of these valuations to the manager, vehicle maintenance, for approval, listing in detail the repairs to be made, estimated repair time, and the recommendation of the postmaster. All offers in kind should be adequate to restore

the vehicle to its condition immediately prior to the accident.

§ 273.2 Reciprocal release of vehicle damage.

Execute a release in behalf of the private party for vehicle damage when it is requested, provided no claim for vehicle damage will be made against him by the Postal Service, and provided a like release in favor of the U.S. Postal Service is obtained. If the private party refuses to execute a reciprocal release in favor of the Postal Services, refer his request to the Regional Counsel.

LOUIS A. COX,
General Counsel.

[FR Doc.72-2224 Filed 2-14-72; 8:48 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER E—PESTICIDES PROGRAMS

PART 180—TOLERANCES AND EX- EMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODI- TIES

Subpart D—Exemptions From Tolerances

COPPER

A petition (PP 1F1073) was filed by Cities Service Co., Post Office Drawer 8, Cranbury, NJ 08512, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act as amended (21 U.S.C. 346a), proposing establishment of an exemption from the requirement of a tolerance for residues of copper in water resulting from use of the herbicide and algicide copper sulfate pentahydrate in lakes, ponds, and reservoirs. Subsequently, the Bureau of Reclamation, U.S. Department of the Interior, requested that the chemical be exempted when used for the treatment of water in irrigation conveyance systems.

Another petition (PP 1F1071) was filed by 3M Co., 3M Center, St. Paul, Minn. 55101, proposing an exemption from the requirement of a tolerance for residues of the aquatic herbicide basic copper carbonate (malachite) in nonmoving water in lakes, ponds, and stagnant canals and waterways.

A third petition (PP 1F1093) was filed by Phelps Dodge Refining Corp., 300 Park Avenue, New York, NY 10022, proposing an exemption from the requirement of a tolerance for residues of copper from the use of the aquatic herbicide copper sulfate pentahydrate.

Part 120, Chapter I, Title 21 was redesignated Part 420 and transferred to Chapter III (36 F.R. 424). Subsequently, Part 420, Chapter III, Title 21 was redesignated Part 180 and transferred to Subchapter E, Chapter I, Title 40 (36 F.R. 22369).

Copper is widely distributed in animal and plant tissues and is an essential trace element in the human body. Copper compounds have been used for years as pesticides and for treatment of water. As an indication of its safety, a number of copper compounds have been exempted from the requirement of a tolerance when applied to growing crops.

Thus, based on consideration given data submitted in the petitions and other relevant material, it is concluded that the pesticides are useful and that the exemption established in this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038), Part 180 is amended by adding the following new section to Subpart D:

§ 180.1021 Copper; exemption from the requirement of a tolerance.

Copper is exempted from the requirement of a tolerance in eggs, fish, meat, milk, irrigated crops, and shellfish when it results from the use of:

(a) Copper sulfate pentahydrate as an algicide or herbicide in irrigation conveyance systems and lakes, ponds, reservoirs, or bodies of water in which fish or shellfish are cultivated.

(b) Basic copper carbonate (malachite) as an algicide or herbicide in impounded and stagnant bodies of water.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Objections Clerk, Environmental Protection Agency, Room 3175, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (2-15-72).

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2))

Dated: February 9, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.72-2214 Filed 2-14-72;8:47 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 3—Department of Health, Education, and Welfare

PART 3-1—GENERAL

Subpart 3-1.12—Responsible Prospective Contractors

Chapter 3, Title 41, Code of Federal Regulations, is amended as set forth below. The purpose of this amendment is to provide additional standards for determining responsibility of prospective contractors.

It is the general policy of the Department of Health, Education, and Welfare to allow time for interested parties to take part in the rule making process. However, the amendment herein involves minor technical matters. Therefore, the public rule making process is deemed unnecessary in this instance.

1. The table of contents of Part 3-1 is amended to add a new Subpart 3-1.12 as follows:

Sec.	Scope of subpart.
3-1.1200	Minimum standards for responsible prospective contractors.
3-1.1203-2	Additional standards.
3-1.1204	Determination of responsibility or nonresponsibility.
3-1.1204-1	Requirement.

AUTHORITY: The provisions of this Subpart 3-1.12 are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

2. Subpart 3-1.12 is added to read as follows:

§ 3-1.1200 Scope of subpart.

This subpart implements the policies set forth in FPR 1-1.12 concerning the responsibility of prospective contractors, minimum standards for responsible prospective contractors, requirements and procedures for the determination of responsibility, and policies regarding the determination of subcontractor responsibility.

§ 3-1.1203 Minimum standards for responsible prospective contractors.

§ 3-1.1203-2 Additional standards.

In addition to the standards set forth in FPR 1-1.1203-1 and -2, a prospective contractor, in order to be determined as responsible must, in the opinion of the contracting officer, meet the following standards as they relate to the particular procurement under consideration.

(a) Have an established system of accounting and financial controls which are determined by the contracting officer to be adequate to permit the effective administration of the type of contract proposed, particularly if under its terms the costs incurred are a factor in determining the amount payable under the contract, or if advance or progress payments are requested.

(b) In determining the adequacy of a prospective contractor's financial resources for the performance of the proposed contract, as required by FPR 1-1.1203-1(a), particular attention shall be given to the ability of the contractor to discharge his full financial responsibility for charges and losses of Government-furnished material, when the contractor has responsibility for such material.

§ 3-1.1204 Determination of responsibility or nonresponsibility.

§ 3-1.1204-1 Requirement.

(a) The signing of the contract shall be deemed to be evidence of the contracting officer's affirmative determination that a contractor is responsible within the meaning of FPR 1-1.1202. In the event that a contracting officer determines a prospective contractor to be nonresponsible within the meaning of FPR 1-1.1202, a written determination to this effect shall be made by the contracting officer and placed in the contract file. (See FPR 1-1.708 and HEWPR 3-1.708-2 if a small business concern is involved.)

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (2-15-72).

Dated: February 2, 1972.

N. B. HOUSTON,
Deputy Assistant Secretary
for Administration.

[FR Doc.72-2242 Filed 2-14-72;8:50 am]

PART 3-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 3-2.2—Solicitations of Bids

Chapter 3, Title 41, Code of Federal Regulations, is amended as set forth below. The purpose of this amendment is to insure that bidders mailing lists are maintained on a current basis.

It is the general policy of the Department of Health, Education, and Welfare to allow time for interested parties to take part in the rule making process. However, the amendment herein involves minor technical matters. Therefore, the public rule making process is deemed unnecessary in this instance.

1. Table of contents of Part 3-2 is amended to add a new Subpart 3-2.2 as follows:

Sec.	
3-2.205	Bidders mailing lists.
3-2.205-2	Removal of names from bidders mailing lists.

AUTHORITY: The provisions of this Subpart 3-2.2 are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

2. Subpart 3-2.2 is added to read as follows:

§ 3-2.205 Bidders mailing lists.

§ 3-2.205-2 Removal of names from bidders mailing lists.

Bidders mailing lists shall be reviewed annually to ensure that they contain only accurate and current information which

is consistent with the present needs of the procurement office.

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (2-15-72).

Dated: February 8, 1972.

N. B. HOUSTON,
Deputy Assistant Secretary
for Administration.

[FR Doc. 72-2241 Filed 2-14-72; 8:50 am]

Title 47—TELECOMMUNICATION

Chapter I—Federal Communications Commission

[Docket No. 18920]

PART 21—DOMESTIC PUBLIC RADIO SERVICES (OTHER THAN MARITIME MOBILE)

Domestic Public Point-to-Point Microwave Radio Service; Correction

In the matter of establishment of policies and procedures for consideration of applications to provide specialized common carrier services in the domestic public point-to-point microwave radio service and proposed amendments to Parts 21, 43, and 61 of the Commission's rules, Docket No. 18920.

In the memorandum opinion and order released January 31, 1972 (FCC 72-71; 37 F.R. 2583), correct the first sentence of the amended § 21.108(c) to read as follows:

(c) Fixed stations (other than temporary fixed) operating at 2500 MHz or higher shall employ transmitting and receiving antennas meeting the appropriate performance Standard A indicated below, except that in areas not subjected to frequency congestion, antennas meeting performance Standard B may be used subject to the liability set forth in § 21.109(c). * * *

Released: February 7, 1972.

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 72-2255 Filed 2-14-72; 8:51 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND
REGULATIONS

[S.O. 1090]

PART 1033—CAR SERVICE

Burlington Northern Inc., Authorized To Operate Over Tracks of Chicago and North Western Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service

Board, held in Washington, D.C., on the 9th day of February 1972.

It appearing, that because of severe track damage resulting from snow drifts and flooding, the Burlington Northern Inc., is unable to operate its line between Rutland, N. Dak., and Ludden, N. Dak.; that shippers located on this line between Ludden, N. Dak., and the end of the line at Forbes, N. Dak., are thereby deprived of railroad service; that there are no shippers served by this line between Rutland, N. Dak., and Ludden, N. Dak.; that the Chicago and Northern Western Railway Co. has agreed to permit the use of its line between a point of connection with the Oakes branch of the Burlington Northern at Oakes, N. Dak., and a point of connection with the Forbes branch of the Burlington Northern near Ludden, N. Dak., a distance of approximately 7.8 miles; that the Commission is of the opinion that operation by the Burlington Northern Inc., over these tracks of the Chicago and North Western Railway Co. is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impractical and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice:

It is ordered, That:

§ 1033.1090 Service Order No. 1090.

(a) *Burlington Northern Inc., authorized to operate over tracks of the Chicago and North Western Railway Co.* The Burlington Northern Inc., be, and it is hereby, authorized to operate over tracks of the Chicago and North Western Railway Co. between Oakes, N. Dak., and Ludden, N. Dak., a distance of approximately 7.8 miles.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the Burlington Northern, Inc., over tracks of the Chicago and North Western Railway Co., is deemed to be due to carrier's disability, the rates applicable to traffic moved by the Burlington Northern Inc., over these tracks of the Chicago and North Western Railway Co. shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 11:59 p.m., February 10, 1972.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1972, unless otherwise modified, changed, or suspended by order of this Commission.

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

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that

agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc. 72-2266 Filed 2-14-72; 8:52 am]

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Ex Parte No. 280]

PART 1311—SPECIAL PROCEDURES FOR TARIFF FILINGS UNDER THE WAGE AND PRICE STABILIZATION PROGRAM

Privately Owned Public Utilities

Present: Robert C. Gresham, Acting Chairman, to whom the above matter, which is the subject of this order, has been assigned for action thereon.

It appearing, that pursuant to the provisions of Executive Order 11627, 36 F.R. 20139, the Price Commission, by its order of February 10, 1972, has deferred all rate increases proposed to be made effective by or for privately owned public utilities on or after February 10, 1972, and that the period of the deferral by the Price Commission extends until March 10, 1972, or until such time as the Price Commission may indicate by subsequent order or directive;

And it further appearing, that there have been, or will be, filed with the Interstate Commerce Commission tariffs and schedules setting forth new increased rates, fares and charges, and new rules, regulations, and practices having the effect of increasing rates, fares, and charges applicable on interstate or foreign commerce that are indicated as becoming effective within the aforesaid period of deferral by the Price Commission;

And it further appearing, that the operation of the said tariffs and schedules during the period of deferral would be in violation of the said order of the Price Commission; and good cause appearing therefor:

It is ordered, That the use and operation of the said tariffs and schedules be deferred pending the expiration of the period of deferral as determined by the Price Commission;

It is further ordered, That all carriers subject to the tariff and schedule filing requirements of this Commission be, and they are hereby, directed to file with this Commission supplements containing notice deferring indefinitely the effective dates of all increased rates, fares, charges, rules, regulations, and practices which are subject to this order.

And it is further ordered, That copies of this order be posted in the Office of the Secretary and in the Section of Tariffs of the Interstate Commerce Commission, that a copy be delivered to the Director, Office of Federal Register, for publication in the FEDERAL REGISTER and that all carriers subject to the jurisdiction of the Interstate Commerce Commission be, and they are hereby, made respondents to this order.

Approved: February 11, 1972.

R. C. GRESHAM.

By the Commission, Acting Chairman Gresham.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc.72-2334 Filed 2-11-72; 12:27 p.m.]

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission

PART 550—PAY ADMINISTRATION (GENERAL)

Allotments and Assignments From Federal Employees

Subchapter C of Part 550 is amended to reflect the amendments made in Executive Order 11491 relating to dues withholding and to reorganize the regulations under subject matter headings for greater clarity.

Effective the beginning of the first pay period which begins on or after February 20, 1972, Subpart C is amended as set out below.

Subpart C—Allotments and Assignments From Federal Employees

DEFINITIONS

Sec.	
550.301	Definitions.
	GENERAL PROVISIONS
550.311	Authority of agency.
550.312	Authorized allottees.
550.313	General limitations.
	LABOR ORGANIZATION
550.321	Scope.
550.322	Limitation and discontinuance of allotment.
550.323	Saving provision.
550.324	Fee for service.
	ASSOCIATION OF MANAGEMENT OFFICIALS OR SUPERVISORS
550.331	Scope.
550.332	Limitation and discontinuance of allotment.
550.333	Fee for service.
	FOREIGN AFFAIRS AGENCY ORGANIZATIONS
550.341	Scope.
550.342	Limitation and discontinuance of allotment.
550.343	Fee for service.
	COMBINED FEDERAL CAMPAIGN
550.351	Scope.
550.352	Limitation of allotment.
550.353	Discontinuance of allotment.

INCOME TAX WITHHOLDING

550.361 Scope.

ADDITIONAL CIRCUMSTANCES FOR WHICH AN ALLOTMENT IS PERMITTED

550.371 Scope.

AUTHORITY: The provisions of this Subpart C issued under 5 U.S.C. section 5527, E.O. 10982; 3 CFR, 1959-1963 Comp., p. 502.

Subpart C—Allotments and Assignments From Federal Employees

DEFINITIONS

§ 550.301 Definitions.

In this subpart:

(a) "Agency" means an Executive agency as defined by section 105 of title 5, United States Code.

(b) "Allotment" means a recurring, specified deduction from pay authorized by an employee to be paid to an allottee.

(c) "Allottee" means the person or institution to whom an allotment is made payable.

(d) "Allotter" means the employee from whose pay an allotment is made.

(e) "Association of management officials or supervisors" means an association composed of management officials or of supervisors with which the agency has established official relationships under section 7(e) of Executive Order 11491, as amended.

(f) "Combined Federal Campaign" means an organization of voluntary health and welfare agencies authorized to solicit charitable contributions in a local area in accordance with arrangements prescribed by the Chairman of the Civil Service Commission under Executive Order 10927.

(g) "Continental United States" means the several States and the District of Columbia, but excluding Alaska and Hawaii.

(h) "Dues" means the regular, periodic amount required to maintain the member in good standing in a labor organization or association of management officials or supervisors.

(i) "Employee" means an employee of an agency.

(j) "Foreign affairs agency" means the Department of State, the U.S. Information Agency, the Agency for International Development and its successor agency or agencies.

(k) "Labor organization" means a labor organization as defined by section 2(e) of Executive Order 11491, as amended.

(l) "Pay" means the net pay due an employee after all deductions authorized by law (such as retirement or social security deductions, Federal withholding tax, and others, when applicable) have been made.

GENERAL PROVISIONS

§ 550.311 Authority of agency.

(a) An agency may permit allotments under section 5525 of title 5, United States Code, only in accordance with subchapter III of chapter 55 of title 5, United States Code, and this subpart.

(b) An agency may permit an employee to authorize an allotment to be

effective on the issuance of an order of evacuation under section 5522 or 5523 of title 5, United States Code. Payment of such an allotment may not be made until the issuance of the order.

(c) The head of an agency may prescribe such additional regulations governing allotments, not inconsistent with subchapter III of chapter 55 of title 5, United States Code, and this subpart, as he considers necessary.

(d) Except as provided in this subpart, only an employee who is serving under an appointment not limited to 6 months or less may make an allotment.

§ 550.312 Authorized allottees.

(a) An employee may make an allotment to an individual, a corporation, a financial institution, a Combined Federal Campaign, an agency, a State or the District of Columbia, a labor organization, or an association of management officials or supervisors when the allotment is for one of the purposes permitted under this subpart.

(b) The allotter shall designate the allottee specifically and in writing in an allotment authorization.

§ 550.313 General limitations.

(a) An allotment shall be disbursed on one of the regularly designated paydays of the employee and in accordance with the conditions of the allotment authorization, except when the agency and the allotter agree on a later date.

(b) An employee may have only one allotment payable to the same allottee at the same time.

(c) The total amount of allotments may not exceed the pay due the allotter for a particular period.

(d) An agency shall discontinue paying an allotment when the allottee dies or his whereabouts are unknown.

LABOR ORGANIZATION

§ 550.321 Scope.

(a) An agency may permit an employee, regardless of his tenure, to make an allotment for dues to a labor organization when: (1) He is a member of a labor organization which holds exclusive recognition for employees in the exclusive unit in which he is employed, and (2) the agency has agreed in writing with the labor organization to deduct allotments for the payment of dues.

(b) With respect to an employee assigned to a post of duty outside the United States (including Alaska and Hawaii), an agency may permit an employee, regardless of his tenure, to make an allotment for dues to a labor organization when he is a member of a labor organization granted recognition under conditions prescribed by the head of the agency under section 3(c) of Executive Order 11491, as amended, and with which the agency has agreed in writing to deduct allotments for the payment of dues to the labor organization.

§ 550.322 Limitation and discontinuance of allotment.

(a) The agreement between the agency and the labor organization shall

specify how often a change may be made in the amount of the allotment for the payment of dues to a labor organization.

(b) An allotment for the payment of dues to a labor organization may be revoked by an employee only in writing and effective at stated 6-month intervals as provided by section 21(a) of Executive Order 11491, as amended, and as provided in the agreement. Upon receipt in the payroll office of a written notice of revocation, the agency shall discontinue the allotment at the beginning of the first full pay period which begins on or after the next stated revocation date.

(c) Except as provided in paragraph (d) of this section, an agency shall discontinue paying an allotment when the allottee is separated from the Federal service; transfers between agencies, moves or is reassigned or promoted within the agency outside the unit for which the labor organization has been accorded exclusive recognition; is suspended or expelled from the labor organization, or when the dues withholding agreement between the agency and the labor organization is terminated, suspended, or ceases to be applicable to the allottee.

(d) An agency may permit an employee, transferring in from another agency, or transferring within the same agency, to continue on a temporary basis to make an allotment for dues to a labor organization under the following conditions:

(1) The transfer of the employee is in connection with a transfer of function or reorganization; and

(2) The employee was in a unit of recognition, which unit was transferred in whole or part to another agency, or different organizational group within the same agency.

(3) A substantial question of successorship exists, that is, a question as to whether the union which held exclusive recognition for the unit is eligible to retain the recognition previously granted to it by the losing agency; and

(4) The continuation of dues allotment is on a temporary basis until such time as the recognition status of the unit is clarified.

§ 550.323 Saving provision.

This subpart does not preclude a supervisor, at his discretion, from continuing an allotment of dues to a labor organization which he was permitted to continue when he was excluded from a formal or exclusive unit by reason of the requirements of former section 24(d) of Executive Order 11491.

§ 550.324 Fee for service.

An agency shall recover from a labor organization the costs of making each deduction from the pay of an employee unless the agency agrees in writing with the labor organization to make no charge or a reduced charge below actual costs for making the deduction. The amount of the fee, or no fee, is a matter which is subject to negotiation between the agency and the labor organization; however, the actual cost of the service is

the maximum fee which the agency may charge.

ASSOCIATION OF MANAGEMENT OFFICIALS AND SUPERVISORS

§ 550.331 Scope.

An agency may permit an employee, regardless of his tenure, to make an allotment for dues to an association of management officials or supervisors when he is a supervisor or management official who is a member of an association of management officials or supervisors with which an agency has agreed in writing to deduct allotments for the payment of dues to the association.

§ 550.332 Limitation and discontinuance of allotment.

An agency shall prescribe (a) how often a change may be made in the amount of the allotment, (b) the conditions under which an allotment is discontinued, and (c) the procedures for revoking the allotment.

§ 550.333 Fee for service.

Agencies may decide, as a matter of agency policy, to charge no fee for collecting dues for members of associations of management officials or supervisors; to charge a standard fee for this service throughout the agency; or to leave it as a matter for determination at the levels and locations at which official relationships with such associations have been established.

FOREIGN AFFAIRS AGENCY ORGANIZATIONS

§ 550.341 Scope.

A foreign affairs agency may permit an employee, regardless of his tenure, to make an allotment for dues to an organization when he is a member of a recognized organization with which the foreign affairs agency has agreed in writing to deduct allotments for the payment of dues. For purposes of this section and §§ 550.342 and 550.343, "employee" and "organization" mean an "employee" and "organization" as defined by section 2 (b) and (f), respectively, of Executive Order 11636.

§ 550.342 Limitation and discontinuance of allotment.

(a) The agreement between the foreign affairs agency and the organization shall specify how often a change may be made in the amount of the allotment for the payment of dues to the organization.

(b) An allotment for the payment of dues to an organization may be revoked by an employee only in writing and effective at stated 6-month intervals as provided by section 15 of Executive Order 11634, as provided in the agreement. Upon receipt in the payroll office of a written notice of revocation, the foreign affairs agency shall discontinue the allotment at the beginning of the first full pay period which begins on or after the next stated revocation date.

(c) A foreign affairs agency shall discontinue paying an allotment when the dues withholding agreement between the foreign affairs agency and the or-

ganization is terminated or ceases to be applicable to the employee.

(d) A foreign affairs agency may permit an employee, transferring in from another foreign affairs agency, or transferring within the same foreign affairs agency, to continue on a temporary basis to make an allotment for dues to an organization under the following conditions:

(1) The transfer of the employee is in connection with a transfer of function or reorganization; and

(2) The employee was in a unit of recognition, which unit was transferred in whole or substantial part to the receiving foreign affairs agency; and

(3) A substantial question of successorship exists, that is, a question as to whether the organization which held exclusive recognition for the unit is eligible to retain the recognition previously granted to it by the losing foreign affairs agency; and

(4) The continuation of dues allotment is on a temporary basis until such time as the recognition status of the unit is clarified.

§ 550.343 Fee for service.

A foreign affairs agency shall recover from an organization the costs of making each deduction from the pay of an employee unless the foreign affairs agency agrees in writing with the organization to make no charge or a reduced charge below actual costs for making the deduction. The amount of the fee, or no fee, is a matter which is subject to agreement between the foreign affairs agency and the organization; however, the actual costs of the service is the maximum fee which the agency may charge.

COMBINED FEDERAL CAMPAIGN

§ 550.351 Scope.

An agency may permit an employee to make an allotment for charitable contributions to a Combined Federal Campaign only in accordance with instructions published in the Federal Personnel Manual. However, allotments for contributions to the Department of Defense Overseas Combined Federal Campaign may be permitted in accordance with a special agreement between the Commission and the Department of Defense which may contain any necessary exceptions to this subpart with respect to allotments made for charitable contributions.

§ 550.352 Limitation of allotment.

(a) An agency may permit an employee to make an allotment for a charitable contribution to a Combined Federal Campaign only when he is employed in an area in which a Combined Campaign authorized by the Civil Service Commission is established.

(b) An employee serving under an appointment limited to 1 year or less may make an allotment to a Combined Federal Campaign when an appropriate official of the employing agency determines the employee will continue his employment for a period sufficient to justify an allotment.

(c) An allotment to a Combined Federal Campaign shall be:

(1) For a term of 1 year beginning with the first pay period which begins in January and ending with the last pay period which begins in December; and

(2) Of an equal amount to be deducted each pay period, which amount may not be less than 50 cents for an employee paid biweekly or semimonthly or \$1 for an employee paid monthly.

(d) During the term of an allotment to a Combined Federal Campaign the allotter may not change the amount to be deducted each pay period, but he may voluntarily discontinue the allotment at any time.

§ 550.353 Discontinuance of allotment.

An agency shall discontinue paying an allotment when the allotter is separated from the Federal service, a written notice to discontinue is given by the allotter, or the 1-year term for an allotment to a Combined Federal Campaign expires.

INCOME TAX WITHHOLDING

§ 550.361 Scope.

An agency may permit an employee, regardless of his tenure, to make an allotment for the payment of State or District of Columbia income taxes when he is employed outside of, but is a resident in, a State or the District of Columbia with which the Secretary of the Treasury has entered into an agreement to withhold income taxes from the pay of employees under sections 5516 and 5517 of title 5, United States Code.

ADDITIONAL CIRCUMSTANCES FOR WHICH AN ALLOTMENT IS PERMITTED

§ 550.371 Scope.

(a) Subject to paragraphs (b) and (c) of this section, an agency may permit an employee to make an allotment for any of the following purposes:

(1) The support of relatives or dependents of the allotter;

(2) Savings;

(3) Payment of commercial insurance premiums on the life of the allotter;

(4) Payment of U.S. Government Insurance or National Service Life Insurance; and

(5) Any other purpose when approved by the head of the agency or his authorized representative.

(b) An agency may not permit an employee to make an allotment for any of the following purposes:

(1) Payment of indebtedness, except when the head of the agency specifically provides otherwise;

(2) Contributions to charity except as authorized by § 550.351; or

(3) Payment of dues to civic, fraternal, or other organizations except as authorized by §§ 550.321 and 550.331.

(c) An agency may permit an employee to make an allotment for one of the purposes specified in paragraph (a) of this section only when he is:

(1) Assigned to a post of duty outside the continental United States;

(2) Working on an assignment away from his regular post of duty when the assignment is expected to continue for 3 months or more; or

(3) Serving as an officer or member of a crew of a vessel under the control of the Federal Government.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 72-2286 Filed 2-14-72; 8:52 am]

Title 6—ECONOMIC STABILIZATION

Chapter II—Pay Board

PART 201—STABILIZATION OF WAGES AND SALARIES

Executive and Variable Compensation

Part 201, Title 6, Chapter II, Code of Federal Regulations will be amended by adding new Subpart D thereto. New Subpart D, as set forth below, prescribes rules with respect to items constituting executive and variable compensation.

Since the rules set forth in this Subpart D are essential to the expeditious implementation of the Economic Stabilization Act Amendments of 1971 and Executive Order No. 11640, the Pay Board finds that it is impracticable to provide for the submission of written data, views, or arguments by interested persons in accordance with usual rule making procedures and that good cause exists for promulgating these regulations in less than 30 days.

These amendments shall be effective on and after November 14, 1971. However, written comments including views or arguments may be submitted to the Office of the General Counsel, Pay Board, 2000 M Street, Washington, DC 20508.

GEORGE H. BOLDT,

Chairman of the Pay Board.

Subpart D—Executive and Variable Compensation

- Sec. 201.71 Scope.
- 201.72 Definitions.
- 201.73 Executive salaries and job perquisites.
- 201.74 Incentive compensation plans (other than stock options).
- 201.75 Incentive compensation practices (other than stock options).
- 201.76 Stock options.
- 201.77 Sales, commission, and production incentive plans or practices.
- 201.78 New or revised plans or practices.
- 201.79 New organizations.
- 201.80 Employee productivity incentive plans or practices.

AUTHORITY: The provisions of this Subpart D issued under 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; Public Law 92-210, 85 Stat. 743; Executive Order 11640 (37 F.R. 1213, Jan. 27, 1972), Cost of Living Council Order No. 3 (36 F.R. 20202, Oct. 16, 1971), as amended.

Subpart D—Executive and Variable Compensation

§ 201.71 Scope.

(a) *Purpose.* The purpose of this subpart is to provide rules and standards to stabilize items of executive and variable compensation whether or not payable to an executive.

(b) *Conflict with other provisions.* To the extent that any provision of this chapter is inconsistent with the provisions of this subpart, the provisions of this subpart shall control. Thus, for example, in the area of executive and variable compensation only those existing contracts meeting the requirements of § 201.72(f) and pay practices previously set forth meeting the requirements of § 201.72(g) shall be allowed to operate under § 201.14.

(c) *Exception.* The provisions of this subpart shall not affect the provisions of a collective bargaining agreement.

§ 201.72 Definitions.

For purposes of this subpart the term—

(a) "Wages and salaries" means the same as under § 201.3 except that items constituting incentive compensation or items under sales, commission, and production incentive plans or practices shall not be treated as wages and salaries except as otherwise provided in this subpart;

(b) "Executive compensation" includes, but is not limited to, the following items: Base salary, job perquisites, and incentive compensation;

(c) "Base salary" means cash remuneration paid to an employee by an employer on account of the performance of services;

(d) "Job perquisites" means any item furnished to or on behalf of an employee by an employer on account of the performance of services including, but not limited to, such items as reimbursement or payment by an employer of country club membership fees, dues, or other similar items, reimbursement or payment by an employer of uninsured medical expenses which are not excluded from gross income under section 104 of the Code, the personal use of an automobile furnished by an employer, payment by an employer for, or in kind furnishing of housing, and other such similar items;

(e) "Incentive compensation" includes, but is not limited to, the following items: Incentive bonuses (whether payable in cash or other property), stock options, so-called phantom stock awards (including both dividend and share units), employer contributions to stock purchase plans, and employer contributions to profit-sharing plans which fail to meet the requirements of section 401 of the Code;

(f) "Existing contract" means a contract with respect to employment all the elements of which have been reduced to a writing which has been signed by the employee and the employer on or before November 13, 1971; and

(g) "Pay practice previously set forth" means a wage or salary, incentive compensation, or sales, commission, or production incentive plan or practice which on or before November 13, 1971, meets all of the following requirements:

(1) The plan or practice had been communicated to the affected employees;

(2) The aggregate amount of the payment or award cannot be increased or withheld in its entirety by the exercise of any discretion;

(3) The aggregate amount of the payment or award is determined by a definite method or clear formula; and

(4) The definite method or clear formula is applied only to a wage or salary amount on a percentage or other similar basis without preference to profits, earnings, or any factor or item other than the actual wage or salary amount.

(h) "Plan or practice unit" means the employees covered by an incentive compensation or sales, commission, or production incentive plan or practice, and

(i) "Plan or practice year" means the 12-month period with respect to which an incentive compensation or sales, commission, or production incentive plan or practice operates.

§ 201.73 Executive salaries and job perquisites.

(a) *In general.* Executive base salaries paid to and job perquisites awarded to the employees in an appropriate employee unit during any wage year shall be subject to the general wage and salary standard established in § 201.10.

(b) *Deferred payments.*—(1) *Items deferred from an earlier year.* An item of base salary paid to the employees in an appropriate employee unit during any wage year which was earned by any such employees during an earlier wage year shall not be considered as an item of base salary for such employees for the wage year during which such item is paid.

(2) *Items deferred to a later year.* An item of base salary paid to the employees in an appropriate employee unit during any wage year shall include all such items which were earned by all such employees during such wage year.

(3) *Definition.* For purposes of this paragraph an item is considered as being "earned" during the wage year in which services are performed giving rise to the obligation to pay for the performance of such services whether or not such obligation is contingent upon the performance of future services or any other condition or restriction (including, but not limited to, an agreement not to compete).

(c) *Valuation of items constituting job perquisites.* The amount of any job perquisite shall be determined as follows:

(1) The employer's current expenditure where such expenditure constitutes the only cost of the item, otherwise;

(2) The reasonable cost of providing

the item to be determined from all the facts and circumstances involved.

§ 201.74 Incentive compensation plans (other than stock options).

(a) *In general.*—(1) *Established plans.* Subject to the provisions of this section an employer having an established written plan with respect to items of incentive compensation (but not including any plan or part thereof with respect to stock options) in effect before November 14, 1971, which plan does not qualify under § 201.72 (f) or (g), may continue to administer such a plan providing the following conditions are met: (i) A payment or award has actually been granted under the plan during any one of the last 3 plan years ending before November 14, 1971; (ii) the aggregate maximum amount of incentive compensation payable under the plan is determined according to a definite method or clear formula; (iii) administration of the plan is clearly in accordance with all conditions and limitations expressed therein; and (iv) administration of the plan is in the customary manner without any deviation from such manner for purposes of circumventing the intent of the wage and salary stabilization program.

(2) *New or revised plans.* An employer having an incentive compensation plan (but not including any plan or part thereof with respect to stock options) described in § 201.78 (b) or (c) (with respect to new or revised plans) and approved by the Pay Board pursuant to § 201.78 or described in § 201.79 (a) or (b) (with respect to new organizations) and reported to the Pay Board pursuant to § 201.79 shall administer such a plan subject to the provisions of paragraphs (b) and (c) of this section.

(b) *Computation of allowable amount.*—(1) *Established plans.* The allowable amount of any item of incentive compensation granted to the employees in a plan unit during any wage year under a plan described in paragraph (a) (1) of this section or a plan described in paragraph (a) (2) of this section to which subparagraph (2) of this paragraph does not apply shall not exceed an amount determined as follows: The base year amount plus such base year amount multiplied by the permissible wage and salary standard established in § 201.10.

(2) *New or revised plans.* The allowable amount of any item of incentive compensation granted to the employees in a plan unit under a new or revised plan described in paragraph (a) (2) of this section during the first consecutive 12-month period under which the plan operates shall not exceed the base year amount.

(3) *Definition.* For purposes of this section, the term "base year amount" means (i) in the case of a plan described in subparagraph (1) of this paragraph the amount (in dollars or where appli-

cable, in dividend or share units) of an item of incentive compensation granted to the employees in a plan unit under a plan in one of the last 3 plan years ending before November 14, 1971, or (ii) in case of a new or revised plan described in paragraph (a) (2) of this section during the first consecutive 12-month period under which such a plan operates the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation established by the Pay Board.

(c) *Rules with respect to computation of allowable amount.*—(1) *Deferred payments.*—(i) *Items deferred from an earlier year.* An item of incentive compensation paid to the employees in a plan unit during any wage year which was granted to any such employees during an earlier wage year shall not be considered as an item of incentive compensation for such employees for the wage year during which such item is paid.

(ii) *Items deferred to a later year.* An item of incentive compensation granted to the employees in a plan unit during any wage year which is deferred to a later wage year shall be considered as an item of incentive compensation for such employees for the wage year during which such item is granted.

(iii) *Definition.* For purposes of this subparagraph an item is considered as being "granted" during the wage year in which services are performed giving rise to the obligation to pay for the performance of such services whether or not such obligation is contingent upon the performance of future services or any other condition or restriction.

(2) *Excesses.* If the amount of any item of incentive compensation awarded pursuant to a plan described in paragraph (a) of this section is in excess of the allowable amount with respect to such item determined pursuant to the rules contained in paragraph (b) of this section, such excess shall be deemed to be an increase in wages and salaries paid for the wage year the excess occurs with respect to the covered plan unit. Such excess shall be apportioned to the appropriate employee units of the employees participating in the plan unit. The amount of excess which shall be apportioned to an appropriate employee unit shall be determined as follows: The number of employees in an appropriate employee unit who are participating in such a plan unit multiplied by a fraction, the numerator of which is the amount of the excess and the denominator of which is the number of employees in the plan unit. Such amount shall not be allowed to increase the maximum permissible annual aggregate wage and salary rate increase with respect to an appropriate employee unit, but shall reduce the maximum permissible aggregate wages and salaries payable to an appropriate employee unit by the amount of the

excess for the wage year the excess occurs. For purposes of determining the amount of any excess with respect to phantom stock awards each phantom dividend or share unit shall be deemed to be an actual share of stock not subject to any restriction.

(3) *Credits.* If the amount of any item of incentive compensation granted pursuant to a plan described in paragraph (a) of this section is less than the allowable amount with respect to such item determined pursuant to the rules contained in paragraph (b) of this section, the amount equal to the difference between such allowable amount and the amount of the award granted but no more than the difference between the allowable amount and the base year amount may be used by the employer as a credit for wages and salaries payable in the wage year in which such amount which is less than such allowable amount occurs with respect to the employees participating in the covered plan unit. The amount which may be so credited shall be apportioned in the same manner described in subparagraph (2) of this paragraph providing for apportioning excesses, provided, however, such amount shall not constitute wages and salaries for the purpose of computing the amount of any increase in wages and salaries for the following wage year and shall not be allowed to increase the maximum permissible annual aggregate wage and salary rate increase with respect to an appropriate employee unit.

(4) *Valuation of items of incentive compensation.* The amount of an award shall be determined as follows—

(i) For phantom stock awards: In dividend or share units;

(ii) For incentive bonuses awarded in stock: In dollars in an amount equal to the fair market value of such stock at the time of the award regardless of any conditions or restrictions less the amount (if any) paid for such stock by the employee;

(iii) For incentive bonuses awarded in property other than stock: In dollars in an amount equal to the fair market value of such property at a time of the award, regardless of any conditions or restrictions, less the amount (if any) paid for such property by the employee;

(iv) For employer contributions such as contributions to incentive stock bonus plans (whether or not described in section 401 of the Code), stock purchase plans, or profit sharing plans which fail to meet the requirements of section 401 of the Code: In dollars in an amount equal to the employer's contribution regardless of any deferral in time of the employee's rights under such a plan or any other condition or restriction;

(v) For employer contributions in property (including stock) to plans described in subdivision (iv) of this subparagraph: In dollars in an amount equal to the fair market of such property, regardless of any conditions or

limitations, any deferral in time of the employee's rights under the plan, or any other condition or restriction.

(d) *Rule with respect to certain plans.* Any plan described in paragraph (a) (1) of this section which fails to meet the condition of having made a payment or award during the last 3 plan years ending before November 14, 1971, shall be considered as a new plan subject to the provisions of § 201.78 and paragraphs (b) and (c) of this section.

§ 201.75 Incentive compensation practices (other than stock options).

(a) *In general—(1) Existing practices.* Subject to the provisions of this section, an employer having a practice (other than a plan described in § 201.74 (a)) with respect to items of incentive compensation (but not including any plan or practice with respect to stock options) which practice does not qualify under § 201.72 (f) or (g), may continue to administer such a practice providing the following conditions are met: (i) A payment or award has actually been granted under the practice as a matter of custom or habit during two of the last 3 practice years ending before November 14, 1971, or if the practice had been in existence less than 2 practice years ending before November 14, 1971, then during 1 practice year ending before such date; (ii) administration of the practice is clearly in accordance with demonstrated past custom or habit; and (iii) administration of the practice is in the customary manner without any deviation from such manner for purposes of circumventing the intent of the wage and salary stabilization program.

(2) *New or revised practices.* An employer having an incentive compensation practice (but not including any plan or practice with respect to stock options) described in § 201.78 (b) or (c) (with respect to new or revised plans or practices) and approved by the Pay Board pursuant to § 201.78 or described in § 201.79 (b) or (c) (with respect to new organizations) and reported to the Pay Board pursuant to § 201.79 shall administer such a practice subject to the provisions of paragraphs (b) and (c) of this section.

(b) *Computation of allowable amount—(1) Established practices.* The allowable amount of any item of incentive compensation granted to the employees in a practice unit during any wage year under a practice described in paragraph (a) (1) of this section or a practice described in paragraph (a) (2) of this section to which subparagraph (2) of this paragraph does not apply shall not exceed an amount determined as follows: The base year amount plus such base year amount multiplied by the permissible wage and salary standard established in § 201.10.

(2) *New or revised practices.* The allowable amount of any item of incentive compensation granted to the employees in a practice unit under a new or revised practice described in paragraph (a) (2) of this section during the first consecu-

tive 12-month period under which the plan operates shall not exceed the base year amount.

(3) *Definition.* For purposes of this section the term "base year amount" means (i) in the case of a practice described in subparagraph (1) of this paragraph the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation granted to the employees in a practice unit under a practice in one of the last 3 practice years ending before November 14, 1971, or (ii) in case of a new or revised practice described in paragraph (a) (2) of this section during the first consecutive 12-month period under which such a practice operates the amount (in dollars, or where applicable, in dividend or share units) of an item of incentive compensation established by the Pay Board.

(c) *Rules with respect to computation of allowable amount—(1) Deferred payments—(i) Items deferred from an earlier year.* An item of incentive compensation paid to the employees in a practice unit during any wage year which was granted to any such employees during an earlier wage year shall not be considered as an item of incentive compensation for such employee for the wage year during which such item is paid.

(ii) *Items deferred to a later year.* An item of incentive compensation granted to the employees in a practice unit during any wage year which is deferred to a later wage year shall be considered as an item of incentive compensation for such employees for the wage year during which such item is granted.

(ii) *Definition.* For purposes of this paragraph an item is considered as being "granted" during the wage year in which services are performed giving rise to the obligation to pay for the performance of such services whether or not such obligation is contingent upon the performance of future services or any other condition or restriction.

(2) *Excesses.* If the amount of any item of incentive compensation awarded pursuant to a practice described in paragraph (a) of this section is in excess of the allowable amount with respect to such item determined pursuant to the rules contained in paragraph (b) of this section, such excess shall be deemed to be an increase in wages and salaries for the wage year the excess occurs with respect to the covered practice unit. Such excess shall be apportioned to the appropriate employee units of the employees participating in the practice unit. The amount of excess which shall be apportioned to an appropriate employee unit shall be determined as follows: The number of employees in an appropriate employee unit who are participating in such a practice unit multiplied by a fraction, the numerator of which is the amount of the excess and the denominator of which is the number of employees in the practice unit. Such amount shall not be allowed to increase the maximum permissible annual aggregate wage and

salary rate increase with respect to an appropriate employee unit, but shall reduce the maximum permissible aggregate wages and salaries payable to an appropriate employee unit by the amount of the excess for the wage year the excess occurs. For purposes of determining the amount of any excess with respect to phantom stock awards each phantom dividend, or share unit shall be deemed to be an actual share of stock not subject to any restriction.

(3) *Credits.* If the amount of any item of incentive compensation granted pursuant to a practice described in paragraph (a) of this section is less than the allowable amount with respect to such item determined pursuant to the rules contained in paragraph (b) of this section, the amount equal to the difference between such allowable amount and the amount of the award granted but no more than the difference between the allowable amount and the base year amount may be used by the employer as a credit for wages and salaries payable in the wage year in which such amount which is less than such allowable amount occurs with respect to the employees participating in the covered practice unit. The amount which may be so credited shall be apportioned in the same manner described in subparagraph (2) of this paragraph providing for apportioning excesses, provided, however, such amount shall not constitute wages and salaries for the purpose of computing the amount of any increase in wages and salaries for the following wage year and shall not be allowed to increase the maximum permissible annual aggregate wage and salary rate increase with respect to an appropriate employee unit.

(4) *Valuation of items of incentive compensation.* Items of incentive compensation shall be valued according to the provisions of paragraph (c)(4) of § 201.74.

(d) *Rule with respect to certain practices.* Any practice described in paragraph (a)(1) of this section which fails to meet the condition of having made the payment or award required under such paragraph shall be considered as a new practice subject to the provisions of § 201.78 and paragraphs (b) and (c) of this section.

§ 201.76 Stock options.

(a) *Existing stock options.* Stock options granted to the employees in a plan unit in writing before the close of business on December 16, 1971, under a stock option plan adopted by an employer before November 14, 1971, may be exercised.

(b) *New stock options under existing plans—(1) Grant.* New stock options under a stock option plan adopted by an employer before November 14, 1971, may be granted to the employees in a plan unit under such stock option plan but only in writing provided that: (i) The plan has been approved by the employer's stockholders pursuant to the provisions of section 422(b)(1) of the Code; (ii) the plan stipulates a maximum number of shares to be made available for stock option grants; (iii) the option price

of shares may not be established at less than 100 percent of the fair market value of such shares on the date of grant; (iv) administration of the plan is in accordance with the customary manner; and (v) the aggregate shares under new stock options during an employer's fiscal year shall not exceed the number of shares determined as follows: The number of shares (adjusted to reflect stock splits and stock dividends) granted under such plan during the last 3 fiscal years of the employer ending before November 14, 1971, divided by three.

(2) *Exercise.* A stock option described in subparagraph (1) of this paragraph may be exercised by the employees in a plan unit under a stock option plan.

(c) *Rules with respect to certain existing plans.* For purposes of subdivision (v) of paragraph (b)(1) of this section if any plan is:

(1) In existence for at least 1 fiscal year of the employer ending before November 14, 1971, but less than 3 such fiscal years, the aggregate shares under new stock options granted during an employer's fiscal year shall not exceed the number of shares determined as follows: The number of shares (adjusted to reflect stock splits and dividends) granted during the existence of the plan divided by the number of such fiscal years; or

(2) In existence for less than a full fiscal year of the employer ending before November 14, 1971, the aggregate shares under new stock options granted during an employer's fiscal year shall not exceed the greater of the aggregate shares (adjusted to reflect stock splits and stock dividends) actually granted during such period of less than such a full fiscal year ending before November 14, 1971, or 25 percent of the aggregate shares (adjusted to reflect stock splits and stock dividends) authorized for stock options during the life of the plan; or

(3) In existence for 3 or more fiscal years of the employer ending before November 14, 1971, and failing to meet the conditions of subdivision (v) of paragraph (b)(1) of this section because no shares under new options were granted during the last 3 such fiscal years, the aggregate shares under new stock options granted during an employer's fiscal year shall not exceed 25 percent of the aggregate shares (adjusted to reflect stock splits and stock dividends) authorized for stock options but not granted during the life of the plan.

(d) *New stock options under new plans.* Any stock option plan which fails to meet the requirements of paragraph (b) of this section shall be considered as a new plan subject to the provisions of § 201.78. Except as provided in paragraphs (a) and (e) of this section, stock options under such new plans shall be granted and exercised only under the terms and conditions (including aggregate shares granted) established by the Pay Board.

(e) *Stock options not otherwise described in this section—(1) Grant.* The grant of any stock option which is not (i) described in paragraph (a) of this section or (ii) granted under a plan

described in paragraph (b) of this section or approved by the Pay Board pursuant to § 201.78 (with respect to new plans) shall be deemed to be an increase in wages and salaries with respect to the employees in the covered plan or practice unit during the wage year such option is granted.

(2) *Exercise.* The exercise of any stock option which is not (i) described in paragraph (a) of this section or (ii) granted under a plan described in paragraph (b) of this section or approved by the Pay Board pursuant to § 201.78 (with respect to new plans) shall be deemed to be an increase in wages and salaries with respect to the employees in the covered plan or practice unit during the wage year such option is exercised.

(3) *Apportionment to appropriate employee units.* Any increase in wages and salaries described in subparagraph (1) or (2) of this paragraph shall be apportioned to the appropriate employee units of the employees participating in the covered plan or practice unit. The amount of such increase which shall be apportioned to each such appropriate employee unit shall be determined as follows: The number of employees in an appropriate employee unit who are participating in such a plan or practice unit multiplied by a fraction, the numerator of which is the amount of such increase and the denominator of which is the number of employees in the plan or practice unit.

(f) *Valuation of stock options.* For purposes of paragraph (e) of this section the value of a stock option (1) when granted shall be an amount equal to the value of such option at the time of grant (without taking into account any conditions or restrictions imposed under the stock option or on the stock) determined as follows: The sum of the option premium plus the excess of the fair market value of the stock under option at the time of the grant over the price of the stock under the option, and (2) when exercised shall be an amount equal to the value of such option at the time of exercise (without taking into account any conditions or restrictions imposed under the stock option or on the stock) determined as follows: The excess of the fair market value of the stock under option at the time of exercise over the sum of the option premium plus the fair market value of the stock under the option at the time of the grant. The term "option premium" means the value of the stock option. Such value shall be an amount equal to 25 percent of the fair market value of the stock under option at the time of grant without taking into account any conditions or restrictions imposed under the stock option or on the stock.

§ 201.77 Sales, commission, and production incentive plans or practices.

(a) *In general—(1) Established plans or practices.* Sales, commission, and production incentive plans or practices may continue to operate in accordance with their provisions provided such plans or

practices were established and in effect before November 14, 1971. Such plans or practices are those which directly reflect the performance of the employee participant in the form of sales or production output. Thus, for example, an incentive award related to profits is generally not a sales, commission, or production incentive plan or practice within the meaning of this section.

(2) *New plans or practices.* An employer having a sales, commission, or production incentive plan or practice described in § 201.78(c) (with respect to new plans) and approved by the Pay Board pursuant to § 201.78 or described in § 201.79 (a) or (b) (with respect to new organizations) and reported to the Pay Board pursuant to § 201.79 shall administer such a plan or practice subject to the provisions of paragraph (b) of this section.

(b) *Changes in method of calculating earnings.* Unless excepted pursuant to § 201.80 (with respect to employee productivity incentive plans or practices), if any change in the method of calculating the earnings of any employee in a plan or practice unit under a plan or practice described in paragraph (a) of this section results in an increase in the aggregate amount of compensation of such plan or practice unit, the amount of such increase shall be deemed to be an increase in wages and salaries for the wage year earned with respect to the covered plan or practice unit. Such increase shall be apportioned to the appropriate employee units of the employees participating in the plan or practice unit. The amount of such increase which shall be apportioned to each such appropriate employee unit shall be determined as follows: The number of employees in an appropriate employee unit who are participating in such a plan or practice unit multiplied by a fraction, the numerator of which is the amount of the increase and the denominator of which is the number of employees in the plan or practice unit.

§ 201.78 *New or revised plans or practices.*

(a) *Replacement of existing plans or practices.* An employer may, without the approval of the Pay Board, adopt a new incentive compensation or sales, commission, or production incentive plan or practice replacing such a plan or practice which has lapsed or terminated on account of the operation of time and which was either in existence before November 14, 1971, or was approved by the Pay Board pursuant to paragraph (c) of this section or was reported to the Pay Board pursuant to § 201.79 (with respect to new organizations) only when such new plan or practice (1) has the same essential terms and the same formula or method of computing the aggregate amount of compensation granted to the covered plan or practice unit and (2) does not increase the aggregate amount of compensation that would have otherwise been granted (whether

or not currently) a plan or practice unit under the plan or practice replaced.

(b) *Modification or revision of existing plans or practices.* Except for a change described in § 201.77(b), an employer may, without the approval of the Pay Board, modify or revise an incentive compensation or sales, commission, or production incentive plan or practice which was either in existence before November 14, 1971, was approved by the Pay Board pursuant to the provisions of paragraph (c) of this section, or was reported to the Pay Board pursuant to the provisions of § 201.79 (a) or (b) only when such modified or revised plan or practice does not increase the aggregate amount of compensation that would have otherwise been granted (whether or not currently) a plan or practice unit under the plan or practice without taking such modification or revision into account. Any other modification or revision of a plan or practice shall be submitted to the Pay Board for prior approval.

(c) *Adoption of new plans.* An employer may adopt a new incentive compensation or sales, commission, or production incentive plan or practice where one did not exist before November 14, 1971, only upon the prior approval of the Pay Board.

(d) *Rules with respect to plans or practices described in paragraphs (a), (b), or (c) of this section.* A new plan or practice adopted pursuant to paragraph (a) or (c) of this section or a plan modified or revised pursuant to paragraph (b) of this section shall comply with other relevant sections of this subpart applicable to plans or practices in existence prior to November 14, 1971.

§ 201.79 *New organizations.*

(a) *In general.* Any business, enterprise, partnership, corporation, association, or any other organization organized or established on or after November 14, 1971, may establish executive compensation or sales, commission, or production incentive plans or practices provided that within the later of 90 days after establishment of such business, enterprise, partnership, corporation, association, or other organization, or 90 days after February 15, 1972, all such plans and practices shall be filed in report form with the Pay Board. The report filed shall demonstrate that the establishment of the entity and such plans or practices, were not for the purpose of circumventing the intent of the wage and salary stabilization program and are not unreasonably inconsistent with the intent and purposes of the wage and salary stabilization program or the policies of the Pay Board.

(b) *Changes in organization form.* If an employer doing business in a particular organizational form on November 13, 1971, thereafter reorganizes and conducts its business in a different organizational form or merges with another business and, after and on account

of such reorganization or merger, establishes new executive compensation or sales, commission, or production incentive plans or practices, it shall, within the later of 90 days after such reorganization or merger, or 90 days after February 15, 1972, file in report form all such plans or practices with the Pay Board. The report filed shall demonstrate that the reorganization or merger and establishment of such plans or practices, were not for the purpose of circumventing the intent of the wage and salary stabilization program, and are not unreasonably inconsistent with the intent and purposes of the wage and salary stabilization program or policies of the Pay Board.

(c) *Changes in method or formula.* After a plan or practice has been reported pursuant to paragraph (a) or (b) of this section, any change in the method or formula for calculating employee earnings in a plan or practice unit after such report must be submitted to the Pay Board for prior approval pursuant to the provisions of § 201.78(c) (with respect to new or revised plans or practices) whether or not the aggregate amount of compensation paid to the covered plan or practice unit will be increased, unless the plan or practice is excepted pursuant to the provisions of § 201.80 (with respect to employee productivity plans or practices).

(d) *Carryover of attributes.* For purposes of this subpart, a change in organizational form described in paragraph (b) of this section shall not affect the applicable attributes of the employer, such as appropriate employee units, plan or practice units, or wage years. Such attributes shall be carried over by the employer undertaking such a change in form, unless otherwise clearly required by the organizational change.

§ 201.80 *Employee productivity incentive plans or practices.*

An employer seeking to establish an employee productivity incentive plan or practice which is designed to reflect directly increases in employee productivity shall, prior to such establishment, submit such plan or practice to the Pay Board for review and furnish proof that payments or awards made pursuant to such plan or practice will directly reflect increased employee productivity. An employer seeking to revise or modify an employee productivity incentive plan or practice which was established and in effect before November 14, 1971, shall, prior to such revision or modification, submit such revised or modified plan or practice to the Pay Board for review, unless such revision or modification results in, or will result in, no increase in the aggregate amount of compensation for the plan or practice unit, or unless the increase in the aggregate amount of compensation for the plan or practice unit which results, or which will result, from such revision or modification will be offset by increased productivity.

[FR Doc. 72-2402 Filed 2-14-72; 10:11 am]

Proposed Rule Making

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 29]

TOBACCO

Extension of Inspection and Price Support Services to New Markets and to Additional Sales on Designated Markets

Notice is hereby given that the Department is considering revising Subpart A—Policy Statement and Regulations Governing the Extension of Tobacco Inspection and Price Support Services to New Markets and to Additional Sales on Designated Markets (7 CFR Part 29). The aforesaid policy statement and regulations are concurrent and identical statements of agency policy and rules and regulations issued pursuant to the authority of the Tobacco Inspection Act (49 Stat. 731, 7 U.S.C., 511 et seq.) and the Commodity Credit Corporation Charter Act (62 Stat. 1070, as amended, 15 U.S.C. 714 et seq.) and the Agricultural Act of 1949, as amended (63 Stat. 1051; 7 U.S.C. 1421 et seq.).

Statement of considerations. One of the proposed revisions would advance the closing date for filing applications for additional services from the Flue-cured and Burley areas. The new closing dates would be March 15 for Flue-cured and July 15 for Burley. This would provide a more adequate timetable for scheduling and conducting hearings, consideration of evidence and arguments, and announcing decisions prior to market openings, especially where several applications must be considered. Other revisions would further define and clarify the time and manner in which an application is to be filed, and the criteria to be considered in granting or denying such applications. Under present regulations an applicant is permitted to obtain an oral hearing, at the location of the market, on the same application renewed every year without limitation. This has resulted, on occasion, in unwarranted expenditures for hearings at which no new evidence was submitted. For this reason, it is proposed that no oral hearing be held on an application which was denied the previous year, unless the application contains a statement setting forth new and substantial evidence of such changed circumstances as, in the opinion of the review committee, would warrant the holding of an oral hearing.

Minor changes in the definitions of § 29.1 are also proposed.

All persons who desire to submit written data, views, or arguments for consideration in connection with this proposed revision may file the same in four copies with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington,

D.C. 20250, within 30 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The policy statement and regulations as proposed to be revised are as follows:

Subpart A—Policy Statement and Regulations Governing the Extension of Tobacco Inspection and Price Support Services to New Markets and to Additional Sales on Designated Markets

Sec.

- 29.1 Definitions.
29.2 Policy statement.
29.3 Procedures for filing, hearing, and determination of applications.

AUTHORITY: The provisions of this Subpart A issued under sec. 14, 49 Stat. 734, as amended; sec. 4, 62 Stat. 1070, as amended, 7 U.S.C. 511m, 15 U.S.C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 403, 63 Stat. 1051, as amended, 1054 as amended, 15 U.S.C. 714c, 7 U.S.C. 1441, 1421, 1423.

Subpart A—Policy Statement and Regulations Governing the Extension of Tobacco Inspection and Price Support Services to New Markets and to Additional Sales on Designated Markets

§ 29.1 Definitions.

For purposes of this Subpart A, the following terms shall have the following meanings:

- (a) "Additional sale" means an additional auction sale proposed to be conducted on a designated market.
- (b) "Adequate set of buyers" means 5 or more buyers representing 5 or more companies or buying organizations which either will use the tobacco in the manufacture of tobacco products in this country or in foreign countries, or will pack and sell the tobacco later for use by manufacturers in this country or foreign countries, and who could reasonably be expected to purchase at least two-thirds of the total U.S. production of the kind of tobacco for which the additional services are requested.
- (c) "Auction market" means a marketing center containing one of more warehouses where tobacco is delivered by producers thereof, or their agents, for sale by the auction process. There may be one or more auction sales on an auction market.
- (d) "Bona fide auction sale" and "auction sale" mean the buying and selling of tobacco offered by producers by the auction process which customarily and usually consists of an adequate set of buyers; an auctioneer who takes each buyer's bid; a sales starter who makes the opening bid on each lot; and a ticket marker who records the applicable sales data on each lot.

(e) "Designated market" means an auction market designated by the Secretary under section 5 of the Tobacco Inspection Act.

(f) "Secretary" means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(g) "New market" means an auction market, other than a designated market, at which inspection service under the tobacco Inspection Act was not provided on a regular basis during the preceding marketing season.

(h) "Hearing Clerk" means the Hearing Clerk of the U.S. Department of Agriculture, Washington, D.C. 20250.

(i) "Kind of tobacco" means any one of the following: Flue-cured, Burley, Fire-cured, Dark air-cured, Maryland or Virginia sun-cured.

§ 29.2 Policy statement.

Inspection and price support services currently provided in auction marketing areas are adequate and the lack of these services is not a limiting factor to accelerated marketings or the extension of price support to producers. Consequently, the extension of inspection and price support services, without limitation, would not contribute to the effectuation of the purposes of either of these services. The additional cost incident to the unlimited extension of these services would be unjustifiable and excessive in relation to the total quantity of tobacco available for market. Accordingly, inspection and price support services shall be made available on new markets and additional sales only as hereinafter provided. Also, since these services shall be made available to new markets and additional sales only as herein provided, referenda incident to market designations shall not be conducted until auction markets seeking designation have qualified for inspection and price support services as herein provided.

(a) *Reasonable inspection and price support services.* The extension of tobacco inspection and price support services to new markets and additional sales will be conditioned upon the reasonableness of such services existing in the marketing area of the proposed new market or additional sale. Transactions in tobacco as conducted at auction markets customarily involve the sale of tobacco at a bona fide auction sale. Determination with respect to reasonableness, and consequently with respect to granting or denying additional services, will be based on evidence (1) that the proposed new market or additional sale will function as a bona fide auction sale, and (2) that additional services are justifiable in relation to other market data, including the volume of tobacco produced in the area surrounding the proposed new market or

additional sale; the roads and road distances involved in moving tobacco to the proposed new market or additional sale in relation to other tobacco marketing centers; the relative availability or congestion of all facilities for redrying and packing tobacco handled or to be handled in the proposed new market or additional sale; the location of other auction markets on which tobacco produced in the marketing area of the proposed new market or additional sale may be marketed; the number of tobacco growers to be affected by the proposed new market or additional sale; the volume of tobacco likely to be sold in the proposed new market or additional sale; the relationship of sales in the proposed new market or additional sale to sales in other auction markets in the producing area for that kind of tobacco; and other economic factors affecting the marketing of tobacco, by growers, in the marketing area of the proposed new market or additional sale and in the producing area for that kind of tobacco, including limitations on sales imposed by any marketing agreement and/or order, or by any other means.

(b) *Order of priority.* If the Secretary finds that there are insufficient qualified tobacco inspectors available to service adequately all applicants otherwise found to be qualified for additional inspection service pursuant to this subpart for a kind of tobacco, those applicants found to be eligible for additional services on auction markets designated for free and mandatory inspection shall be given priority over applicants for additional inspection service on a fee basis on other auction markets. If it becomes necessary to determine which of several qualified applicants having an equal order of priority under the preceding sentence shall receive additional inspection and price support services, those auction sales or auction markets where the greatest number of growers needing such service may be served with the qualified inspectors shall have priority. If an application for an additional sale on a designated market is denied for lack of qualified inspectors, the Secretary, on application from such market, may temporarily suspend the requirement of inspection and certification on such market pursuant to section 5 of the Tobacco Inspection Act.

(c) *Price support services to be through warehouses.* Price support services on any auction market will be offered through tobacco auction warehouses operating in such market, and, notwithstanding any provision of this subpart, the offering of price support services through any auction warehouse located on any auction market will be conditioned upon a qualified, responsible warehouseman entering into an approved auction warehouse contract under the provisions of the applicable tobacco price support program, published at Part 1464 of this title.

§ 29.3 Procedures for filing, hearing, and determination of applications.

(a) *Time and place of filing.* Applications for the extension of tobacco inspection and price support services to

new markets and to additional sales on designated markets shall be filed, in triplicate, with the Hearing Clerk not later than March 15 in the case of Flue-cured tobacco, December 1 in the case of Maryland tobacco, and July 15 in the case of Burley and all other kinds of tobacco. Applications should be addressed to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. Applications which are not received by the Hearing Clerk on or before the foregoing cutoff date for the kind of tobacco shall be rejected as untimely filed. After denial of an application for additional inspection and price support services for a marketing season, no application from the same auction market or proposed new market shall be considered for the next consecutive marketing season, unless the application contains a statement by the applicant setting forth new facts that constitute evidence of such a substantial change in conditions since the previous hearing as the review committee as specified in paragraph (h) of this section deems would warrant such further hearing.

(b) *Form and content of application.* The application shall be in writing, shall set forth the grounds for the application and shall be signed by the applicant or applicants. If an applicant is a corporation, the application shall be executed by a responsible officer of such corporation. The application shall include a statement of the name, address and form of business organization of each party to the application and the location of the proposed new market or additional sale.

(c) *Hearings on applications.* Following the closing date for filing applications for each kind of tobacco, a hearing or hearings shall be held on the applications, if any, filed for additional inspection and price support services for the kind of tobacco in question. Such hearing or hearings shall be scheduled to begin within 50 days following the closing date for such applications. Notice of hearing shall be issued by the Secretary, filed with the Hearing Clerk, and published in the FEDERAL REGISTER, and a copy shall be mailed by the Hearing Clerk to each applicant. Such publication and mailing shall be not less than 5 days prior to the opening of the hearing.

(d) *Presiding officer.* The presiding officer at each such hearing shall be a Hearing Examiner of the Office of Hearing Examiners of the U.S. Department of Agriculture or such other employee of the Department of Agriculture as the Secretary may designate to act as presiding officer at such hearing. The presiding officer shall determine the order of procedure at the hearing, shall have power to administer oaths and affirmations, to rule on and admit evidence, and, following the opening of the hearing, to recess the hearing to such other times and places as he deems desirable or necessary.

(e) *Scope of hearing and burden of proof.* Each applicant shall have the burden of presenting evidence relative to the factors specified in § 29.2(a).

(f) *Record and evidence.* The proceedings at each such hearing shall be tran-

scribed verbatim. All oral testimony shall be under oath or affirmation. All documentary exhibits shall be submitted in triplicate by the person offering the same. The presiding officer shall, insofar as possible, exclude testimony and exhibits which are irrelevant, immaterial, or not of the sort upon which responsible persons are accustomed to rely. Cross-examination shall be allowed only to the extent that the presiding officer in his discretion deems it desirable or necessary to develop the material facts.

(g) *Briefs.* If requested at the hearing, the presiding officer shall fix a time, not to exceed 20 days from the close of the hearing, within which interested persons may mail briefs to the Hearing Clerk.

(h) *Certification and referral.* As soon as practicable following the close of the hearing, the presiding officer shall certify the transcript of the proceedings at the hearing together with all exhibits and shall transmit the same to the Hearing Clerk for referral to a review committee comprised of the Administrator, Consumer and Marketing Service, the Administrator, Commodity Stabilization Service, and a representative of the Office of the Secretary to be designated by the Secretary.

(i) *Recommended action.* The review committee shall review and consider the applications, hearing record, including exhibits, and all other available information and data relating to applications for each kind of tobacco and shall submit a recommendation thereon to the Secretary.

(j) *Final decision.* The Secretary shall issue the decision on each application and such decision shall be final: *Provided*, That any determination that additional services will be provided may be reconsidered and may be vacated if it is subsequently found that any material fact upon which such determination was based was materially erroneous or false, or that the new market or additional sale in question is not functioning as a bona fide auction sale. Such decision shall be filed with the Hearing Clerk who shall mail a true copy thereof, by certified mail, to the applicant.

Done at Washington, D.C., this 9th day of February 1972.

EARL L. BUTZ,
Secretary.

[FR Doc.72-2230 Filed 2-14-72; 8:49 am]

[7 CFR Part 51]

TOMATOES

Proposed Standards for Grade Evaluation for Processing¹

Notice is hereby given that the U.S. Department of Agriculture is considering the revision of U.S. Standards for Grade Evaluation of Tomatoes for Processing (7 CFR 51.3310-51.3318) and the

¹Packing 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.

termination of U.S. Standards for Canning Tomatoes (7 CFR 51.4240-51.4250) and U.S. Standards for Grades of Tomatoes for Manufacture of Strained Tomato Products (7 CFR 51.4260-51.4267). 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 November 30, 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 revision of the grade standards. The U.S. Standards for Grade Evaluation of Tomatoes for Processing were issued in February 1964. Since that time, there have been significant changes in the harvesting, handling, and processing of tomatoes. At the request of the Agriculture Committee of the National Canners Association a study draft to consider revision of these standards was prepared in June 1971. A full crop season was allowed for study and testing with comments ending December 1971. Suggested changes in the draft were based on discussions with growers and processors, in addition to observations made by Inspection Service personnel. Several processors conducted extensive studies during the 1971 season using the study draft as a basis for determining the desirability of proposing a revision of the tomatoes for processing standards.

Following the 1971 season, USDA's Consumer and Marketing Service representatives met with the Tomato Advisory Committee of the American Agricultural Marketing Association and the National Canners Ad Hoc Committee on Tomato Grading to discuss the study draft and review the findings of studies conducted by several processors.

Consideration of comments from these committees as well as those from growers and processors and additional changes suggested by the Department are reflected in the proposal. The proposed standards incorporate certain requirements from, and would supersede the U.S. Standards for Canning Tomatoes, effective December 31, 1938; and U.S. Standards for Grades of Tomatoes for Manufacture of Strained Tomato

Products, effective, March 1, 1933. Changes are needed in the standards in view of present product handling and processing methods associated with the development of mechanical harvesting, bulk handling, new cultural practices, new varieties, and reduced use of hand labor in processing procedures.

Discussions and comments received from several processors who have participated in studies during the 1971 season using the study draft, indicate there is considerable interest in using the proposed standards during the coming season as a basis for contracts with growers. In order to provide the industry ample time to study and apply these standards, a full crop season is being allowed for comments on the proposal. This also would provide the industry the foundation for developing a sound and satisfactory purchasing system for raw tomatoes based on the proposed standards.

The proposed standards provide an inspection procedure for determining the quality of raw tomatoes for processing based on two factors:

- (1) Classification of defects into various categories; and
- (2) Optional color determination by use of either a color instrument or visual evaluation of individual fruit.

Following are the principal changes proposed:

(1) Tomatoes would be classified for defects into three categories, A, B, and Culls, depending on mold or decay and other defects present. Color would be a basic requirement in each category. However, the method of determining color would be optional and so specified in contracts with growers, either by means of a color instrument or visual evaluation.

(2) A calculation of total weights of Categories A and B would be provided to determine the "Percent Usable". The color and percent usable are combined to give the grade of a representative sample.

(3) A new "fairly firm" requirement would be provided in all categories,

meaning that the tomato is not water-soaked to the extent that it will lose more than 10 percent of its weight during the peeling or washing process.

(4) A "free from freezing" requirement would be provided in all categories, meaning that the tomato is not frozen and does not show evidence of having been frozen. Tomatoes affected by any amount of freezing injury would be classed as "Culls".

(5) Tomatoes in "Category A" would be required to be free from mold or decay including Anthracnose. Tomatoes with not more than two Anthracnose spots or aggregating not more than three-eighths inch in diameter would meet the requirements of "Category B".

(6) Mold or decay other than Anthracnose would be restricted in "Category B" to not more than 10 percent, by weight, of the individual tomato. Mold or decay is defined as breakdown, disintegration, or fermentation of the flesh of the tomato. Tomatoes with mold or decay that has penetrated the flesh would be classed as "Category B" or "Culls" depending upon the amount of waste involved.

(7) Color evaluation by means of a USDA Tomato Colorimeter, unless otherwise specified, would provide a tomato color index (TCI) of not less than 63.0, based on a composite raw juice sample. However, any tomato completely green in color appearing in the color sample would be classed as a "Cull".

(8) A new format is provided to present in logical order the various requirements for a particular category. Also a new Defect Classification Guide section would be provided to assist in evaluating defects. Both changes are designed to promote more uniform application and better understanding of the standards.

(9) The title would be changed from U.S. Standards for Grade Evaluation of Tomatoes for Processing to U.S. Standards for Grades of Tomatoes for Processing.

Following is a tabulation summarizing the proposed changes:

Factor	Category A	Category B	Culls
Firmness	Fairly firm	Fairly firm	Water-soaked, soft, shriveled, or puffy, over 10 percent waste.
Any worm attached	Free from	Free from	Affected tomatoes classed as culls.
Freezing	Free from	Free from	
Worm injury	Free from	Free from	
Anthracnose	Free from	Not more than 2 spots or aggregating not more than 3/4 inch diameter.	More than 2 spots or aggregating more than 3/4 inch diameter.
Other molds or decays	Free from	Not more than 10 percent waste.	Over 10 percent waste.
Any other defect or combination of defects	Not over 10 percent waste.	Not more than 20 percent waste including not more than 10 percent decay.	Over 20 percent waste.
Attached stems	Free from stems over 1" in length.	Free from stems over 1" in length.	Tomatoes with stems over 1" in length.
Color: Subjective or Objective.	Fairly well colored.	Fairly well colored.	Not fairly well colored. Completely green fruit.
		Unless otherwise specified (Raw Juice Index of not less than 63.0)	

A's + 75% of B's = Percent usable.
Culls + 25% of B's = Percent waste.

The proposed standards, as revised, are as follows:

GENERAL

Sec.
51.3310 General.

CATEGORIES

51.3311 Category A.
51.3312 Category B.

CULLS

51.3313 Culls.

PERCENT USABLE

51.3314 Percent usable.

PERCENT WASTE

51.3315 Percent waste.

COLOR EVALUATION

51.3316 Color evaluation.

EXTRANEOUS MATERIAL

51.3317 Extraneous material.

DEFINITIONS

51.3318 Fairly firm.
51.3319 Worm injury.
51.3320 Mold or decay.
51.3321 Freezing.
51.3322 Green.
51.3323 Defect classification guide.

METRIC CONVERSION TABLE

51.3324 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.

GENERAL

§ 51.3310 General.

(a) The standards contained in this subpart apply to an inspection procedure for determining the quality of tomatoes for processing based on two factors: (1) Color measurement by use of a photoelectric instrument (USDA Tomato Colorimeter) or subjective visual color evaluation of individual fruit; and, (2) classification of defects. Calculation of percentages shall be on the basis of weight.

CATEGORIES

§ 51.3311 Category A.

"Category A" consists of tomatoes which meet the following requirements:

(a) Basic requirements:

- (1) Fairly firm; and,
- (2) Color:

(i) Tomato color index (TCI) shall be as specified in § 51.3316; or,

(ii) Fairly well colored. (See § 51.3316.)

(b) Free from:

- (1) Any worm attached;
- (2) Worm injury;
- (3) Freezing;
- (4) Stems over 1 inch in length;
- (5) Mold or decay; and,
- (6) Any other defect or combination of defects, the removal of which in the

preparation for processing causes a loss of not more than 10 percent, by weight, of the tomato.

§ 51.3312 Category B.

"Category B" consists of tomatoes which meet the following requirements:

(a) Basic requirements:

- (1) Fairly firm; and,
- (2) Color:

(i) Tomato color index (TCI) shall be as specified in § 51.3316; or,

(ii) Fairly well colored. (See § 51.3316.)

(b) Free from:

- (1) Any worm attached;
- (2) Worm injury;
- (3) Freezing;
- (4) Stems over one inch in length;
- (5) Anthracnose when more than two spots or aggregating more than a circle three-eighths inch in diameter; and,
- (6) Other mold or decay, or a combination of other defects including mold or decay, the removal of which in the preparation for processing causes a loss of not more than 20 percent, by weight, of the individual tomato; including therein not more than 10 percent resulting from mold or decay.

CULLS

§ 51.3313 Culls.

"Culls" are tomatoes which fail to meet the requirements of Category B and includes tomatoes which, when color evaluation is determined by means of a photoelectric instrument, are completely green.

PERCENT USABLE

§ 51.3314 Percent usable.

"Percent usable" is a calculation of total weights of tomatoes in Category A, plus 75 percent of the weight of tomatoes in Category B.

PERCENT WASTE

§ 51.3315 Percent waste.

"Percent waste" is a calculation of total weights of Culls, plus 25 percent of the weight of tomatoes in Category B.

COLOR EVALUATION

§ 51.3316 Color evaluation.

Color shall be determined according to one of the following methods:

(a) Unless otherwise specified, the tomato color index (TCI) of a composite raw juice sample shall be not less than 63.0 as determined by means of a photoelectric instrument (USDA Tomato Colorimeter).

(1) The raw juice used for the color determination shall be extracted from a representative sample by means of a USDA approved extractor fitted with a

0.034-inch mesh screen juice attachment;²

(2) Each tomato in the color sample must show a definite change in surface color from green to tannish-yellow, pink, red, or a combination thereof; or

(b) Each tomato shall be "fairly well colored."

(1) "Fairly well colored" means that at least two-thirds of the flesh of the tomato has good red color: *Provided*, That a tomato having flesh of a lighter shade of red shall be considered as "fairly well colored" if sufficient amount of the flesh has a red color equivalent to that of a tomato with two-thirds good red color.

EXTRANEOUS MATERIAL

§ 51.3317 Extraneous material.

(a) Extraneous material is loose stems, vines, dirt, adhering dirt, stones, trash, and other foreign material.

(b) The amount of extraneous material in any lot may be specified in connection with these standards.

DEFINITIONS

§ 51.3318 Fairly firm.

"Fairly firm" means that the tomato is not water-soaked to the extent that it is so soft, shriveled or puffy that it will lose more than 10 percent of its weight during the peeling or washing process.

§ 51.3319 Worm injury.

"Worm injury" means any worm injury that has penetrated through the outer wall of the tomato.

§ 51.3320 Mold or decay.

"Mold or decay" means breakdown, disintegration or fermentation of the flesh of the tomato caused by bacteria or fungi.

§ 51.3321 Freezing.

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

§ 51.3322 Green.

"Green" means that the surface of the tomato is completely green in color. The shade of green color may vary from light to dark.

²The extractor and the USDA Tomato Colorimeter are commercially available. Information on where they may be purchased and additional details concerning them, may be obtained from the Fresh Products Standardization and Inspection Branch, Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

§ 51.3323 Defect classification guide.

Defect	Waste	
	10 percent	20 percent
Sunburn (thin superficial type).....	Extends not more than 3/4 inch from stem scar, and to not more than 3/4 of the circumference of a 2 1/2 inch tomato.	Extends not more than 3/4 inch from stem scar, and around the circumference of a 2 1/2 inch tomato.
(type of which penetrates outer wall).	Extends not more than 3/4 inch from stem scar, and to not more than 1/2 of the circumference of a 2 1/2 inch tomato.	Extends not more than 3/4 inch from stem scar, and around the circumference of a 2 1/2 inch tomato.
Worms and wormy injury.....	Tomatoes with worms attached or with worm injury that has penetrated through the outer wall, or attached cocoons, shall be classed as "Culls". Worms on the fruit but not attached, and loose worms shall be ignored.	
Insects.....	Grasshoppers, crickets, spiders, or other insects on the tomatoes shall be disregarded, but tomatoes injured by such insects shall be evaluated on a waste basis.	
Growth cracks.....	Badly discolored cracks which are not affected by mold or decay shall be evaluated on a waste basis. Cracks affected by mold or decay which has penetrated the fleshy wall of the tomato shall be classed as "Category B", unless additional defects make them "Culls".	
Mechanical damage.....	Split, punctured, and leaky tomatoes shall be evaluated on a waste basis. In determining waste caused by leaky tomatoes consideration shall be given to the wide variation of locale size in different varieties. As a guide in estimating waste when a tomato is split, cracked, or leaking to the extent that only two locales are exposed, with part or all of their contents missing, the tomato will not lose more than 10 percent of its weight. If a tomato has more than two locales split or leaking and if the fruit will not lose more than 20 percent, it shall be classed as "Category B" unless additional defects caused it to be classed as a "Cull".	
Gray wall, virus mottling, cloudy spot, ghost spot, internal browning and irregular ripening.	Fruit affected by such conditions shall not be handled on a waste basis. Presence of such factors shall be evaluated from the standpoint of their effect on color (See § 51.3316).	
Blossom end rot.....	The initial stage of development, occurring as brown or silver discoloration of the skin, shall not be considered as decay. However if the fleshy wall of the tomato is affected it shall be classed as decay.	
Sunscald.....	Affected areas show a darkened, soft watery condition of the flesh or areas slightly sunken with a tough outer wall which has a whitish yellow appearance, shall be evaluated on a waste basis.	
Freezing.....	Fruit affected by freezing injury develop a wide range of symptoms. Chief symptom of freezing injury is a glassy or water-soaked appearance of the fruit. Tomatoes affected by any amount of freezing injury shall be classed as "Culls".	
Mold or decay.....	Tomatoes affected by mold or decay which has penetrated the flesh shall be classed as "Category B" or "Culls" depending upon the amount of waste.	

METRIC CONVERSION TABLE

§ 51.3324 Metric conversion table.

Inches:	Millimeters (mm.)
1/8 equals.....	3.2
1/4 equals.....	6.4
3/8 equals.....	9.5
1/2 equals.....	12.7
5/8 equals.....	15.9
3/4 equals.....	19.1
7/8 equals.....	22.2
1 equals.....	25.4
1 1/2 equals.....	38.1
2 equals.....	50.8
2 1/2 equals.....	63.5

Dated: February 8, 1972.

G. R. GRANGE,
Acting Administrator.

[FR Doc.72-2172 Filed 2-14-72;8:45 am]

[7 CFR Part 909]

GRAPEFRUIT GROWN IN ARIZONA
AND CERTAIN PARTS OF CALIFORNIA

Proposed Suspension

Notice is hereby given that the Department is giving consideration to a proposed suspension of the operation of certain provisions of Order No. 909, as amended (7 CFR Part 909), regulating the handling of grapefruit grown in Arizona; in Imperial County, Calif.; and in that part of Riverside County, Calif., situated south and east of White Water, Calif. This regulatory program is effective under the Agricultural Market-

ing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

On November 18, 1971, the Administrative Committee met in Yuma, Ariz., and voted 8 to 2 in favor of suspending the operations of the order for the current season and closing the office on December 31, 1971.

The proposed suspension would be on the basis that, in such circumstances, the provisions, listed below, do not tend to effectuate the declared policy of the act.

The proposal is to suspend, for the period January 1, 1972 through August 31, 1972, the operations of the following provisions of Order No. 909:

1. Section 909.41 *Assessments*;
2. Section 909.51 *Recommendation for grade and size regulation*;
3. Section 909.52 *Recommendation for regulation by minimum standards of quality and maturity*;
4. Section 909.53 *Issuance of regulations*;
5. Section 909.60 *Shipping manifest report*;
6. Section 909.61 *Disposition report*; and
7. Section 909.62 *Other reports*.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal should file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than the 15th day after publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the of-

fice of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: February 10, 1972.

JOHN C. BLUM,
Deputy Administrator,
Regulatory Programs.

[FR Doc.72-2260 Filed 2-14-72;8:51 am]

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

COPPER

Proposed Tolerance

The Pesticides Tolerances Division of the Environmental Protection Agency having evaluated data submitted in three pesticide petitions: (PP 1F1071) filed by 3M Co., 3M Center, St. Paul, MN 55101; (PP 1F1073) filed by Cities Service Co., Post Office Drawer 8, Cranbury, NJ 08512; and (PP 1F1093) filed by Phelps Dodge Refining Corp., 300 Park Avenue, New York, NY 10022, and other relevant material, has determined that a food additive tolerance of 1 part per million should be established for residues of copper in potable water. (For a related document, see this issue of the FEDERAL REGISTER, page 3352.) Such residues result from the use of the aldehydes or herbicides copper sulfate pentahydrate and basic copper carbonate (malachite) to control aquatic plants in reservoirs, lakes, ponds, irrigation ditches, and other potential sources of potable water.

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 F.R. 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346, 346a, and 348).

Based on consideration given the data submitted in the pesticide petitions and other relevant material, it is concluded that the proposed tolerance will protect the public health.

Therefore, pursuant to provisions of the act (sec. 409(d), 72 Stat. 1787; 21 U.S.C. 348(d)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 F.R. 9038) it is proposed that Part 121 be amended by adding the following new section to Subpart D:

§ 121.1241 Copper.

A tolerance of 1 part per million is established in potable water for residues of copper resulting from the use of the

algicides or herbicides copper sulfate pentahydrate and basic copper carbonate (malachite) to control aquatic plants in reservoirs, lakes, ponds, irrigation ditches, and other potential sources of potable water.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, within 30 days after publication hereof in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, within 30 days after publication hereof in the FEDERAL REGISTER, file with the Objections Clerk, Environmental Protection Agency, Room 3175, South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof.

Dated: February 9, 1972.

WILLIAM M. UPHOLT,
Deputy Assistant Administrator
for Pesticides Programs.

[FR Doc.72-2215 Filed 2-14-72; 8:47 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-GL-1]

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 Ely, Minn.

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.

Two new public use instrument approach procedures have been developed for the Ely Municipal Airport, Ely, Minn. Consequently, it is necessary to provide controlled airspace protection for aircraft executing these new approach procedures by designating a transition area at Ely, Minn. The new procedures will become effective concurrently with the designation of the transition area.

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 (37 F.R. 2143), the following transition area is amended to read:

ELY, MINN.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Ely Municipal Airport (latitude 47°49'26" N., longitude 91°49'45" W.); and within 3 miles each side of the 112° bearing from the Ely Municipal Airport, extending from the 6-mile radius area to 8 miles southeast of the airport, and within 3 miles each side of the 305° bearing from Ely Municipal

Airport, extending from the 6-mile radius area to 8 miles northwest of the airport; that airspace extending upward from 1200 feet above the surface within 9½ miles south and 4½ miles north of the 112° bearing from the Ely Municipal Airport extending from the airport to 18½ miles southeast of the airport, and within 9½ miles southwest and 4½ miles north of the 305° bearing of the Ely Municipal Airport extending from the airport to 18½ miles northwest of the airport excluding the portion which overlies the prohibited areas P-205 and P-204.

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 January 20, 1972.

R. O. ZIEGLER,
Acting Director,
Great Lakes Region.

[FR Doc.72-2206 Filed 2-14-72; 8:47 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 6]

ENVIRONMENTAL IMPACT STATEMENTS

Procedures for Preparation; Correction

The Environmental Protection Agency's proposed procedures for the preparation of environmental impact statements on Agency actions affecting the environment were published in the FEDERAL REGISTER on January 20, 1972 (37 F.R. 879). The deadline for submission of written comments or suggestions concerning the preparation of final regulations is hereby changed from February 1, 1972, to March 1, 1972.

Dated: February 10, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72-2236 Filed 2-14-72; 8:49 am]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management NEVADA

Notice of Filing of Plat of Survey and Order Providing for Opening of Lands

FEBRUARY 7, 1972.

1. The Plat of Survey of lands described below will be officially filed at the Nevada State Office, Reno, Nev., effective 10 a.m., on March 14, 1972:

MOUNT DIABLO MERIDIAN, NEVADA

T. 7 N., R. 26 E.,
Sec. 25, N $\frac{1}{2}$.

Containing 322.40 acres.

2. The land is located in the foothills along the East Walker River. Soils vary from rocky clay on high country to sandy clay loam along the river bottom. Vegetation consists of shadscale, budsage, sagebrush, willow, buckthorn, sparse native grasses, also scattered stands of pinon and juniper.

3. The NW $\frac{1}{4}$ said sec. 25 is within the Toiyabe National Forest. The NE $\frac{1}{4}$ said sec. 25 is classified for multiple-use management which segregated the land from applications under the agricultural land laws, from sales under section 2455 of the Revised Statutes and from location, under the U.S. mining laws.

4. Subject to valid existing rights, the provisions of existing withdrawals and classifications, and the requirements of applicable law, the lands are hereby opened to such applications and petitions as may be permitted. All such valid applications received at or prior to 10 a.m., on March 14, 1972, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing. The land within the Toiyabe National Forest has been and continues to be open to mining location.

Inquiries concerning these lands shall be addressed to the Nevada State Office, Bureau of Land Management, 300 Booth Street, Reno, NV 89502.

LEGRAND BENNION,
Chief, Branch of
Records and Data Management.

[FR Doc.72-2221 Filed 2-14-72;8:48 am]

Office of the Secretary

OTIS B. HOCKER

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken

place in my financial interests during the past 6 months:

- (1) None.
- (2) Disposed of holdings of Microdot.
- (3) None.
- (4) None.

This statement is made as of January 29, 1972.

Dated: January 31, 1972.

OTIS B. HOCKER.

[FR Doc.72-2222 Filed 2-14-72;8:48 am]

WILLIAM R. REMALIA

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past 6 months:

- (1) None.
- (2) None.
- (3) None.
- (4) None.

This statement is made as of January 25, 1972.

Dated: January 25, 1972.

WILLIAM R. REMALIA.

[FR Doc.72-2223 Filed 2-14-72;8:48 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

LOUISIANA, MICHIGAN, UTAH, AND WYOMING

Notice of Designation of Emergency Areas for Purposes of the Livestock Feed Program

Notice is hereby given that, pursuant to the provisions of section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1472, 63 Stat. 1055), and the Act of September 21, 1959, as amended (sections 1-4, 73 Stat. 574), the Secretary of Agriculture has designated the counties specified in this notice as emergency areas for purposes of the Livestock Feed Program (7 CFR, Part 1475, as amended). Feed grains will be made available for sale to livestock owners in such counties in accordance with the terms and conditions in the regulations for such program. The designated counties are as follows:

Louisiana—Cameron, Franklin, and Richland Parishes; Michigan—Manistee and Newaygo Counties; Utah—Daggett, Grand, Rich, and San Juan Counties; and Wyoming—Carbon, Lincoln, Sweetwater, and Uinta Counties.

Signed at Washington, D.C., on February 9, 1972.

E. J. PERSON,
Deputy Vice President,
Commodity Credit Corporation.

[FR Doc.72-2261 Filed 2-14-72;8:51 am]

Consumer and Marketing Service EGG PRODUCTS

Notice of Uniform Standards and Origin Labeling

Correction

In F.R. Doc. 72-1881 appearing at page 2897 of the issue for Wednesday, February 9, 1972, in the 11th line of the first complete paragraph on page 2898, the word "amending" should read "meaning".

Office of the Secretary

BLACKFEET INDIAN TRIBE IN MONTANA

Feed Grain Donations

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Blackfeet Indian Tribe located principally in the county of Glacier, Mont., has been materially increased and become acute because of earlier than usual snow covering causing loss of considerable grazing and aggravated by heavy snowfalls, blizzards, and subzero temperatures creating a serious shortage of livestock feed. These lands are reservation or other lands designated for Indian use and are utilized by members of the Indian Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the Tribe will not displace or interfere with normal marketing of agricultural commodities.

Based on the above determinations, I hereby declare the reservation and grazing lands of this Tribe to be an acute distress area and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestockmen who are determined by the Bureau of Indian Affairs, Department of the Interior to be needy members of the Tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through the duration of the existing emergency or to such other time as may be stated in a

notice issued by the Department of Agriculture.

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

CLARENCE D. PALMBY,
Acting Secretary.

[FR Doc. 72-2259 Filed 2-14-72; 8:51 am]

**Rural Electrification Administration
BRAZOS ELECTRIC POWER
COOPERATIVE, INC.**

Draft Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a draft environmental statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a loan application from Brazos Electric Power Cooperative, Inc., of Waco, Tex. This loan application will provide financing related to the construction of a 200,000-kw. generating unit to be added at the existing Palo Pinto Generating Station.

Additional information may be secured on request, submitted to Mr. James N. Myers, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Comments are particularly invited from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved from which comments have not been requested specifically.

Copies of the REA Draft Environmental Statement have been sent to various Federal, State, and local agencies, as outlined in the Council on Environmental Quality Guidelines. The Draft Environmental Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW., Washington, DC, Room 4322, or at the borrower address indicated above.

Comments concerning the environmental impact of the construction proposed should be addressed to Mr. Myers at the address given above. Comments must be received within thirty (30) days of the date of publication of this notice to be considered in connection with the proposed action.

Final REA action with respect to this matter (including any release of funds) will be taken only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 9th day of February 1972.

DAVID A. HAMIL,
Administrator,
Rural Electrification Administration.

[FR Doc. 72-2231 Filed 2-14-72; 8:49 am]

BUCKEYE POWER, INC.

Final Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a final environmental statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with loan applications from the member systems of Buckeye Power, Inc., of Columbus, Ohio. The loan funds, when available, together with funds from other sources, are to finance the construction of a 615,000-kw. electrical generating unit as an addition to the generation station near Brilliant, Ohio.

Additional information may be secured on request, submitted to Mr. James N. Myers, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue SW, Washington, DC, Room 4322 or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 9th day of February 1972.

DAVID A. HAMIL,
Administrator,
Rural Electrification Administration.

[FR Doc. 72-2232 Filed 2-14-72; 8:49 am]

DEPARTMENT OF COMMERCE

Bureau of International Commerce

[Case 425]

**ROGER BINGHAM STEWART
MACNAMARA**

Order Denying Export Privileges

In the matter of Roger Bingham Stewart Macnamara, 52 Oakleigh Park Drive, Leigh-on-Sea, Essex, England, Respondent, Case No. 425.

The Director of the Compliance Division (formerly called Investigations Division), Office of Export Control, issued a charging letter against the above respondent on August 2, 1971, alleging violations of the regulations under the Export Control Act of 1949, as amended,¹

¹ This act has been succeeded by the Export Administration Act of 1969, Public Law 91-184, approved Dec. 30, 1969, 50 U.S.C. App. sec. 2401-2413. Section 13(b) of the new Act provides, "All outstanding delegations, rules, regulations, orders, licenses, or other forms of administrative action under the Export Control Act of 1949 * * * shall, until amended or revoked remain in full force and effect, the same as if promulgated under this Act."

and the Export Administration Act of 1969. The charging letter was served on respondent and he filed an answer but did not request a hearing.

The charging letter alleges in substance that the firm Petroservice International G.m.b.H (PSI) of Wiesbaden, West Germany, was subject to an order denying U.S. export privileges; that respondent knew or had reason to know of PSI's denied status; that notwithstanding such knowledge, the respondent between December 1, 1969, and May 5, 1970, on 17 occasions caused to be ordered U.S.-origin oil well drilling equipment for the account of PSI and on four (of the said 17) occasions caused the purchase and shipment of such equipment for the account of PSI. The known total value of the equipment ordered is alleged to be \$80,000, of which \$25,000 was delivered for the account of PSI. It is further alleged that although respondent knew or had reason to know that PSI was the true party in interest he failed to disclose the fact to the Office of Export Control or to obtain specific authorization to participate in said transactions. It is charged that respondent violated §§ 387.4 and 387.10 of the Export Control Regulations and the provisions of the denial order which prohibited parties from dealing with a denied party.

The respondent's answer in substance denies that he was instrumental in exporting commodities from the United States; he denies that he was aware of or had been informed of PSI's denied status and therefore was not subject to the restrictions as to dealings with denied parties; he denies that he knowingly caused to be ordered U.S.-origin oil well drilling equipment in contravention of the U.S. export control regulations; he denies that he was informed of the existence of the denial list and that PSI was on the list; he alleges that he was not informed that the equipment was of U.S.-origin; he admits that he knew or had reason to know the PSI was the true party in interest; he claims that he had no reason to know that prior disclosure of the facts had to be made to OEC and authorization obtained.

There was an informal presentation of documentary evidence before the Compliance Commissioner in support of the charges. The Compliance Commissioner considered the evidence and submitted to the undersigned a report which summarizes the evidence and includes findings of fact and conclusions. He recommended the sanction that should be imposed.

After considering the record in the case, I confirm and adopt the findings of fact of the Compliance Commissioner, which are as follows:

FINDINGS OF FACT

1. The respondent Roger Bingham Stewart Macnamara has resided in London, England and presently has an address in a town near London. He has been engaged principally in trading in steel and other metals. In connection with his principal activities he was acquainted with Manfred Hardt of Wiesbaden, West Germany and through him, in October 1968, became acquainted with the firm

Petroservice International G.m.b.H. (hereinafter PSI), also of Wiesbaden, and its general manager, Michael Schmidt-Sandler.

2. By virtue of several orders and determinations issued by the Director, Office of Export Control and published in the FEDERAL REGISTER, the firm PSI and a predecessor firm by the same name since July 20, 1967 have been denied all privileges of participating in transactions involving commodities or technical data exported or to be exported from the United States. The said orders and determinations are as follows: 32 F.R. 11895, August 17, 1967; 33 F.R. 3395, February 27, 1968; 33 F.R. 5425, April 5, 1968; 33 F.R. 6487, April 27, 1968; 34 F.R. 564, January 15, 1969; 34 F.R. 5186, March 13, 1969; 35 F.R. 8707, June 4, 1970.

3. Section 387.10 of the Export Control Regulations provides, in pertinent part, that without prior authorization from the Office of Export Control no person, with knowledge that another person is subject to an order denying him export privileges, may participate in transactions involving U.S.-origin commodities with such denied person or whereby in such a transaction the denied person may obtain any benefit or have any interest therein. The participation prohibited includes ordering, buying, selling, or delivering U.S.-origin commodities. The orders and determinations mentioned in Finding 2 contain similar provisions applicable specifically to the denied party PSI.

4. When respondent met Schmidt-Sandler, the latter requested him to attempt to expedite delivery to PSI of certain U.S.-origin oilfield equipment which it had ordered from a supplier in London. The respondent contacted said supplier and had dealings with one of its employees. On evaluating conflicting evidence, I find that in the course of these dealings said employee of the supplier informed respondent that PSI was on the U.S. denial list. By enlisting the services of a different supplier in London the respondent was successful in having the equipment delivered to PSI in December 1968.

5. In December 1969 respondent was engaged by PSI to act as an intermediary to procure oilfield equipment for it. It was agreed that he would receive a commission of 12½ percent above the list price of the equipment. The respondent did not have the financial standing to place orders with suppliers of such equipment and he arranged with a firm in London to have the orders placed through it. The respondent agreed to share his commission with the ordering firm.

6. The respondent has acknowledged that between December 1, 1969, and May 5, 1970, 30 orders were placed through the ordering firm with various suppliers for equipment for PSI. The respondent was not an employee of the ordering firm but he dealt with the suppliers in the name of the firm.

7. Evidence was introduced with respect to 17 orders placed by the ordering firm with four different suppliers in

London to procure U.S.-origin oilfield equipment for PSI. As to these orders the respondent was the intermediary between PSI and the ordering firm and he participated in the preparation of said 17 orders or knew their contents. The respondent had numerous contacts with the suppliers with regard to prices, shipping dates, specifications, and quantities.

8. The respondent did not obtain authorization from the Office of Export Control or any branch of the U.S. Government to participate in any of said transactions on behalf of PSI.

9. At least 13 of the orders or communications in connection therewith that came to respondent's attention showed that the goods were of U.S. origin. The respondent knew or had reason to know that the commodities involved in each of the 17 orders were of U.S. origin.

10. With respect to four of the above mentioned 17 orders oilfield equipment was exported from the United States and in accordance with instructions from PSI, conveyed through the ordering firm, were delivered to Rotterdam, Holland.

11. Practically all of the equipment involved in the 17 orders above referred to would have required a validated license for exportation from the United States and applications for such licenses to East European destinations would probably have been denied.

Based on the foregoing, I have concluded: (1) That the respondent violated § 387.4 of the Export Control Regulations in that he caused to be ordered, sold, and delivered commodities exported and to be exported from the United States with knowledge that a violation of an order and regulations under the Export Administration Act were intended to occur; (2) that the respondent violated § 387.10 of the Export Control Regulations in that without authorization from the Office of Export Control, and with knowledge that PSI was subject to an order denying export privileges, he participated in transactions whereby he caused to be ordered for said PSI and caused to be sold and delivered for the account of PSI, commodities of U.S. origin in which transactions PSI had an interest and obtained a benefit.

With respect to certain defenses raised by respondent, the Compliance Commissioner stated:

Respondent raised defenses on two essential elements of the violations: (1) He was unaware of the denied status of PSI; (2) he was not informed that the equipment in question was of U.S. origin.

The evidence shows that in December 1968 the respondent was given a copy of the denial list on which the name of PSI appeared and was told, in effect, that he should be careful in his dealings with PSI in U.S.-origin goods. There is also evidence to show that again in March 1970 respondent was informed of the denied status of PSI. The respondent denies having received this information or the list of denied parties. I cannot accept his denial.

As an intelligent business man the respondent must have known that there was something questionable in PSI's desire to obtain goods through an intermediary. It certainly must have occurred to him to ques-

tion, at least in his own mind, why PSI could not place orders directly with suppliers in London or manufacturers in the United States. Equally, if not more important, is the question why PSI would be willing to pay 12½ percent above cost price, when by dealing directly with the suppliers it could eliminate this surcharge.

The respondent in two interviews with a representative of the Compliance Division furnished no answers to these questions. A credible explanation, which I accept, is that respondent knew of PSI's denied status and was willing to furnish his services so that PSI could evade the denial order. It is significant to note that the respondent has admitted that after he learned that PSI was a denied party, he participated in placing seven orders for PSI to procure U.S.-origin goods.

I do not accept the respondent's contention that he was not informed that the equipment in question was of U.S. origin. Inasmuch as the denial order against PSI restricted its participation in commodities exported or to be exported from the United States, its need for an intermediary would be limited to the procurement of U.S.-origin commodities. This must have been obvious to the respondent. Further, the evidence shows that in at least 13 of the 17 orders, or in communications in connection therewith that came to respondent's attention, there was specific information to show that the commodities were of U.S. origin.

I find that respondent knew that the equipment in question that was ordered for PSI, some of which was delivered, was exported or was to be exported from the United States.

Concerning the sanction that should be imposed the Compliance Commissioner said:

The respondent actively participated in the procurement of strategic U.S.-origin commodities with knowledge that he was acting for a party who had been denied U.S. export privileges. He was successful in having approximately \$25,000 worth of such commodities exported from the United States for disposal by the denied party. He had placed orders for other equipment valued at least in the amount of \$55,000. The respondent's role in these transactions was discussed before these additional shipments were made. The respondent's participation in these transactions was in willful violation of the restrictions of the U.S. Export Control Regulations.

As an appropriate sanction I recommend that the respondent be denied U.S. export privileges for 4 years and that his export privileges be restored conditionally after 2 years and that for the remainder of the denial period he be placed on probation.

Having considered the record in the case and the report and recommendation of the Compliance Commissioner, and being of the opinion that his recommendation as to the sanction that should be imposed is fair and just and calculated to achieve effective enforcement of the law: *It is hereby ordered,*

I. All outstanding validated export licenses in which respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Bureau of International Commerce for cancellation.

II. Except as qualified in part IV hereof, the respondent for a period of 4 years from the effective date of this order is hereby denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction

involving commodities or technical data exported from the United States, in whole or in part, or to be exported, or which are otherwise subject to the export regulations. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation: (a) As a party or as a representative of a party to any validated export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents; (d) in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; (e) in the financing, forwarding, transporting or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondent, but also to his representatives, agents, and employees, and also to any person, firm, corporation, or other business organization with which he now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. Two years after the effective date hereof, without further order of the Bureau of International Commerce, the respondent shall have his export privileges restored conditionally and thereafter for the remainder of the denial period the respondent shall be on probation. The conditions of probation are that the respondent shall fully comply with all requirements of the Export Administration Act of 1969, as amended, and all regulations, licenses, and orders issued thereunder.

V. Upon a finding by the Director, Office of Export Control or such other official as may be exercising the duties now exercised by him, that the respondent has knowingly failed to comply with the requirements and conditions of this order or with any of the conditions of probation, said official with or without notice, by supplemental order may revoke the probation of said respondent, revoke all outstanding validated export licenses to which said respondent may be a party and deny to said respondent all export privileges for the remaining period of the order. Such supplemental order shall not preclude the Bureau of International Commerce from taking such further action for any violation as it shall deem warranted. On the entry of a supplemental order revoking respondent's probation without notice he may file objections and request that such order be set aside and may request an oral hearing as provided in § 388.16 of the Export Control Regulations, but pending such further proceedings the order of revocation shall remain in effect.

VI. During the time when the respondent or other persons within the scope of this order are prohibited from engaging in any activity within the scope of part

II hereof, no person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Bureau of International Commerce, shall do any of the following acts, directly or indirectly, in any manner or capacity, on behalf of or in any association with the respondent or other persons denied export privileges within the scope of this order, or whereby said respondent or such other persons may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for the respondent or other persons denied export privileges within the scope of this order; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

Dated: February 7, 1972.

This order shall become effective on February 16, 1972.

RAUER H. MEYER,
Director, Office of Export Control.

[FR Doc.72-2182 Filed 2-14-72;8:45 am]

Office of Import Programs

CENTER FOR DISEASE CONTROL

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00006-33-46500. Applicant: DHEW, PHS, HSMA, Center for Disease Control, 255 East Paces Ferry Road NE., Atlanta, GA 30305. Article: Ultramicrotome, LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The instruments will be used in research for ultrathin sectioning of plastic embedded virologic materials, including infected tissues, tissue cultures, and autopsy specimens.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended

to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of December 17, 1971, that cutting speeds in excess of 4 mm./sec. are pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Program.

[FR Doc.72-2184 Filed 2-14-72;8:45 am]

CHILDREN'S CANCER RESEARCH FOUNDATION

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of

the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00017-33-90000. Applicant: Children's Cancer Research Foundation, 35 Binney Street, Boston, MA 02115. Article: Rotating anode X-ray generator, Model GX-6. Manufacturer: Elliot Automation Radar Systems Ltd., United Kingdom. Intended use of article: The foreign article will be used in medical research on virus structure studies.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a focused spot of minimal size and a rotating target for maximum X-ray power. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated November 19, 1971, that both of the characteristics described above are pertinent to the applicant's research studies. HEW further advises that it knows of no comparable domestic instrument that provides both of the pertinent characteristics of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc.72-2185 Filed 2-14-72; 8:45 am]

EAST LOS ANGELES COLLEGE

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00539-33-46040. Applicant: East Los Angeles College, Department of Life Sciences, 5357 East Brooklyn, Los Angeles, CA 90022. Article:

Electon microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The primary function of the article will be to provide instruction in the basic technique of electron microscopy and specimen preparation. Students involved in the program of instruction will be disadvantaged, physically handicapped, and others. Courses include Introduction to Electron Microscopy, Techniques of Electron Microscopy, Biological Applications of Electron Microscopy, and Electron Microscope Optics and Theory.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated September 10, 1971, that the relative simplicity of design and ease of operation of the foreign article is pertinent to the applicant's educational purposes.

We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc.72-2186 Filed 2-14-72; 8:45 am]

MEDICAL UNIVERSITY OF SOUTH CAROLINA

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review

during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00007-33-46500. Applicant: Medical University of South Carolina, 80 Barre Street, Charleston, SC 29401. Article: Ultramicrotome Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used to study human and animal intestinal mucosa and liver to determine (a) the cellular pathology in various disease and experimental states, and (b) the distribution of certain cellular enzymes during human and animal nutritional experiments. The article will also be used in a course "Laboratory Research in Gastroenterology" for preclinical and clinical medical students.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of December 30, 1971, that cutting speeds in excess of 4 mm./sec. are

pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-2187 Filed 2-14-72;8:45 am]

MERCY HOSPITAL LABORATORY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00595-33-46040. Applicant: Mercy Hospital Laboratory, 1000 North Village Avenue, Rockville Centre, NY 11570. Article: Electron microscope, EM 9S-2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article will be used in the study of diseases of the kidney, liver, bone marrow, and tumor biopsies for the specific purpose of a more definite diagnosis of disease on ultrastructure. The article will also be used in a training program of operation of the electron microscope and related techniques.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forjflo Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 15, 1971, that the relative simplicity of design and ease of opera-

tion of the foreign article is pertinent to the applicant's educational purposes. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-2188 Filed 2-14-72;8:46 am]

MICROBIOLOGICAL ASSOCIATION, INC.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00524-33-46040. Applicant: Microbiological Association, Inc., for National Cancer Institute, NIH, 4733 Bethesda Avenue, Bethesda, MD 20014. Article: Electron microscope, Model HU-11E. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used to study ultrathin sections of normal and cancerous tissues, and tissue culture cells; and negative stain preparations. These studies are being conducted for the express purpose of finding evidence of C-type particles and other virus or virus-like particles that may be etiologically related to oncogenesis.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered (November 9, 1970).

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument was the Model EMU-4C electron microscope manufactured by the Forjflo Corp. The Model EMU-4C had a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in its memorandum dated September 3, 1971, that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is

intended to be used. We, therefore, find that the Model EMU-4C was not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States and available at the time the foreign article was ordered.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-2189 Filed 2-14-72;8:46 am]

PURDUE UNIVERSITY

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00620-33-90000. Applicant: Purdue University, Lafayette, Ind. 47907. Article: Anode X-ray diffraction system, Model GX-6. Manufacturer: Elliott Automatic Radar Systems, Ltd., United Kingdom. Intended use of article: The article will be used in research analyzing the detailed molecular structures of nucleic acid, polysaccharides, globular proteins, and viruses.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a focused spot of minimal size and a rotating target for maximum X-ray power. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated November 19, 1971, that both of the characteristics described above are pertinent to the applicant's research studies. HEW further advises that it knows of no comparable domestic instrument that provides both of the pertinent characteristics of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-2190 Filed 2-14-72;8:46 am]

SOUTHERN ILLINOIS UNIVERSITY
Notice of Decision on Application for
Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No.: 71-00474-33-07520. Applicant: Southern Illinois University, Department of Chemistry, Carbondale, Ill. 62901. Article: Batch microcalorimeter, conversion kit, and two Perpex pumps. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used to study a number of biologically important systems. Projects concern the interactions of small molecules with proteins, enzymes or other biological macromolecules; and macromolecular transformations accompanying conformational changes in proteins, lipids, and nucleic acids.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used is being manufactured in the United States.

Reasons: The foreign article is a microcalorimetric system capable of providing a sensitivity of 1 microcalorie per second on approximately 5 milliliters of solution. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated July 16, 1971, that the capability described above is pertinent to the purposes for which the article is intended to be used. HEW further advises that it knows of no equivalent domestic instrument being produced in the United States that provides the pertinent capability.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-2191 Filed 2-14-72;8:46 am]

UNIVERSITY OF HOUSTON
Notice of Decision on Application for
Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub-

lic Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 71-00542-33-46040. Applicant: University of Houston, Department of Biology, 3801 Cullen Boulevard, Houston, TX 77004. Article: Electron microscope, Model HS-8. Manufacturer: Hitachi, Ltd., Japan.

Intended use of article: The article will be used to instruct graduate students in electron microscopy and will carry the burden of a sustained graduate research program in the area of biological ultrastructure. The types of preparations to be examined are negatively stained preparations of viruses, bacteria, and various cellular isolates; shadow-cast preparations of viruses and bacteria; both stained and unstained thin sections of bacterial, plant and animal cells; and ultracytochemical and autoradiographic studies which will also be performed with bacterial plant and animal cells.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. The foreign article is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programming. The foreign article provides a holder for six specimens in vacuum. The most closely comparable domestic instrument is the Model EMU-4C manufactured by Forgflo Corp. The Model EMU-4C electron microscope is a relatively complex instrument designed for research, which requires a skilled electron microscopist for its operation and does not provide a holder for six specimens in vacuum. We are advised by the Department of Health, Education, and Welfare in its memorandum dated September 10, 1971, that the relative simplicity of design and a holder for six specimens in vacuum is pertinent to the applicant's educational purposes. HEW further advises that the pertinent features of the article are not matched in domestic instruments. We, therefore, find that the Model EMU-4C electron microscope is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-2192 Filed 2-14-72;8:46 am]

UNIVERSITY OF TEXAS

Notice of Decision on Application for
Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00003-33-90000. Applicant: The University of Texas at Austin, Purchasing Office, Box 7306, University Station, Austin, TX 78712. Article: Anode X-ray diffraction generator. Manufacturer: Elliot Automation Radar Systems Ltd., United Kingdom. Intended use of article: The article will be used in research experiments to obtain X-ray diffraction patterns from crystals of, and/or solutions of the enzymes, pyruvate dehydrogenase and a-ketoglutarate dehydrogenase, which are large biological molecules having dimensions over 200 angstroms.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a focused spot of minimal size and a rotating target for maximum X-ray power. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated November 19, 1971, that both of the characteristics described above are pertinent to the applicants' research studies. HEW further advises that it knows of no comparable domestic instrument that provides both of the pertinent characteristics of the article.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,
Office of Import Programs.

[FR Doc.72-2193 Filed 2-14-72;8:46 am]

VETERANS ADMINISTRATION
HOSPITAL, SAN DIEGO, CALIF.
Notice of Decision on Application for
Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and

the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00005-33-46500. Applicant: Veterans Administration Hospital, 3350 La Jolla Village Drive, San Diego, CA 92161. Article: Ultramicrotome Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to produce serial sections of high quality which will be used in research concerned with the elucidation of the mechanism of demyelination and remyelination by hymen and experimental diseases. The article will also be used in teaching electron microscopy of nerve tissue to medical and post graduate students.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of December 17, 1972, that cutting speed in excess of 4 mm./sec. are pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc.72-2194 Filed 2-14-72;8:46 am]

VETERANS ADMINISTRATION HOSPITAL, BOSTON, MASS.

Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (34 F.R. 15787 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C.

Docket No. 72-00004-33-46500. Applicant: Veterans Administration Hospital, 150 South Huntington Avenue, Boston, MA 02130. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter A.B., Sweden. Intended use of article: The article will be used in research experiments on the normal, physiological behavior of cells and tissues in regard to the development of ataxia, tremor, and seizures. In addition, variations in the behavior of cells and tissues under experimental and genetically induced pathological conditions will be studied.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500)

which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm./sec.). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm./sec.

We are advised by HEW in its memorandum of November 19, 1971 that cutting speeds in excess of 4 mm./sec. are pertinent to the purposes for which the foreign article is intended to be used.

We, therefore, find that the Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

SETH M. BODNER,
Director,

Office of Import Programs.

[FR Doc.72-2195 Filed 2-14-72;8:46 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. FDC-D-434]

FORT DODGE LABORATORIES, INC.

Nolvapent; Notice of Drug Deemed
Adulterated

An announcement concerning Nolvapent, Anesthetic Eye and Ear Ointment manufactured by Fort Dodge Laboratories, Inc., Fort Dodge, Iowa 50501 was published in the FEDERAL REGISTER of May 5, 1970 (35 F.R. 7090). The announcement set forth the findings of the Food and Drug Administration following review of a report received from the National Academy of Sciences-National

Research Council, Drug Efficacy Study Group, that this product is probably not effective for treatment of bacterial infections of the eye and ear.

Said announcement provided the manufacturer and all interested persons a 6-month period in which to submit new animal drug applications. Fort Dodge Laboratories, Inc., did not submit a new animal drug application for the above product.

Based on the foregoing and the information before him, the Commissioner of Food and Drugs concludes that the above named drug is adulterated within the meaning of section 501(a)(5) of the Federal Food, Drug, and Cosmetic Act in that it is not the subject of an approved new animal drug application pursuant to section 512 of the act. Therefore, notice is given to Fort Dodge Laboratories, Inc., and all interested persons that all stocks of said drug within the jurisdiction of the act are deemed adulterated within the meaning of the act, and are subject to appropriate regulatory action.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 501(a)(5), 512, 52 Stat. 1049 as amended, 82 Stat. 343-51; 21 U.S.C. 351(a)(5), 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: February 7, 1972.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.72-2220 Filed 2-14-72; 8:48 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-72-147]

ASSISTANT SECRETARY FOR HOUSING MANAGEMENT

Redelegation and Delegation of Authority With Respect to Emergency Preparedness

SECTION A. Authority redelegated. The Assistant Secretary for Housing Management and the Deputy Assistant Secretary for Housing Management are redelegated the functions assigned to the Secretary of Housing and Urban Development by Executive Order 11490 (34 F.R. 17567) including the preparation of national emergency plans and the development of preparedness programs covering all aspects of housing, community facilities related to housing, and urban development.

SEC. B. Effectuation. Any emergency plans developed under the authority redelegated in section A may be effectuated only in the event that authority for such effectuation is provided by law enacted by the Congress or by an order or directive issued by the President.

SEC. C. Delegation of authority. The Assistant Secretary for Housing Management is authorized to direct and to

coordinate, within the Department of Housing and Urban Development and with the Office of Emergency Preparedness, major-disaster relief functions of the Department and as assigned by the Director of the Office of Emergency Preparedness, pursuant to Public Law 91-606 (42 U.S.C. 4401), Executive Order 11575, and regulations of OEP codified in 32 CFR Parts 1709 and 1710, as amended by 36 F.R. 1329, January 29, 1971. The Assistant Secretary is authorized to utilize or lend the equipment, supplies, facilities, personnel and other resources of the Department in major-disaster areas as provided by law and directed by the Director of the Office of Emergency Preparedness.

SEC. D. Authority to redelegate. The Assistant Secretary for Housing Management is authorized to:

1. Redelegate to agencies and instrumentalities of the United States, and to officers and employees of the United States, the functions set forth in section A.

2. Redelegate to employees of the Department any of the authority set forth in section C.

Supersedure. The delegation of authority under section C supersedes the delegation published at 36 F.R. 1548, February 2, 1971.

(Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)) and section 3012 of Executive Order 11490 (34 F.R. 17567))

Effective date. This delegation and redelegation of authority is effective as of July 13, 1971.

GEORGE ROMNEY,
Secretary of Housing
and Urban Development.

[FR Doc.72-2200 Filed 2-14-72; 8:47 am]

[Docket No. D-72-146]

REGIONAL ADMINISTRATORS, ET AL.

Designation as Contracting Officer and Redelegation of Authority With Respect to Major-Disaster Field Functions

SECTION A. Designation and redelegation. Each Regional Administrator, Deputy Regional Administrator, Area Director, Deputy Area Director, Insuring Office Director, and Insuring Office Deputy Director of the Department of Housing and Urban Development is designated a contracting officer, and is authorized to enter into and administer procurement contracts within major-disaster areas under his jurisdiction, including the sale of emergency housing acquired pursuant thereto to occupants, and to make related determinations except determinations under section 302(c) (11), (12), and (13) of the Federal Property and Administrative Services Act (41 U.S.C. 252(c) (11), (12), and (13)), with respect to major-disaster relief functions of the Department and as assigned by the Director, Office of Emergency Preparedness, by Public Law 91-606 (42 U.S.C. 4401), Executive Order 11575 (36 F.R. 37), and regulations of OEP (32

CFR Parts 1709 and 1710, amended by 36 F.R. 1329).

SEC. B. Authority to redelegate. Each Regional Administrator, Deputy Regional Administrator, Area Director, Deputy Area Director, Insuring Office Director, and Insuring Office Deputy Director is authorized to redelegate to employees of the Department any of the authority redelegated in section A.

Supersedure. This redelegation of authority supersedes the redelegation published at 36 F.R. 1549, February 2, 1971. (Secretary's Redelegation and Delegation of Authority With Respect to Emergency Preparedness being published concurrent herewith.)

Effective date. This redelegation of authority is effective as of July 13, 1971.

NORMAN V. WATSON,
Assistant Secretary for
Housing Management.

[FR Doc.72-2199 Filed 2-14-72; 8:47 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-289, 50-320]

METROPOLITAN EDISON CO. AND JERSEY CENTRAL POWER & LIGHT CO.

Amended Determination To Suspend Certain Construction Activities Pending Completion of NEPA Environmental Review

On December 7, 1971, the Director of Regulation of the Atomic Energy Commission published in the FEDERAL REGISTER, 36 F.R. 23264, a determination to suspend construction activities involving the off-site portion of the transmission lines for the Three Mile Island Nuclear Generating Station, Unit 2, pending completion of such portions of an environmental review under the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), 10 CFR Part 50, Appendix D, as relate to these matters. As noted in the determination, the Director of Regulation had served upon Metropolitan Edison Co. and Jersey Central Power & Light Co. (licensees) an order to show cause why the above-mentioned construction activities involving the off-site portion of the transmission lines for the Three Mile Island Nuclear Generating Station, Unit 2, should not be suspended pending completion of the NEPA environmental review relating to these matters. Among other things, the order to show cause provided that the licensees might, within thirty (30) days of the date of the order, file a written answer to the order under oath or affirmation.

On December 28, 1971, the licensees filed a timely answer requesting that the order to show cause be reconsidered.

Upon consideration of the licensees' answer to the order to show cause, it has been determined that the Director of Regulation's determination should be modified so as to provide for the suspension of construction activities involving

the off-site portion of only the Juniata transmission line for the Three Mile Island Nuclear Generating Station, Unit 2, pending completion of the NEPA environmental review relating to these matters. The Director of Regulation has served on the licensees an order suspending such construction activities.

Further details of this amended determination are set forth in a document entitled "Supplement to Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Provisional Construction Permits for the Three Mile Island Nuclear Generating Station, Units 1 and 2, Metropolitan Edison Co. and Jersey Central Power & Light Co., Dockets Nos. 50-289 and 50-320," dated February 4, 1972.

Any person whose interest may be affected by this amended determination other than the licensees may file a request for hearing within thirty (30) days after publication of this amended determination in the FEDERAL REGISTER.

Such request shall set forth the matters with reference to the factors set out in section E.2 of Appendix D alleged to warrant a suspension determination other than the amended determination made by the Director of Regulation and set forth the factual basis for the request. If the Commission determines that the matters stated in such a request warrant a hearing, a notice of hearing will be published in the FEDERAL REGISTER.

Copies of (1) the licensees' answer to the order to show cause, (2) a document entitled "Discussion and Findings by the Division of Reactor Licensing, U.S. Atomic Energy Commission, Relating to Consideration of Suspension Pending NEPA Environmental Review of the Provisional Construction Permits for the Three Mile Island Nuclear Generating Station, Units 1 and 2, Metropolitan Edison Co. and Jersey Central Power and Light Co., Dockets Nos. 50-289 and 50-320," (3) the supplement there to referred to above, and (4) the order suspending construction activities involving the off-site portion of the Juniata transmission line are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the General Public Section, State Library of Pennsylvania, Harrisburg, Pa. Copies of Items 2, 3, and 4 may be obtained upon request, addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director, Division of Reactor Licensing.

Dated at Bethesda, Md., this 7th day of February 1972.

For the Atomic Energy Commission.

L. MANNING MUNTZING,
Director of Regulation.

[FR Doc.72-2180 Filed 2-14-72; 8:45 am]

[Docket No. 50-282]

NORTHERN STATES POWER CO.

Order Extending Provisional Construction Permit Completion Date

By application dated December 30, 1971, Northern States Power Co. requested an extension of the latest completion date specified in Provisional Construction Permit No. CPPR-45. The permit authorizes the construction of a pressurized water nuclear reactor designated as the Prairie Island Nuclear Generating Plant Unit 1 at the applicant's site northwest of Red Wing, in Goodhue County, Minn.

Good cause having been shown for this extension pursuant to section 185 of the Atomic Energy Act of 1954, as amended, and § 50.55(b) of 10 CFR Part 50 of the Commission's regulations: *It is hereby ordered*, That the latest completion date specified in Provisional Construction Permit No. CPPR-45 is extended from February 1, 1972, to February 1, 1973.

Date of issuance: February 7, 1972.

For the Atomic Energy Commission.

FRANK SCHROEDER,
Deputy Director,
Division of Reactor Licensing.

[FR Doc.72-2181 Filed 2-14-72; 8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Notice of Public Availability

Environmental impact statements received by the Council on Environmental Quality January 31-February 4, 1972.

NOTE: At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. T. C. Byerly, Office of the Secretary, Washington, D.C. 20250, (202) 388-7803.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

Draft, February 2

Commitment of 25,700 acres to new continental cane sugar production, Lower Rio Grande Valley, Cameron, Willacy, Hidalgo, and Starr Counties, Tex. Involves construction of a raw sugar processing facility in the area. (ELR Order No. 1777, 7 pages) (NTIS Order No. PB-206 263-D)

SOIL CONSERVATION SERVICE

Draft, January 25

Shoemaker River Watershed, Rockingham County, Va. Accelerated land treatment measures on 1,077 acres on farm and forest land and construction of four floodwater retarding structures. Involves loss of forest, wildlife habitat, and esthetic values. (ELR Order No. 1725, 21 pages) (NTIS Order No. PB-206 177-D)

Draft, January 31

Wheat, Feed Grain and Cotton Set-Aside Programs provide for a set-aside of cropland if the Secretary determines that the total supply of wheat, feed grain, or cotton will likely be excessive. A condition of eligible for loans, purchases, and other payments for cotton, wheat, or feed grain requires that producers on a farm must set aside and devote to approved conservation uses a certain percentage of the commodity allotment for wheat or cotton or the feed grain base. Additional payment on set-aside acreage is provided if the producer agrees to permit public access for hunting, trapping, fishing, and hiking. A pilot public access program will be offered for 1972 in five counties and 10 designated States. (ELR Order No. 1761, 25 pages) (NTIS Order No. PB-206 158-D)

Water Bank Program provides incentive payments to landowners and operators for conserving waters, preserving or improving migratory waterfowl habitat and other wildlife resources. Under the program, long-term agreements are entered into with landowners or operators who agree to take certain actions to preserve designated wetlands areas for which the Secretary agrees to make an annual payment and bear a part of the cost of establishing and maintaining the needed conservation practices. (ELR Order No. 1762, five pages) (NTIS Order No. PB-206 159-D)

ATOMIC ENERGY COMMISSION

Contact: For Nonregulatory Matters: Joseph J. DiNunno, Director, Office of Environmental Affairs, Washington, D.C. 20545, (202) 973-5391.

For Regulatory Matters: Christopher L. Henderson, Assistant Director of Regulation for Administration, Washington, D.C. 20545, (202) 973-7531.

Draft, January 27

Application of the Baltimore Gas & Electric Co. for a license to operate the Calvert Cliffs Nuclear Power Plant, Units 1 and 2, Calvert County, Md. The waste heat during full power operation of the two units, about 3,500 m.w., will be dissipated by pumping about 5,500 c.f.s. of salt water from Chesapeake Bay through steam condensers, elevating the water temperature 10° F (with a maximum discharge temperature not exceeding 90° F) and returning the water directly to the Bay. (ELR Order No. 1760, 102 pages) (NTIS Order No. PB-206 179-D)

DEPARTMENT OF DEFENSE

DEPARTMENT OF ARMY

Corps of Engineers

Contact: Francis X. Kelly, Assistant for Conservation Liaison, Public Affairs Office, Office, Chief of Engineers, 1000 Independence Avenue SW., Washington, DC 20314, (202) 693-6346.

Draft, January 26

Perico Island, Manatee County, Fla. Application of Curtiss-Wright Corp. for a permit to dredge and fill to produce 370 acres of upland and 92.4 acres of canals from the former upland for development. A total of 43.9 acres of submerged grass flats, 9 acres of mud flats, and 8.6 acres of intertidal flats and associated fauna will be covered by dredged material. Dredging will remove another 67.4 acres of submerged grass flats, 15.5 acres of mud flats, 516 acres of intertidal flats and 0.4 acre of coon oyster beds (ELR Order No. 1710, 22 pages) (NTIS Order No. PB-206 105-D)

Draft, January 19

Kingstree Branch flood control project, Black River Basin, Kingstree, S.C. Enlargement of channel from confluence of Kingstree Branch and Black River upstream 1.83 miles to the city limits. (ELR Order No. 1715, 35 pages) (NTIS Order No. PB-206 109-D)

Draft, February 1

Bound Brook, Scituate, Mass. Snagging, clearing, and channel realignment and widening for flood control 1,200 feet upstream of Hunters Pond Dam. (ELR Order No. 1767, 31 pages) (NTIS Order No. PB-206 266-D)

Draft, February 2

Big Sioux River at and in the vicinity of Sioux City, Iowa, and North Sioux City, S. Dak. Flood protection by channel enlargement and bank stabilization for 5.5 miles. Downstream of the interstate highway, flow will be diverted directly to the Missouri River, entering the river 7,500 feet upstream from its present location. Will eliminate 25 acres of wildlife habitat. (ELR Order No. 1770, 39 pages) (NTIS Order No. PB-206 261-D)

Draft, January 26

Chowan River, N.C.-Blackwater River, Va. Improvement of navigation by dredging three cutoff channels on the two rivers, at Riddicksville, Cherry Grove, and Georges Bend. Involves loss of terrestrial wildlife habitat and creation of an aquatic habitat. (ELR Order No. 1771, 4 pages) (NTIS Order No. PB-206 258-D)

Final, January 27

Revised final statement (April 15). Trumbull Lake, Pequonnock River, Conn. Flood protection by construction of concrete dam and storage reservoir extending 2.5 miles up the Pequonnock River. Will inundate 200 acres of land, involve loss of a valley with pools and rapids, result in loss of stream fishing and cause relocation of 30 families. Comments made by EPA, DOI, five State agencies and the town of Trumbull. (ELR Order No. 1704, 37 pages) (NTIS Order No. PB-206 104-F)

Aquatic plant control program, Hudson and Mohawk Rivers, N.Y. Control and progressive eradication of waterchestnut in and from the waters within the two rivers by spraying with 2,4-D. Comments made by USDA, EPA, New York Department of Environmental Conservation, and New York Department of Health. (ELR Order No. 1707, 18 pages) (NTIS Order No. PB-200 003-F)

Long Branch Lake, East Fork, Little Chariton River, Macon County, Mo. Flood protection by construction of an earthfill dam and lake. Will inundate 2,430 acres of land and eliminate 14 miles of the East Fork and associated habitat. Comments made by USDA, EPA, DOI, four State agencies, American Fisheries Society, and Wildlife Society. (ELR Order No. 1721, 33 pages) (NTIS Order No. PB-201 518-F)

Red River of the North, Oslo, Marshall County, Minn. Flood control improvement by improving a levee and constructing interior drainage facilities and street and road ramps. Will drain a 25-acre marsh, alter 313 acres of wildlife habitat by removal of trees and necessitate relocation of six houses. Comments made by USDA, HEW, DOI, Minnesota Department of Natural Resources, and village of Oslo. (ELR Order No. 1724, 32 pages) (NTIS Order No. PB-204 943-F)

Dog River, Mobile Bay, Ala. Dredging of a new channel from 3,000 feet east of the Mobile Bay Ship Channel to and up Dog River (26,200 feet) and spur channels from the main channel to the mouths of Perch and Halls Mill Creeks. Total length is 7.8 miles. Spoils to be deposited on diked land areas and in open water. Filling of 30 acres of marsh will limit use by small mammals and birds. Comments made by DOC, EPA, HUD, DOI, DOT, and Alabama State Development Office. (ELR Order No. 1726, 45 pages) (NTIS Order No. PB-206 178-F)

Final, January 28

Zumbro River, Wabasha County, Minn. Flood protection by channel modification on 3 miles of the river from Kellogg to the mouth. Will change or eliminate 1.3 miles of stream. Comments made by USDA, EPA, DOI, and Minnesota Department of Natural Resources. (ELR Order No. 1727, 50 pages) (NTIS Order No. PB-201 851-F)

New Bedford and Fairhaven Harbor, Mass. Improvement of navigation by widening one section of the channel, deepening another section and extending the channel. Comments made by DOC, DOI, Massachusetts Department of Natural Resources and city of New Bedford. (ELR Order No. 1728, 25 pages) (NTIS Order No. PB-203 156-F)

Manitowoc Harbor, Manitowoc City and County, Wis. Improvement of navigation by extending channel upstream for 720 feet. Comments made by EPA, DOI, DOT, Wisconsin Department of Natural Resources, Wisconsin Department of Local Affairs and Development, and city of Manitowoc. (ELR Order No. 1730, 25 pages) (NTIS Order No. PB-202 843-F)

Stuart Gulch Dam, Idaho. Flood control by construction of an earthfill dam. Would cover 194 acres of land. Comments made by USDA, EPA, DOI, five State offices, city of Boise, and Ada County Commissioners. (ELR Order No. 1737, 25 pages) (NTIS Order No. PB-198 722-F)

Libby Dam and Lake Kocanusa, Kottental River, Mont. Flood control as a part of a multipurpose project included in the International Water Resource Development Plan of the Columbia River Basin (United States and Canada), under construction since 1966. Consists of completing dam (scheduled for flood control storage by 1973), constructing a powerhouse on the west bank with four 105,000-kw. generators, etc. Surface area of lake: 46,500 (28,850 in United States, 17,650 in Canada). Comments made by USDA, DOC, FPC, HEW, DOI, DOT, Bonneville Power Administration, four Montana State offices, two Idaho State offices, and town of Rexford. (ELR Order No. 1739, 50 pages) (NTIS Order No. PB-200 538-F)

Final, February 2

Chief Joseph Dam additional units, Columbia River, Wash. Construction of 11 additional units to increase the hydraulic capacity and peak power producing capacity of the dam. Will inundate 500 acres of land. Comments made by DOC, DOI, three State offices, Northwest Steelheaders Council of Trout Unlimited, and interested citizens. (ELR Order No. 1776, 46 pages) (NTIS Order No. PB-199 458-F)

FEDERAL POWER COMMISSION

Contact: Frederick H. Warren, Advisor on Environmental Quality, 441 G Street NW., Washington, DC 20426, (202) 386-6084.

Draft, January 3

Supplement to draft (August 17). Applications by Columbia LNG Co., Consolidated System LNG Co., Southern Energy Co., and Southern Natural Gas Co. for authorization to import Algerian liquefied natural gas (LNG) and for certificates of public convenience and necessity authorizing construction and operation of facilities for the unloading and handling of imported LNG volumes. Dockets Nos. CP71-68, CP71-151, CP71-153, CP71-264, CP71-276, CP71-289, and CP71-290. (ELR Order No. 1616, 297 pages) (NTIS Order No. PB-206 255)

GENERAL SERVICES ADMINISTRATION

Contact: Rod Kreger, Acting Administrator, GSA-AD, Washington, D.C. 20405, (202) 343-6077.

Alternate Contact: Aaron Woloshin, Director, Office of Environmental Affairs, GSA-AD, Washington, D.C. 20405, (202) 343-4161.

Final, February 1

Disposal of Birdsboro Army Tank-Automotive Steel Foundry, Berks County, Pa., by negotiated sale to the Greater Berks Development Fund for lease to the Birdsboro Corp. Comments made by EPA. (ELR Order No. 1772, 7 pages) (NTIS Order No. PB-204 098-F)

DEPARTMENT OF INTERIOR

Contact: Office of Communications, Room 7214, Washington, D.C. 20240, (202) 343-6416.

BUREAU OF RECLAMATION

Draft, January 26

South Gila Valley, Colorado River front work and levee system, Yuma County, Ariz. Concrete lining of main outlet drain (8 miles long) to prevent seepage of saline water into the Gila River Pilot Channel and the groundwater table of the valley. (ELR Order No. 1706, 25 pages) (NTIS Order No. PB-206 102-D)

Palmetto Bend Dam, Navidad River, Jackson County, Tex. Construction of an earthfill dam with a concrete spillway. Will inundate 11,300 acres, change 40 miles of the river and tributaries to impounded and regulated streams, change the fresh water inflow to Matagorda Estuary and displace nine families. (ELR Order No. 1719, 27 pages) (NTIS Order No. PB-206 113-D)

Draft, January 27

Pueblo Dam and Reservoir, Frypan-Arkansas Project, Colo. Construction of a dam and reservoir for storage and regulation of water supplies, flood control, recreation, and regulation and storage of project water and the native flows of the Arkansas River. Construction begun in 1970. Will inundate 4,646 acres of land and 9 miles of natural river. (ELR Order No. 1723, 74 pages) (NTIS Order No. PB-206 272-D)

Draft, January 31

Deep geothermal test well, geothermal resource investigations, Imperial Valley, Calif. Drilling of a geothermal test well between 4,000 feet and 8,000 feet in the East Mesa area to recover steam and brine to determine its suitability for development of desalted water and electric power. Involves stripping and leveling of 10 acres. (ELR Order No. 1754, 15 pages) (NTIS Order No. PB-206 161-D)

BUREAU OF SPORT FISHERIES AND WILDLIFE

Draft, January 26

Legislative proposal to designate as wilderness 5,577 acres of the Lostwood National Wildlife Refuge, Burke and Mountrall Counties, N. Dak. (ELR Order No. 1705, 18 pages) (NTIS Order No. PB-206 103-D)

Legislative proposal to designate as wilderness 4,155 acres of the Chase Lake National Wildlife Refuge, Stutsman County, N. Dak. (ELR Order No. 1708, 18 pages) (NTIS Order No. PB-206 112-D)

Legislative proposal to designate as wilderness seven islands of the San Juan Archipelago, San Juan and Skagit Counties, Wash. (ELR Order No. 1709, 15 pages) (NTIS Order No. PB-206 110-D)

Legislative proposal to designate as wilderness 3,000 acres of the Blackbeard Island National Wildlife Refuge, offshore from McIntosh County, Ga. (ELR Order No. 1714, 21 pages) (NTIS Order No. PB-206 111-D)

Legislative proposal to designate as wilderness 4,218 acres of the Wolf Island National Wildlife Refuge offshore from Darien, McIntosh County, Ga. (ELR Order No. 1717, 18 pages) (NTIS Order No. PB-206 109-D)

Draft, February 2

Legislative proposal to designate as wilderness 16,900 acres of the Chassahowitzka National Wildlife Refuge, Citrus and Hernando Counties, Fla. (ELR Order No. 1766, 23 pages) (NTIS Order No. PB-206 254-D)

Legislative proposal to designate as wilderness 4,250 acres, comprising 17 islands, of Brigantine National Wildlife Refuge, Atlantic and Ocean Counties, N.J. (ELR Order No. 1768, 23 pages) (NTIS Order No. PB-206 259-D)

NATIONAL PARK SERVICE

Draft, January 27

Legislative proposal to designate as wilderness 7,700 acres of Colorado National Monument, Colo. (ELR Order No. 1729, 26 pages) (NTIS Order No. PB-206 273-D)

Legislative proposal to designate as wilderness 29,255 acres of Great Sand Dunes National Monument, Colo. (ELR Order No. 1731, 24 pages) (NTIS Order No. PB-206 166-D)

Legislative proposal to designate as wilderness 8,780 acres of Gunnison National Monument, Colo., encompassing all of Black Canyon and a portion of the mesa and bench land in the western half of the monument. (ELR Order No. 1735, 25 pages) (NTIS Order No. PB-206 169-D)

Legislative proposal to designate as wilderness 16,303 acres of Bryce Canyon National Park, Garfield and Kane Counties, Utah. (ELR Order No. 1742, 36 pages) (NTIS Order No. PB-206 183-D)

Draft, January 31

Legislative proposal to designate as wilderness 5,418 acres of Cumberland Gap National Historical Park, Kentucky, Tennessee and Virginia. (ELR Order No. 1764, 25 pages) (NTIS Order No. PB-206 257-D)

OFFICE OF SALINE WATER

Draft, January 28

Hybrid prototype desalting plant, Brownsville, Tex. Legislative proposal to design, construct, operate, and maintain an 8 m.g.d. prototype desalination plant in cooperation with the Rio Grande Valley Municipal Water Authority and the city of Brownsville. (ELR Order No. 1763, 26 pages) (NTIS Order No. PB-206 256-D)

DEPARTMENT OF TRANSPORTATION

Contact: Martin Convisser,¹ Director, Office of Program Coordination, 400 Seventh Street S.W., Washington, DC 20590, (202) 462-4357.

FEDERAL AVIATION ADMINISTRATION

Draft, January 25

Schoolcraft County Airport, Mich. Expansion by construction of runway, taxiway, and apron; runway extension; relocation of road; relocation of beacon and lighting controls; etc. (ELR Order No. 1711, 32 pages) (NTIS Order No. PB-206 106-D)

Springfield Municipal Airport, Brown County, Minn. Development of a new airport, including construction of a runway, connecting taxiway, apron, and tie-down area. (ELR Order No. 1718, 15 pages) (NTIS Order No. PB-206 107-D)

Goldsby Airport, Norman, McClain County, Okla. Reconstruction, realignment, and extension of runway and installation of lighting system, rotating beacon and tower, segmented circle and lighted wind cone. (ELR Order No. 1720, 30 pages) (NTIS Order No. PB-206 108-D)

Baxley Municipal Airport, Appling County, Ga. Extension and widening runway to accommodate all propeller aircraft of less than 12,500 pounds. (ELR Order No. 1734, 12 pages) (NTIS Order No. PB-206 167-D)

Draft, January 31

Freemont Municipal Airport, Newaygo County, Mich. Construction of a runway and extension of another runway. (ELR Order No. 1740, 56 pages) (NTIS Order No. PB-206 182-D)

Hemphill Municipal Airport, Sabine County, Tex. Development of new airport, including runway, taxiway, parking ramp, access road, wind cone and segmented circle, fencing, radio and airport beacons and lighting system. (ELR Order No. 1769, 28 pages) (NTIS Order No. PB-206 262-D)

Final, January 25

Lincolnton-Cherryville Airport, N.C. Construction of new airport south of juncture of N.C.-182 and S.R.-1187 adequate for 95 percent of propeller-driven aircraft of less than 12,500 pounds and some light twin-engine propeller-driven aircraft. Comments made by USDA, EPA, DOI, five State agencies and Central Piedmont Regional Council of Local Governments. (ELR Order No. 1713, 19 pages) (NTIS Order No. PB-204 024-F)

FEDERAL HIGHWAY ADMINISTRATION

Draft, January 26

Project 24-44, F 072-1(19): Jefferson County, Kans. Grading and surfacing from the end of the four-lane pavement near Grantville east to Newman Corner and the proposed junction of K-237 (4.2 miles) (ELR Order No. 1716, 16 pages) (NTIS Order No. PB-206 100-D)

Draft, January 27

Ky.-80, Pikeville-Elkhorn City Road and Elkhorn City-Virginia State Line Road: Pike County, Ky. Relocation of Ky.-80 between Shalbiana and Elkhorn City (16.17 miles). Involves relocation or residences, some mobile homes. Projects APD 640(5), AP 98-183-7L, AP 98-223-17L, and APD 640(2), AP 98-2223-16L. (ELR Order No. 1722, 24 pages) (NTIS Order No. PB-206 174-D)

¹ Mr. Convisser's office will refer you to the regional office from which the statement originated.

Draft, January 28

U.S.-169: Miami and Johnson Counties, Kans. Construction from 1 mile south of the Johnson-Miami County line to I-35 (8.5 miles). 4(f) determination will be required, depending on the route selected. Involves displacement of people and severance of property. Project 169-61 F 081-1(16) and 169-46 F 081-1(14). (ELR Order No. 1732, 72 pages) (NTIS Order No. PB-206 170-D)

Draft, January 27

U.S.-54: Augusta, Butler County, Kans. Improvement to four lanes from 400 feet west of Walnut Street to the west end of the Walnut River Bridge. Will displace residences and businesses. Project (SF) 54-8 U-038-(23, 24). (ELR Order No. 1733, 25 pages) (NTIS Order No. PB-206 168-D)

Draft, January 28

Big Bend Road: Kirkwood, St. Louis County, Mo. Relocation between I-244 and Marshall Road and widening to four lanes from Marshall Road to Couch Avenue. Will displace two residences and one service station. Project T-4189 (8). (ELR Order No. 1736, 7 pages) (NTIS Order No. PB-206 181-D)

Draft, January 31

FAP Route 3, Stadium Freeway: Milwaukee, Greenfield, and West Milwaukee, Milwaukee County, Wis. Construction to connect Stadium Freeway and interchange on East-West Freeway (I-94) to Greenfield interchange on the Airport Freeway (I-894) (5 miles). 4(f) determination required for use of portions of Cherokee Park, Jackson Park, Kinnickinnic River Parkway, Manitoba School in Milwaukee, and Hillcrest School in Greenfield. Project F-03-1(), 1350-1-00. (ELR Order No. 1753, 130 pages) (NTIS Order No. PB-206 178-D)

Draft, January 25

Project F020-7: Lake County, S. Dak. Construction from 1 mile south of S.H.-34/S.H.-19 intersection southeast to S.H.-34 (7.5 miles). (ELR Order No. 1755, 5 pages) (NTIS Order No. PB-206 162-D)

Draft, January 31

Albertson Road-Sherman Road-Linden Avenue: High Point, Guilford County, N.C. Provision of a continuous thoroughfare in High Point between Kearns Avenue and English Road along the alignment of Linden Avenue, Springfield Avenue, Sherman Road, and Albertson Road and improvement of English Road from Westchester Drive to the west corporate limits. Requires relocation of 45 families and 15 businesses. Project 9.8071021, S-1688. (ELR Order No. 1756, 18 pages) (NTIS Order No. PB-206 163-D)

N.C.-110: Haywood County, N.C. Improvement from the south corporate limits of Canton south to U.S.-276 (5 miles). Will displace 7-14 families. Project 6.801870. (ELR Order No. 1757, 25 pages) (NTIS Order No. PB-206 164-D)

Draft, January 24

Freeway 520: Sioux City, Woodbury County, Iowa. Construction from proposed I-29/I-129 interchange east to an interchange with Lakeport Road, then northeast to U.S.-20. Will displace 20 homes, 13 farmsteads, two businesses, and one mobile home. (ELR Order No. 1758, 12 pages) (NTIS Order No. PB-206 165-D)

Draft, January 28

LA.-1: White Castle, Iberville Parish, La. Widening to four lanes from east of White Castle, partly on relocation, west to near Doryville (1.88 miles). Project 50-06-36, F-399(12). (ELR Order No. 1759, 24 pages) (NTIS Order No. PB-206 157-D)

Draft, January 27

Freeway 520: Evansdale, Black Hawk County, Iowa. Construction from U.S.-218 interchange in Waterloo, across Cedar River to a River Forest Road interchange in Evansdale, to an interchange with Iowa 297. The roadbed will act as a flood protection levee over part of its length. Involves displacement of 35 houses and 7-8 businesses. (ELR Order No. 1765, 15 pages) (NTIS Order No. PB-206 260-D)

Draft, January 4

S.H.-19: Delta County, Tex. Upgrading to four lanes from F.M. 1507 in Paris through Gadston to S.H.-19/S.H.-24 junction near Lake Creek (14.7 miles). Will displace 28 homes and three businesses. (ELR Order No. 1774, 75 pages) (NTIS Order No. PB-206 267-D)

Draft, February 2

U.S.-287: Ellis County, Tex. Construction of four-lane highway from Spur 394 southeast of Waxahachie to near west city limits of Ennis (10 miles). Will displace six families and two farm outbuildings. (ELR Order No. 1775, 21 pages) (NTIS Order No. PB-206 266-D)

Seventh Street: Langdon, Cavalier County, N. Dak. Construction of a curb and gutter street from 11th Avenue North to 15th Avenue North. 4(f) determination required for construction through Langdon City Park. Project A-SI-12(2). (ELR Order No. 1778, 5 pages) (NTIS Order No. PB-206 264-D)

Draft, January 11

Revised draft (September 23) S.R.-2: Snohomish County, Wash. Addition of passing lanes in the Sultan vicinity in two sections. Revised draft pertains to section 2 right-of-way and excavation. FAP 024-1, CS 3109 SR 2. (ELR Order No. 1779, 9 pages) (NTIS Order No. PB-206 265-D)

Final, January 26

Shaniko-Fossil Highway, Clarno-Porcupine Butte Section: Wasco and Wheeler Counties, Oreg. Reconstruction of unpaved mountain road and construction of a bridge over the John Day River on new location at Clarno. Project S-295(). Comments made by Army COE, EPA, HUD, DOI, four State offices, Mid-Columbia Economic Development District, East Central Oregon Association of Counties, and Oregon Environmental Council. (ELR Order No. 1699, 16 pages) (NTIS Order No. PB-201 096-F)

Delaware Route 14, Rehoboth Bypass, and New Savannah Road Bridge: Sussex County, Del. Construction of additional two lanes from near Route 14A/Route 14 intersection to Dewey Beach (1.42 miles) and of twin bridges over the Lewes and Rehoboth Canal. Comments made by USDA, Army COE, EPA, HUD, Delaware River Basin Commission, and State Planning Office. (ELR Order No. 1700, 17 pages) (NTIS Order No. PB-202 096-F)

U.S.-20, Santiam Highway, Vail Creek-Sweet Home Section: Linn County, Oreg. Reconstruction from two to four lanes between Vail Creek and Sweet Home (9.6 miles). Involves relocation of 20 homes, five mobile homes, and five businesses. Comments made by Army COE, DOC, HUD, EPA, DOI, DOT, Oregon District 4 Council of Governments, and Local Government Relations Division. (ELR Order No. 1701, 34 pages) (NTIS Order No. PB-203 510-F)

FAS-2700: Appling County, Ga. Construction of a two-lane rural highway from the end of "Poor Robin Road" southeast to S.R.-121 near Memorial Church (9 miles). Project PR-505-A (S-2700). Comments made by USDA, EPA, DOI, Bureau of State Planning and Community Affairs, and Altamaha Area Plan-

ning and Developing Commission. (ELR Order No. 1702, 15 pages) (NTIS Order No. PB-206 114-F)

Freeway 518, Southwest Bypass: Johnson County, Iowa. Construction to bypass Iowa City from U.S.-218 interchange to near an I-80/I-38 interchange (7.3 miles). Project 518-4. Comments made by USDA, EPA, HUD, DOI, Iowa Water Pollution Control Commission, Iowa Office for Planning and Programing, and Johnson County Regional Planning Commission. (ELR Order No. 1703, 18 pages) (NTIS Order No. PB-206 099-F)

S.R.-400 (I-4): Seminole County, Fla. Construction of two rest areas 0.8 mile north of S.R.-424. Comments made by USDA, DOC, EPA, and DOI. Project I-4-2(53) 113, Job 77160-1410. (ELR Order No. 1712, 33 pages) (NTIS Order No. PB-202 140-F)

Final, January 25

Route 13: Polk and Greene Counties, Mo. Construction of dual lane facility from Bollivar to Springfield (24 miles). Project F-13-2 (8), (9), (10), (11), (12); U-13-2(13). Comments made by HUD, DOT, State Clearinghouse, and Lakes Country Regional Planning Commission. (ELR Order No. 1738, 37 pages) (NTIS Order No. PB-206 175-F)

Final, January 26

S.R.-46 and S.R.-3 (FAS Route S-558): Scott County, Ind. Replacement of the grade separation over the B&O RR. 0.2 mile south of the S.R.-56/S.R.-3 junction and relocation of approaches through Morgan Trail Park. Comments made by EPA, HUD, and DOI. (ELR Order No. 1743, 34 pages) (NTIS Order No. PB-202 323-F)

U.S.-62, Blandville Road, Paducah, McCracken County, Ky. Widening to four lanes from U.S.-45 (Lone Oak Road) to Ky.-1286 (Friendship Church Road) (1.81 miles). Project S 318. Comments made by EPA, HEW, DOI, and University of Kentucky. (ELR Order No. 1744, 16 pages) (NTIS Order No. PB-203 223-F)

N-100 and N-68: Rockville, Sherman County, and Ravenna, Buffalo County, Nebr. Improvement of N-100 from N-10 to N-68 (8.1 miles) and relocation of N-68 from 0.5 mile north of Ravenna to N-100 (4.5 miles). Projects S-36(4) and S-201(5). Comments made by USDA, Army COE, EPA, HUD, DOI, and Nebraska Department of Environmental Control. (ELR Order No. 1745, 20 pages) (NTIS Order No. PB-203 099-F)

Lowell-Double Adobe-McNeal Highway: Cochise County, Ariz. Widening and surfacing between Douglas and Bisbee (13 miles). Projects S0208(2), Prince Road section; S-208(4), Prince Road-Double Adobe section; S-490(2), Cochise Junior College-Double Adobe section. Comments made by EPA, DOI, Arizona Game and Fish Department, and Arizona State Museum. (ELR Order No. 1746, 28 pages) (NTIS Order No. PB-202 444-F)

S.R.-8 and S.R.-111: Sequatchie County, Tenn. Upgrading from 2.5 miles south of Cagle to the Van Buren County line (7.77 miles). Projects APD J11-J13. Comments made by USDA, DOI, DOT, TVA, State Office of Urban and Federal Affairs, and Sequatchie Valley Planning and Development Agency, Inc. (ELR Order No. 1747, 27 pages) (NTIS Order No. PB-206 160-F)

S.R.-7, U.S.-441: Palm Beach County, Fla. Construction of a two-lane roadway adjacent to existing two-lane highway and resurfacing existing highway (8.6 miles). Project S-12(12), 93210-1503. Comments made by Army COE, EPA, HEW, HUD, DOI, State Planning and Development Clearinghouse, Florida Game and Fresh

Water Fish Commission, Florida Division of Planning and Budgeting, Florida Department of Air and Water Pollution Control, Palm Beach Area Planning Board, Broward County Planning Board, and city of Boca Raton. (ELR Order No. 1748, 37 pages) (NTIS Order No. PB-202 648-F)

Whitesburg Bypass: Letcher County, Ky. Construction of a segment of the Appalachian Developmental System (Corridor I), from Ky.-15 to U.S.-119. Will touch upon Whitesburg Appalachian Regional Hospital property and displace 29 residences. Comments made by DOC, EPA, HEW, HUD, DOI, DOT, Kentucky Water Pollution Control Commission, and Kentucky Program Development Office. (ELR Order No. 1749, 44 pages) (NTIS Order No. PB-201 762-F)

FAS 2317: Dale County, Ala. Construction of a steel beam span bridge across the Choctawhatchee River. Project S-2317 (101). Comments made by USDA, Army COE, EPA, DOI, DOT, and Coosa Valley Planning Agency. (ELR Order No. 1750, 19 pages) (NTIS Order No. PB-206 172-F)

State Route U.S.-24: Lucas County, Ohio. Widening to four lanes from Lucas County 133 (Dutch Road) to Lucas County 105 (Jerome Road) (1.9 miles) and construction of an interchange between Lucas County 126 (Stitt Road) and Lucas County 105 (Jerome Road). Project F-1043(6). Comments made by DOI, DOT, Ohio Historical Society, and Ohio Department of Highways. (ELR Order No. 1751, 25 pages) (NTIS Order No. PB-206 171-F)

I-80: Summit County, Utah. Construction of four-lane divided highway (eastbound lane generally along U.S.-30) from east of Emory Overhead through Echo Canyon to 1 mile east of Castle Rock. Project I-80-4(11)175. Comments made by USDA, EPA, DOI, and the State Clearing House. (ELR Order No. 1752, 66 pages) (NTIS Order No. PB-200 439-F)

TIMOTHY ATKESON,
General Counsel.

[FR Doc.72-2237 Filed 2-14-72; 8:49 am]

FEDERAL COMMUNICATIONS COMMISSION

[Dockets Nos. 18128, 18684; FCC 72-118]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Memorandum Opinion and Order Regarding Tariff Revisions

In the matter of American Telephone & Telegraph Co., Long Lines Department, Docket No. 18128, revisions of Tariff FCC No. 260 Private Line Services, Series 5000 (TELPAK); American Telephone & Telegraph Co., Docket No. 18684, revision of American Telephone & Telegraph Co. Tariff FCC No. 260 Series 6000 and 7000 Channels (Program Transmission Services).

1. The Commission has before it certain revisions proposed by the American Telephone & Telegraph Co. (A.T. & T.) in its private line service offerings, Tariff FCC No. 260. The revised tariff schedules are due to become effective on February 4, 1972. The tariff changes, filed on December 6, 1971, under Transmittal No. 11334, would have the effect

of increasing the installation and monthly charges for private line service terminals of voice and teletypewriter grade, the installation and monthly charges for local access lines furnished with Common Control Switching Arrangements (CCSA), and the installation charges for the Switched Service Automatic Network (SCAN). A.T. & T. has estimated that these increases will yield additional annual revenues of approximately \$30 million. In addition, A.T. & T. has estimated that there will be a net annual cost savings of approximately \$6 million associated with the market shifts resulting from the earlier tariff filing effective December 12, 1971, Transmittal No. 11272, which generally eliminated Telpak sharing. The estimated total annual effect of the rate changes proposed under Transmittal No. 11334 and of the elimination of Telpak sharing would be an earnings before taxes increase for the Bell System of \$36 million from its private line services.

2. The following organizations have filed petitions with respect to Transmittal No. 11334 requesting the Commission to: (a) Reject or secure withdrawal of the rate increases, or (b) suspend the effective date of the increases for the full statutory period, with or without an accounting order, and institute an investigation of the lawfulness of the proposed charges: Association of American Railroads (AAR); Aerospace Industries Association of America, Inc. (AIA); Aeronautical Radio, Inc. (ARINC); Air Transport Association of America (ATA); United Air Lines, Inc. (United) and Eastern Air Lines, Inc. (Eastern) jointly; Bunker-Ramo Corp. (Bunker-Ramo); Secretary of Defense on behalf of the Executive Agencies of the United States (DOD); Dow Jones and Co., Inc. (Dow Jones); Independent Data Communications Manufacturers Association, Inc. (IDCMA);¹ Litton Industries, Inc., and its wholly owned subsidiaries Litton Systems, Inc., Litton Business Systems (Litton); Microwave Communications, Inc. (MCI);¹ National Association of Motor Bus Owners (NAMBO); National Data Corp. (National Data); George P. Baker, Richard C. Bond, Jervis Langdon, Jr., and Willard Wirtz, trustees of the property of Penn Central Transportation Co., debtor (Penn Central); United Press International, Inc. (UPI). Associated Press (AP) has petitioned the Commission to enter an order which, in substance, would prohibit the filing or effectiveness of tariff schedules providing for increases in charges for services subject to investigation in Docket No. 18128 until a final decision is entered therein, or unless a request is made in writing and prior approval obtained from the Commission. A.T. & T. has filed replies to the petitions of: AAR, AIA, AP, ARINC, ATA, IDCMA, MCI, United and Eastern, DOD, Penn Central, and UPI. In so doing, it has opposed the requests for rejection of the tariff filing and to the specific request of AP, and

has acceded to a 1-day suspension thereof. As discussed more fully below, we have determined to deny the requests for rejection of the tariff and to grant the requests for a 90-day suspension thereof and the inclusion of the questions of the lawfulness of these tariff changes in Docket 18128.

3. In the petitions requesting rejection of the tariff filing, three principal arguments are given as grounds for the relief requested. First, it is asserted that A.T. & T. has failed to supply adequate supporting data and consequently, has failed to comply with the requirements of § 61.38 of the Commission's rules and regulations. Second, it is asserted that the price increases are incompatible with the regulation issued by the Price Commission pursuant to the Economic Stabilization Act of 1970, as amended. Third, it is asserted that the present posture of the proceeding in Docket No. 18128 is such that to not reject these tariff changes would be unduly disruptive and the cause of unwarranted delay in terms of completing this proceeding.

4. In our judgment, the cost, revenue, and other data submitted by A.T. & T. in justification of the proposed tariff changes sufficiently satisfies the requirements of § 61.38 to permit the acceptance for filing of the new schedules. It is a separate and distinguishable issue, however, whether the submitted data establishes that the proposed tariffs are just and reasonable and otherwise lawful under the Communications Act. The resolution of that issue should be made through the hearing process.

5. With respect to the arguments for rejection based on the regulations of the Price Commission, it is not apparent to us that the rate increases under consideration are incompatible with the standards established by the Price Commission. Even assuming that they are, we are not aware of any regulations of the Price Commission which would have the effect of giving this Commission the power to reject under the instant circumstances. As we understand the Price Commission's regulations, the final decision as to whether price increases by the larger carriers are to be allowed to go into effect is up to the Price Commission, itself.

6. As to the contentions that failure to reject these tariff changes will unduly delay the conclusion of the proceedings in Docket No. 18128, we agree with the basic concern that this proceeding should be concluded as soon as possible, consistent with the dictates of due process. However, it is by no means clear that rejection for this reason is a course that is open to us in the present circumstances, and, in any event, such a course, in our view, is presently unnecessary. The fundamental questions which this proceeding is expected to resolve are: What should be the appropriate earnings relationships among the various interstate services offered by the Bell System? and, how should the contribution to total earnings by each service be measured? The resolution of these questions is a matter of very high priority. To the ex-

tent that the present tariff changes raise subsidiary questions not previously considered in this proceeding which relate to the internal component rate relationships within a given service, we direct the Hearing Examiner to take evidence thereon only if in his judgment the taking of such evidence will not delay conclusion of the proceeding insofar as the fundamental issues are concerned. In the event that consideration of such new questions is not feasible within the spirit of this directive, the Commission will subsequently consider how best to deal with them.

7. Inasmuch as the proceeding in Dockets Nos. 18128 and 18684 appears to be in its final stages, it may well be that any further tariff revisions relating to the services under investigation will unduly disrupt or delay the conclusion of the case. Accordingly, we shall require that A.T. & T. obtain special permission to make any further changes in these tariffs prior to the entering of a final decision in this matter.

8. Various of the petitions referred to above contend that the subject tariff changes should be suspended for the full statutory period, an accounting order entered, and the matter set for investigation. The allegations are to the effect that the new charges are unjust, unreasonable and unduly discriminatory in violation of sections 201(b) and 202(a) of the Communications Act. In support thereof, numerous statements by A.T. & T. in support of the tariff changes are challenged as being inaccurate or insufficient to support the lawfulness of the proposed charges. We think the petitions taken in their entirety have raised material questions as to the lawfulness of the tariff changes of a magnitude sufficient to warrant the suspension of the tariff changes for the full statutory period. It also appears appropriate to enter an accounting order to protect the interest of the carriers' customers in the event that the tariff changes become effective prior to a resolution of the questions of lawfulness.

9. Accordingly, it is ordered, That pursuant to sections 201, 202, 204, 205, and 403 of the Communications Act of 1934, as amended, the hearing and investigation in Docket 18128 concerning the lawfulness of the private line tariff schedules of American Telephone & Telegraph Co. shall include the revisions to A.T. & T. Tariff FCC No. 260 forwarded with Transmittal No. 11334 filed on December 6, 1971, as enumerated in the appendix hereto, and that the issues heretofore specified in that docket shall apply with equal force to the above-described revised tariff schedules of A.T. & T.

10. It is further ordered, That, pursuant to section 204 of the Communications Act of 1934, as amended, the operation of the tariff schedules listed below to become effective February 4, 1972, are hereby suspended, unless otherwise ordered by the Commission, until May 4, 1972, and that respondents, as to the operation of such tariff schedules, shall, in the case of all increased charges and until further order of the Commission,

¹ IDCMA has filed a "Response", and AIA and MCI have each filed a "Reply" to A.T. & T.'s oppositions.

keep accurate account of all amounts received by reason of such increase, specifying by whom and in whose behalf such amounts were paid, and upon completion of the hearing and decision therein, the Commission may by further order require the refund thereof, with interest, pursuant to section 204 of the Act, and A.T. & T. shall file a report on or before the 10th day of each month, commencing June 10, 1972, showing the amounts accounted for as aforesaid during the previous calendar month.

11. *It is further ordered*, That, in order to best conduce to the proper dispatch of the Commission and to the ends of justice, pursuant to section 4(j) of the Communications Act of 1934, as amended, respondents shall file no further tariff revisions relating to the services under investigation in Dockets Nos. 18128 and 18684 prior to the entering of a final decision therein unless authorized by special permission of the Commission.

12. *It is further ordered*, That the petitions requesting rejection, withdrawal, suspension or other relief and the reply in opposition thereto are granted to the extent noted and otherwise denied.

Adopted: February 3, 1972.

Released: February 7, 1972.

FEDERAL COMMUNICATIONS
COMMISSION,²

[SEAL] BEN F. WAPLE,
Secretary.

AMERICAN TELEPHONE & TELEGRAPH CO.

Tariff FCC No. 260:

Third Revised Page 48.1.
Eighth Revised Page 52.
Tenth Revised Page 58.
Third Revised Page 58.1.
Eighth Revised Page 63.
Fourth Revised Page 67.
Sixth Revised Page 71.
Fifth Revised Page 74.
Ninth Revised Page 78.
Thirteenth Revised Page 85.
Sixteenth Revised Page 86.
Second Revised Page 139.10.2.
First Revised Page 139.10.3.
Eleventh Revised Page 167.1.
Fifth Revised Page 168.
Ninth Revised Page 170.

[FR Doc. 72-2252 Filed 2-14-72; 8:50 am]

[Docket No. 19419, FCC 72-119]

AMERICAN TELEPHONE AND TELEGRAPH CO.

Memorandum Opinion and Order Instituting Investigation

In the matter of American Telephone & Telegraph Co., Long Lines Department, Docket No. 19419, revisions of Tariffs FCC No. 259 and No. 260.

1. The Commission has before it modifications proposed by American Telephone & Telegraph Co. (A.T. & T.) in its Tariffs FCC No. 259 and No. 260. The revised tariff schedules, filed under

² Commissioner Johnson concurring in the result; Commissioner H. Rex Lee absent.

Transmittals Nos. 11345, 11346, 11353, and 11354 are now due to become effective on or after February 4, 1972. Independent Data Communications Manufacturers Association, Inc. (IDCMA), has filed petitions to reject or suspend the tariff schedules filed under the above transmittals.¹ The thrust of the petitions of IDCMA urging rejection or suspension is that the proposed tariff revisions, if permitted to become effective, would seriously hamper the competitive efforts of competitors to A.T. & T. A.T. & T. has filed replies opposing the grant of the requested relief with respect to the tariff schedules accompanying Transmittals Nos. 11345, 11346, 11353, and 11354.

2. The filing submitted with Transmittal No. 11345 modifies Tariff FCC No. 260 and provides for a rate decrease in monthly and installation charges for 200 Series Data-Phone data sets suitable for conditioning signals at rates of 2,000 to 2,400 bits per second. With respect to Transmittal No. 11346, the filing therewith revises Tariff FCC Nos. 259 and 260, and provides rates for automatic data access arrangements (DAA) for the connection of customer provided data transmitting equipment and/or receiving terminal equipment to private line service or wide area telecommunications service (WATS). The filing accompanying Transmittal No. 11353 revises Tariff FCC No. 260, and provides for the following changes in regulations relating to multichannel data station equipment: (1) To permit its use with or without a data line concentrator; (2) to permit the derivation of a maximum of 17 75-baud channels, and the addition of one 75-baud channel to the present maximum of eight 150-baud channels. To allow at the customer's request any combination of 75-baud and 150-baud channels with two 75-baud channels being equivalent to one 150-baud channel; (3) to allow for the removal of the 50-foot restriction for a station on a station line. Transmittal No. 11354 covers revisions of tariff provisions contained in Tariff FCC No. 260 and provides for the establishment of regulations and rates for a 200 Series Data-Phone data set for combined sending and receiving, and suitable for conditioning signals at rates up to 1,800 bits per second in sequence.

3. IDCMA argues with respect to the filing accompanying Transmittal No. 11345 that its purpose is anticompetitive to the extent that the rates thereby charged are cross-subsidized by monopoly sector revenues and that it is based upon questionable economic data. With respect to Transmittal No. 11346, IDCMA states that the DAA charge penalizes the customer who chooses not to use A.T. & T. equipment by imposing upon him an unlawful rate. IDCMA complains that the DAA degrades telephone service and unfairly affects competition since it is used only on lines where the customer chooses not to use

¹ IDCMA also filed on Jan. 27, 1972, a "Response" to A.T. & T.'s replies.

the A.T. & T. data set. With respect to Transmittal No. 11353, IDCMA requests that the filing be rejected or suspended because the supporting data does not satisfy the requirements of § 61.38. Furthermore, states IDCMA, the filing should be rejected or suspended because it unfairly prejudices the competitive position of independent manufacturers of multiplexers by virtue of utilizing understated revenue requirements for the multiplexer and thereby establishing an improperly low rate. With respect to Transmittal No. 11354, IDCMA argues that the accompanying filing is defective because it is based on an understatement of revenue requirements. IDCMA argues, moreover, that with respect to the model 201A and 201B data sets A.T. & T. markets a "special assembly" data set including assurances to customers it will work on unconditioned channels. This reduces the price per circuit. However, states IDCMA, no such assurances are given when a competitive data set is used. Consequently, a diminished quality of service is provided to customers who do not use A.T. & T. equipment. For those customers employing its equipment, in view of IDCMA, A.T. & T. seeks to reduce charges despite failing to file a tariff revision.

4. In summary, IDCMA requests with respect to Transmittals Nos. 11345, 11346, 11354 that: (a) The respective tariffs be rejected or suspended; (b) A.T. & T. be required to disclose the bases for the rates filed; (c) A.T. & T. be required to file tariffs covering or to desist from offering special assembly rates for model 201 data sets; (d) A.T. & T. be required to file in its tariffs adequate specifications for the performance of telephone circuits.

5. With respect to Transmittal No. 11353 IDCMA requests that the Commission: (a) Reject or suspend the filed tariffs; (b) require A.T. & T. to state the bases for the rates filed with that transmittal; (c) investigate the marketing practices of A.T. & T. as they relate to meeting competition.

6. In our judgment, the supporting data submitted with the tariff schedules filed under Transmittals Nos. 11345, 11346, 11353, and 11354 is sufficiently responsive to the requirements of § 61.38 for us to find that rejection of said schedules is not warranted. However, the petitions of IDCMA raise substantial questions with respect to the lawfulness of these tariff schedules, and we are unable to conclude at this juncture that the filed schedules are reasonable, just or lawful. Consequently, we are instituting an investigation into the lawfulness of the tariff schedules and are ordering that said tariff schedules be suspended for the full statutory period.² In this investiga-

² The question, raised by IDCMA, of the fairness or lawfulness of A.T. & T.'s marketing practices with respect to the Model 201A and Model 201B data sets, under the circumstances, is more appropriately the subject of a formal complaint rather than an issue in a rate investigation. Accordingly, this question shall not be considered in this investigation.

tion we shall consider particularly the question of the lawfulness of the proposed tariff schedules in light of their potentially anticompetitive effects.

Accordingly, in view of the foregoing considerations, *It is ordered*, That, pursuant to the provisions of sections 201, 202, 203, 204, 205, and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the tariff schedules filed by American Telephone & Telegraph Co. submitted with Transmittals Nos. 11345, 11346, 11353, and 11354 including cancellations, amendments or reissues thereof;

It is further ordered, That, pursuant to the provisions of section 204 tariff schedules filed by American Telephone & Telegraph Co. submitted with Transmittals Nos. 11345, 11346, 11353, and 11354 are hereby suspended until May 4, 1972;

It is further ordered, That, without in any way limiting the scope of the investigation, it shall include consideration of the following:

- (1) Whether the charges, classifications, practices, and regulations published in the aforesaid tariffs are or will be unjust and unreasonable within the meaning of section 201(b) of the Act;
- (2) Whether such charges, classifications, practices, and regulations will, or could be applied to, subject any person or class of persons to unjust or unreasonable discrimination or give any undue or unreasonable preference or prejudice to any person, class of persons, or locality, within the meaning of section 202(a) of the Act;
- (3) Whether the aforesaid tariffs conform to the requirements of section 203 of the Act and Part 61 (47 CFR Part 61) of our rules implementing that section;
- (4) If any of such charges, classifications, practices, and regulations are found to be unlawful, whether the Commission should prescribe charges, classifications, practices, and regulations for the service governed by the tariffs, and if so, what should be prescribed.

It is further ordered, That, American Telephone & Telegraph Co. and the Associated Bell System Cos. are made parties respondent;

It is further ordered, That, Independent Data Communications Manufacturers Association, Inc. (IDCMA), is granted leave to intervene upon filing a notice of intention to appear and participate within 20 days of the release date of this order.

Adopted: February 3, 1972.

Released: February 7, 1972.

FEDERAL COMMUNICATIONS
COMMISSION,²
[SEAL] BEN F. WAPLE,
Secretary.

² Commissioner Johnson concurring in the result; Commissioner H. Rex Lee absent.

Transmittal No. 11345: Tariff FCC No. 260, 10th Revised Page 173.1.

Transmittal No. 11346:
Tariff FCC No. 260, 17th Revised Page 173.

Tariff FCC No. 259, Sixth Revised Page 2, Original Page 43.1, 10th Revised Page 178.2

Transmittal No. 11353: Tariff FCC No. 260, Third Revised Page 178.2, Original Page 178.3.

Transmittal No. 11354: Tariff FCC No. 260, 18th Revised Page 173.

[FR Doc.72-2249 Filed 2-14-72;8:50 am]

[Docket No. 19260; FCC 72-123]

FAIRNESS DOCTRINE AND PUBLIC INTEREST STANDARDS

Order Extending Time

In the matter of the handling of public issues Under the Fairness Doctrine and the Public Interest Standards of the Communications Act, Docket No. 19260.

1. The Commission has before it a motion filed by the National Association of Broadcasters asking that the time for filing reply comments to the late-filed comments of the Federal Trade Commission and others on part III of this inquiry, entitled "Access to the Broadcast Media as a Result of Carriage of Product Commercials", be extended from February 9, 1972, to February 23, 1972.

2. In support of its motion, petitioner notes that the comments filed by the Federal Trade Commission present materials and contain proposals not previously considered in this proceeding that will require time for study and analysis beyond that afforded in the Commission's order of January 20, 1972.

3. In view of the desirability of allowing interested parties to fully examine all proposals submitted in this important inquiry and to express their conclusions thereon, a grant of the requested extension of time is warranted.

4. Accordingly, *it is ordered*, That the time for filing reply comments to the late-filed comments on part III of this inquiry is extended from February 9, 1972, to February 23, 1972; and that the National Association of Broadcasters' Motion for extension of time is granted.

Adopted: February 7, 1972.

Released: February 7, 1972.

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

[FR Doc.72-2248 Filed 2-14-72;8:50 am]

[Docket No. 19260; FCC 72-117]

FAIRNESS DOCTRINE AND PUBLIC INTEREST STANDARDS

Further Notice of Inquiry

In the matter of the handling of public issues under the Fairness Doctrine and the Public Interest Standards of the

¹ Commissioner H. Rex Lee absent.

Communications Act, and guidelines for the acceptance by broadcast licensees of editorial advertising; Docket No. 19260.

1. This further notice concerns part IV of our notice of June 9, 1971 (36 F.R. 11825), including particularly the formulation of guidelines for the acceptance by broadcasters of editorial advertising. This latter facet is both the issue involved in Business Executives' Move for Vietnam Peace v. F.C.C., — U.S. App. D.C. —, 450 F.2d 642 (1971), and also an important aspect of the part IV inquiry—"access generally to the broadcast media for the discussion of public issues." We have delayed comment on part IV because, as discussed below, we are seeking further review of the above decision. However, the discussion makes clear that we must now move immediately to the consideration of guidelines in the area of editorial advertising. That being so, there is no reason to delay the filing of part IV comments. Indeed, it would be helpful to have such comments before us when we consider the other issues in this inquiry, since the issues are all interrelated to some degree. That does not mean that we shall decide all the issues at the same time. Circumstances appear to require more expeditious resolution of some aspects of the inquiry than others. This notice deals with one such area.

I. 2. In Business Executives' Move for Vietnam Peace v. F.C.C., supra, the U.S. Court of Appeals for the District of Columbia circuit held that a broadcast licensee may not, as a general policy, refuse to sell advertising time to groups or individuals wishing to speak on controversial public issues. While the Court left "undisturbed the licensee's basic right to exercise judgment and control in public issue programming" and "normal programing time," and it stated that no particular person or group has an absolute right to have his (or its) message carried, it ruled that in the broadcaster's allocation of advertising time it is not permissible to maintain a "total, flat ban on editorial advertising." The Court stated that:

We hold specifically that a flat ban on paid public issue announcements is in violation of the First Amendment, at least when other sorts of paid announcements are accepted. We do not hold, however, that the planned announcements of the petitioners or, for that matter, of any other particular applicant for air time must necessarily be accepted by broadcast licensees. Rather we confine ourselves to invalidating the flat ban alone, leaving it up to the licensees and the Commission to develop and administer reasonable procedures and regulations determining which and how many "editorial advertisements" will be put on the air.

3. On January 3, 1972, a petition for a writ of certiorari was filed on behalf of the Commission in the Supreme Court of the United States, No. 71-864, 40 U.S.L.W. 3317 (Jan. 11, 1972). The Supreme Court has not yet acted on this petition. However, on January 24, 1972, the Court denied an application for a stay of mandate. Accordingly, the Commission is

under a mandate to carry out the decision of the Court of Appeals which instructed the Commission as follows:

On remand, the Commission should develop reasonable regulatory guidelines to deal with editorial advertisements. Petitioners should be allowed to reapply for advertising time; and, unless their presentations are found to be excludable under the Commission's guidelines, their applications should be accepted. Since the issues on which BEM and DNC seek to speak are current and changing, it is essential that regulations be developed speedily and that the affected broadcasters pass promptly upon petitioners' applications to buy time.

4. The purpose of this notice is to solicit the views of all interested parties on the nature and content of appropriate procedures and guidelines to be adopted by the Commission in furtherance of the Court's mandate. We welcome all comments which can be of assistance in developing reasonable guidelines governing the determination by licensees of which and how many editorial advertisements will be put on the air. As a general approach, suggested guidelines or procedures should so far as possible be designed to avoid frequent recourse to individual requests for Commission rulings in particular situations. In particular, we urge parties filing comments to address the following areas:

- a. May a licensee limit the time available for editorial advertisements and, if so, on what basis?
- b. What regulation may the licensee make as to the placement of editorial advertisements?
- c. May a licensee prevent domination by a few groups or a few viewpoints and, if so, by what means?
- d. May a licensee reject a proffered advertisement on the ground that the particular viewpoint has been sufficiently expressed, short of finding undue dominance?
- e. May a licensee reject a proffered advertisement on standards of taste and suitability for access to the home?
- f. May a licensee reject a proffered advertisement on the ground that its subject matter is of little or no significance or interest to the community?
- g. Are any restrictions on content permissible short of a finding that the material is outside the protection of the first amendment?
- h. Should the Commission's Cullman doctrine¹ be applicable to editorial and controversial issue advertisements which the licensee would not have aired in the first place except for the required sale of editorial advertising time?
- i. What is the relationship generally of editorial advertising to the licensee's responsibilities under the fairness doctrine to make available a reasonable opportunity for the presentation of conflicting views on controversial issues of public importance? In this connection consideration should be given to the decision of the Supreme Court in *Red Lion*

¹ See *Cullman Broadcasting Co.*, 40 F.C.C. 576 (1963), which held that a licensee cannot avoid his fairness responsibilities simply because of his inability to obtain sponsorship for the presentation of a viewpoint.

Broadcasting Co. v. F.C.C., 395 U.S. 367 (1969).

5. We are issuing this further notice of inquiry rather than issuing guidelines without calling for comments because we believe that we need the views of those who would be confronted with the day-to-day practicalities of applying the guidelines. We are allowing a reasonable time for the submission of comments commensurate with the importance of the issues. However, prompt Commission action is required, and we intend to expedite our consideration of this matter. No extensions of time for comments are contemplated.

II. 6. The discussion in I has dealt with access for editorial advertising. The other aspect of the inquiry in part IV is the matter of the right of access to programing time. We have set forth our view that the ruling in *Business Executives' Move for Vietnam Peace v. F.C.C.*, supra, does not extend to programing time. See *Committee of One Million*, October 22, 1971, FCC 71-1096. We have also set forth in part IV issues which would be generally pertinent here (see paragraph 19, notice of inquiry of June 9, 1971). We shall not repeat that discussion here. Parties are invited to comment on those issues and any other matters that they believe pertinent.

III. 7. Accordingly, pursuant to applicable procedures set forth in § 1.415 of the Commission's rules and regulations, 47 CFR 1.415 (1972), interested parties may file comments on or before March 8, 1972, and reply comments on or before March 23, 1972, a schedule to which we intend to adhere (see paragraph 5, supra). In accordance with the provisions of § 1.419 of the rules, 47 CFR 1.419 (1972), an original and 14 copies of all comments and replies shall be furnished the Commission. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

8. Because of the importance of the matters in this docket, we believe that some form of oral presentations will be helpful. If it is determined to have such presentations cover the issues in part I of this further notice, we shall make this the first order of business at the oral proceedings and shall schedule such proceedings promptly after receipt of the reply comments. Finally, the authority for this further notice is that stated in paragraph 24 of the notice of inquiry, June 9, 1971.

Adopted: February 3, 1972.

Released: February 7, 1972.

FEDERAL COMMUNICATIONS
COMMISSION,²

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 72-2247 Filed 2-14-72; 8:50 am]

² Commissioner Johnson concurring and issuing a statement, filed as part of the original document; Commissioner H. Rex Lee absent.

[Docket No. 19412; FCC 72-73]

FRIENDLY BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues and Notice of Apparent Liability

In regard applications of Friendly Broadcasting Co. for renewal of licenses for radio stations WJMO and WLYT (FM) Cleveland Heights, Ohio, Docket No. 19412, File No. BR-1844, File No. BRH-140.

1. The Commission has before it for consideration (a) the captioned applications and (b) its inquiries into the operations of Standard Broadcast Station WJMO and FM Broadcast Station WLYT (formerly WCUY), Cleveland Heights, Ohio.

2. Information before the Commission raises serious questions as to whether the applicant possesses the qualifications to be or to remain licensee of the captioned stations. In view of these questions, the Commission is unable to find that grant of the renewal applications would serve the public interest, convenience and necessity, and must, therefore, designate the applications for hearing.

3. Accordingly, it is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the captioned applications are designated for hearing at a place and time to be specified in a subsequent order, upon the following issues:

- (a) To determine whether the applicant violated § 1.613(c) of the Commission's rules by failing to file contracts relating to the sale of broadcast time to "time brokers" for resale;
- (b) To determine whether applicant complied with section 315 of the Communications Act of 1934, as amended, and § 73.120 of the Commission's rules, or the terms of the Fairness Doctrine, in the sale of broadcast time to candidates for public office in the November 3, 1970, Congressional and State elections;
- (c) To determine whether the applicant substantially carried out or sought to carry out its representations in its renewal application for WJMO concerning its local news facilities, the amount of local news to be presented, or public affairs programing and whether the licensee made misrepresentations or was lacking in candor in its renewal application;
- (d) To determine whether licensee violated § 73.112 of the Commission's rules;
- (e) To determine whether licensee exercised adequate control over programs broadcast over WJMO during time sold to "time brokers" for resale;
- (f) To determine whether licensee violated section 509(a) (3) and (4) of the Communications Act of 1934, as amended;
- (g) To determine the nature and extent of alleged violations of the Commission's rules for which an official notice of violation was issued to WJMO on February 16, 1971, and whether in light of the evidence adduced pursuant to that determination, applicant has exercised that degree of responsibility required of the licensee of a broadcast station;

(h) To determine whether, in light of the evidence adduced pursuant to the foregoing issues, whether the applicant possesses the requisite qualifications to be and to remain a licensee of the Commission;

(i) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether the grant of the captioned applications would serve the public interest, convenience, and necessity.

4. *It is further ordered*, That, if it is determined that the hearing record does not warrant an order denying the captioned applications for renewal of licenses for Stations WJMO and WLYT-FM, it shall also be determined whether applicant has repeatedly or willfully violated §§ 1.613, 73.112, 73.51(c)(2), 73.963(c), and 73.113(d)(1), of the Commission's rules, or the terms of the authorization for WJMO or WLYT(FM),¹ and, if so whether an order of forfeiture pursuant to section 503(b) of the Communications Act of 1934, as amended, in the amount of \$10,000 or some lesser amount should be issued for violations which occurred within 1 year of issuance of the bill of particulars in this matter.

5. *It is further ordered*, That this document constitutes notice of apparent liability for forfeiture for violation of §§ 1.613, 73.112, 73.51(c)(2), 73.963(c), and 73.113(d)(1), of the Commission's rules and the terms of the station authorization. The Commission has determined that, in every case designated for hearing involving revocation or denial of renewal of license for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since the procedure is thus a routine or standard one, we stress that inclusion of this notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is, of course, to be made on the facts of each case.

6. *It is further ordered*, That in the event United Broadcasting Co. is determined to be the otherwise qualified and preferred applicant in Docket No. 18559 in re the applications of United Broadcasting Co. for renewal of licenses of WOOK and WFAN-TV, the grant of the applications shall be withheld pending resolution of the issues in this matter. United Broadcasting Co. is also a party to a revocation and renewal proceeding involving its stations WMUR-TV, WMET-TV and KECC-TV (Dockets Nos. 19336-8). If it should be determined that the public interest would be served by allowing United Broadcasting Co. to continue to operate these facilities then the granting of such authority shall be withheld pending resolution of the issues in the instant proceeding. The resolution of the issues in this docketed proceeding shall be binding on any other licensee commonly owned or controlled with the captioned licensee and will be res judicata as to any such other licensee.

¹ See bill of particulars for specific dates and details of each alleged violation.

7. *It is further ordered*, That the Chief, Broadcast Bureau, is directed to serve upon the captioned applicant within thirty (30) days of the release of this Order, a Bill of Particulars with respect to issues (a), (b), (c), (d), (e), (f), and (g).

8. *It is further ordered*, That the Broadcast Bureau proceed with the initial presentation of the evidence with respect to issues (a), (b), (c), (d), (e), (f), and (g), and the applicant then proceed with its evidence and have the burden of establishing that it possesses the requisite qualifications to be and to remain a licensee of the Commission and that a grant of its application would serve the public interest, convenience and necessity.

9. *It is further ordered*, That to avail itself of the opportunity to be heard, the applicant herein, pursuant to § 1.221 of the Commission's rules, in person or by attorney, shall file with the Commission within twenty (20) days of the mailing of this order, a written appearance in triplicate, stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

10. *It is further ordered*, That the applicant herein, pursuant to section 311 (a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by § 1.594 of the rules.

11. *It is further ordered*, That the Secretary of the Commission send a copy of this order by certified mail—return receipt requested to Friendly Broadcasting Co.

Adopted: January 26, 1972.

Released: January 27, 1972.

FEDERAL COMMUNICATIONS
COMMISSION,²

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 72-2250 Filed 2-14-72; 8:50 am]

[Dockets Nos. 19414-19416; FCC 72-100]

NEW LAUREL RADIO STATION, INC., ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of: New Laurel Radio Station, Inc., Laurel, Miss., Docket No. 19414, File No. BPH-6247, requests: Channel 272A; 3 kW(H); 3 kW(V); 135.5 feet; Southland, Inc., Laurel, Miss., Docket No. 19415, File No. BPH-7405, requests: Channel 272A; 3 kW(H); 3 kW(V); 118 feet; South Jones Broadcasters, Inc., Ellisville, Miss.,¹ Docket No. 19416, File No. BPH-7445, requests: Channel

² Commissioner H. Rex Lee absent.

¹ Each applicant proposes to operate on Channel 272A, which is assigned to Laurel, Miss. South Jones proposes to use that channel in Ellisville, Miss., under § 73.203(b) of our rules.

272A; 3 kW(H); 3 kW(V); 298 feet, for construction permits.

1. Now under consideration are: (a) The captioned applications; and (b) a petition to deny the application of South Jones Broadcasters, Inc. (South Jones), filed by Southland, Inc. (Southland). No opposition pleading was filed.

2. In its petition to deny, Southland questions several aspects of South Jones' financial plan. We find that South Jones will require funds of \$41,231 to construct and operate the proposed station as follows: Payments on equipment lease, \$4,968; interest on loans, if available, \$2,500; first-year operating expenses, \$32,088; and miscellaneous expenses, \$1,775. To meet this requirement, South Jones claims the availability of \$10,438 in existing capital and bank loans of \$5,000 and \$30,000 from the Merchants and Manufacturers Bank of Ellisville, Miss. The availability of the existing capital has been established. Southland notes that, as initially filed, the terms of the loans specified repayment within 1 year. Thus, the loans would not serve to establish South Jones' financial qualifications. However, the application was subsequently amended and the bank indicated that the loans would be renewable, assuming that interest payments are met. We shall, therefore, raise no question on this score. Southland also claims that the security for the loans has not been indicated. Subsequent amendments indicate that the security for the \$5,000 loan is real estate owned by South Jones. The \$30,000 loan is to be secured by the signatures of 11 named individuals. These individuals have not submitted a statement that they are willing to assume this obligation, as required by paragraph 4(a) section III, FCC Form 301. This raises a question as to whether the \$30,000 bank loan will be available and an issue has been specified.

3. Southland also alleges that South Jones has failed to identify the community leaders consulted in ascertaining community problems and that the entire ascertainment showing is not sufficiently specific. South Jones subsequently amended its application. While making no judgment as to the showing as originally filed, it is clear that the amended application clearly complies with the criteria set out in our Primer on the ascertainment of community problems by broadcast applicants, 27 FCC 2d 650, 15 RR 2d 1507 (1971). Accordingly, no Suburban issue will be specified.²

4. Southland also raises questions as to whether South Jones has made misrepresentations to us in its application. As noted above, the loan agreements submitted by South Jones were, as originally filed, repayable within 1 year. Southland alleges that this constitutes a misrepresentation because these loans would not aid in establishing the availability of sufficient funds to construct and operate for 1 year. Since the date of repayment was indicated in the copy of the bank

² Suburban Broadcasters, 30 FCC 1021 (1961).

commitment contained in the application, we can find no misrepresentation. Southland further notes that South Jones entered the figure of \$18,000 in the space designated for deferred credit. Since South Jones proposes to lease its equipment, Southland alleges that another misrepresentation was made. The \$18,000 represents the total value of the equipment to be leased by South Jones. It appears that South Jones chose an inappropriate space for indicating that figure. However, the immediately adjacent statement, "See attached lease agreement," precludes a finding that a misrepresentation was made. Finally, Southland alleges that South Jones' failure to specify the security for the \$30,000 bank loan as originally filed, "could be another indication of the applicant's (South Jones') lack of candor." Since things that "could be" are not the specific allegations of fact required by section 309(d) of the Communications Act, we reject Southland's contention. In any event, the omission here is one small point in a relatively lengthy and complex financial showing. Similar omissions are frequently found by our staff, particularly among those that are uninitiated as to the details of our financial requirements. As a matter of practice, our staff will request any required data that may have been omitted. While we do not say that an omission cannot be a misrepresentation, on the facts presented here, we are unable to conclude that this omission constitutes a substantial question as to South Jones' qualifications.

5. The three applications, although for different communities, would serve substantial areas in common. Consequently, in addition to determining which of the proposals would best provide a fair, efficient, and equitable distribution of radio service, under section 307(b) of the Communications Act, a contingent comparative issue will be specified.

6. South Jones Broadcasters, Inc., proposes independent programming. Southland, on the other hand, proposes to duplicate the programming of commonly owned station WLAU(AM) during 15.9 percent of the broadcast week, while New Laurel will duplicate commonly owned station WAML(AM)'s programming during 68.4 percent of the broadcast week. Where an applicant proposes a substantial amount of duplicated programming, we have permitted evidence as to the benefits derived from the proposed duplication under the comparative issue. In our view, the 68.4 percent duplication proposed by New Laurel is substantial, while the 15.9 percent proposed by Southland is not. Therefore, evidence regarding program duplication will be admissible under the contingent comparative issue as to New Laurel only. A full comparison of the applicants' program proposals will not be permitted in the absence of a specific programming inquiry, Jones T. Sudbury, 8 FCC 2d 360, 10 R.R. 2d 114 (1967).

7. South Jones proposes to locate its main studio outside its city of license at

its transmitter site. The applicant states that the proposed site is 0.8 mile outside the city limits of Ellisville on a main highway. The combined studio-transmitter site will result in economies of operation. We believe that good cause for locating the main studio outside the city of license has been established. Our consent to that studio site will, therefore, be granted if South Jones' application is granted.

8. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the applications are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

9. Accordingly, it is ordered, That the applications are designated for hearing in a consolidated proceeding pursuant to section 309(e) of the Communications Act of 1934, as amended, at a time and place to be specified in a subsequent order, on the following issues:

(1) To determine with respect to the application of South Jones Broadcasters, Inc.:

(a) Whether a bank loan of \$30,000 will be available to the applicant from the Merchants and Manufacturers Bank of Ellisville, Miss.

(b) Whether, in light of the evidence adduced under the above issue, the applicant is financially qualified.

(2) To determine the areas and populations which would receive FM service of 1 mv/m or greater intensity from the respective proposals together with the availability of other primary (1 mv/m or better for FM) aural service in such areas.

(3) To determine, in light of section 307(b) of the Communications Act of 1934, as amended, which of the proposals would best provide a fair, efficient and equitable distribution of radio service.

(4) To determine, in the event that it is concluded that a choice between proposals should not be based solely on 307(b) considerations, which of the proposals would best serve the public interest.

(5) To determine, in light of the evidence adduced under the above issues, which application should be granted.

10. It is further ordered, That if the application of South Jones Broadcasters, Inc., is granted, the Commission's consent to the specified main studio location outside the city of license is granted.

11. It is further ordered, That the petition to deny the application of South Jones Broadcasters, Inc., filed by Southland, Inc., is granted to the extent indicated above and is denied in all other respects.

12. It is further ordered, That each of the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by § 1.221(c) of our rules.

13. It is further ordered, That the applicants shall give notice of the hearing, within the time and in the manner specified in § 1.594 of our rules, and shall sea-

sonably file the statement required by § 1.594(g).

Adopted: February 2, 1972.

Released: February 8, 1972.

FEDERAL COMMUNICATIONS
COMMISSION,²

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-2251 Filed 2-14-72; 8:50 am]

[FCC 72-114]

MUTUAL INSURANCE COMPANY OF OMAHA

Memorandum Opinion and Order Regarding "Prime Time" Rule Waiver

In the matter of waiver of the "Prime Time Access Rule", § 73.658(k), with respect to the presentation after October 1, 1972 of "off-network" programs (Petition of Mutual Insurance Company of Omaha).

1. The Commission here considers a request for waiver of § 73.658(k) of its rules, the "prime time access rule", with respect to one of the provisions thereof, becoming effective October 1, 1972, which bars use of "off-network" material to fill the time from which network programming is excluded. The request is contained in a petition for waiver filed on December 29, 1971, by Mutual Insurance Company of Omaha (Mutual) in connection with its program "Wild Kingdom", which was on the NBC network at 7 p.m., e.s.t., Sunday evenings for several years and during the 1971-72 season is being distributed to stations on a syndication basis. The "prime time access rule", which, in general, limits stations to the presentation of 3 hours of national network programs each evening during prime hours (7-11 p.m. except 6-10 p.m., e.s.t., in the central zone), was adopted in May 1970, and somewhat modified on reconsideration in August 1970.³ One of the changes made in the latter decision was to postpone until October 1, 1972, the prohibition against use of "off-network" material (and also movies previously shown in the market, not involved here), while putting the basic limitation to 3 hours of network programs into effect October 1, 1971. The reason for the delay in the "off-network" restriction was to permit ample time for the changeover and permit stations to use, during the 1971-72 season, the program material they had already acquired.

2. The program involved, "Wild Kingdom", was on the NBC network for several years (in the recent past on Sundays at 7 p.m., e.s.t.), and is apparently reasonably popular and highly regarded, both by audience and critics. It deals with the world of nature, particularly various forms of animal life, and has been

² Commissioner H. Rex Lee absent.

³ Report and order in Docket 12782, 23 FCC 2d 382 (May 1970); memorandum opinion and order on reconsideration in Docket 12782, 25 FCC 2d 318 (August 1970).

praised as significant in the fight for conservation and protection of the environment, including animals. Mutual lists some 30 awards it has received from both television and entertainment industry and conservation and education groups. Aside from its distinctiveness and asserted great merit, Mutual claims that a waiver should be granted—to permit stations to present those portions of the material which have appeared on NBC in past years—because of the unique position the program has had. Unlike much network material, which the networks have either produced themselves, coproduced or acquired proprietary interests in, the "Wild Kingdom" program has been in recent years entirely the property of Mutual, which simply bought the Sunday evening time on the network to present it on a sponsored basis (it has been one of very few "conventionally sponsored" shows on evening network television in recent years). Originally, in the early 1960's, the program was conceived and produced by Don Meier Productions, Inc., and sold to NBC for network exhibition on a sponsored basis (with NBC not acquiring any other rights in it). Mutual became the sponsor, and in November 1968 acquired all of the rights to the program itself, simply paying NBC for the network broadcast time. Thus, it is claimed, the program is really the very type of material, produced and owned by sources independent of the networks, such as advertisers, which was more prevalent in the early years of television and which the purpose of the rule is to foster, not exclude.

3. As a network program, the show is said to have been a casualty of the "prime time access rule" when it went into operation in October 1971, since NBC and the other networks were required to cut their prime time schedules back to 3 hours in the top 50 markets (and did so in all other markets as well), and NBC decided to drop "Wild Kingdom" as part of the reduction process. After some hesitation, for one thing because of the great expense involved in distribution via syndication, Mutual decided not to drop the program but to undertake this form of distribution; and it has been reasonably successful, getting prime time exposure on 214 stations, including 43 of the top 50 markets.

4. Mutual has produced each year, and intends to produce annually in the future, 12 new programs for the series; the remainder of the 52-week package which it offers to stations is reruns. By the end of the 1972-73 season (Oct. 1, 1973), this could mean 24 programs never shown on the NBC network and at that point there would still be 28 "off-NBC" programs of the 52 total.

Mutual states that it is undesirable and, indeed, impossible to present any more new material each season because of: (1) The high cost of program production; (2) the uncertainties involved in the production of any program involving wild life, which cannot be controlled as can the production of a conventional entertainment program; and (3) the fact that many of these programs are of

"timeless interest", so that reruns may well be much in the public interest. It is asserted that it is simply not possible to formulate an attractive syndication package without a substantial number of the older programs.

5. Mutual claims that waiver, to the extent indicated in the last paragraph, is in effect necessary for it to continue to present the program at all. It asserts that it must have the prime time exposure, including time in the major markets, in order to bring this desirable program to large audiences and justify the great costs involved. Mutual recognizes that the rule does not bar such material entirely from "prime time" but only from that portion of it from which network programs are excluded (which, for the most part, means the 7 to 8 p.m. hour in the eastern and Pacific zones); but it claims that network-owned and affiliated stations in the top 50 markets cannot realistically be expected to forego network prime time material in order to present "Wild Kingdom", and, also that its early Sunday evening time, which it long had on NBC and which clearly would fall within the rule's prohibition, is especially desirable from the standpoint of viewing by family groups and young people, the audience to which the program is particularly directed. It is claimed that if these programs are held to be barred as "off-network" material by the operation of the rule, Mutual will be forced to drop sponsorship and future production of the series.

CONCLUSIONS

6. After considering this matter carefully, we are of the view that waiver should be granted in this case, to permit the presentation of a reasonable amount of "Wild Kingdom" material which previously ran on NBC. While this decision to a certain extent is based on all of the factors advanced and set forth above, it is in only a minor degree based on the distinctive character, and even less the asserted merit, of the program. These are factors which are difficult for the Commission to evaluate, if, indeed, we could appropriately put ourselves in the position of having to do so. Rather, it is chiefly based on the other two considerations advanced: the fact that this material is the kind of thing which the rule was designed to promote—material produced and/or owned by independent sources such as advertisers—and that a substantial amount of material which is not "off-network" will be included in the package. In view of the complaints which have been registered by viewers over the years as to the prevalence of reruns (most recently in connection with the current operation of the "prime time access rule"), we believe it appropriate to impose some requirement that a substantial amount of the material be other than programs which were carried on the NBC network. At the same time, as far as the 1972-73 season is concerned, it does not appear desirable to oblige stations to present again all or most of the programs which have been shown in the immediate past, i.e., those which

were new in the 1971-72 year when the program has been distributed via syndication. These programs would probably be more in the public interest if rerun later—longer after their first presentation. Accordingly, for the first season, we are simply stating that at least 12 programs of the "Wild Kingdom" series presented on stations between October 1, 1972, and October 1, 1973, shall be new material not previously appearing on television. Our present action is limited to the 1972-73 year; it will be appropriate to reevaluate the situation before granting waivers further into the future, since more new material will then be available.

7. The Commission wishes to emphasize its view that the "prime time access rule" should be given a full opportunity to work, with substantial amounts of valuable prime time in major markets made available to independent sources and new program material from them. But in our view, any impingement which may result from grant of waiver here, as compared to adherence to the letter of the rule, is minor and is indeed offset by the likelihood that this program itself would not be able to continue in production. Therefore, we believe that under all of the circumstances the public interest is served by grant of the waiver, limited as mentioned.

8. In view of the foregoing: *It is ordered*, That Mutual Insurance Company of Omaha may offer, and stations in the top 50 markets may present without limitation during prime hours, between October 1, 1972, and October 1, 1973, the "Wild Kingdom" series of television programs: *Provided*, That at least 12 of the programs presented in this series during this period must be programs which have not previously been presented on television.

Adopted: February 2, 1972.

Released: February 7, 1972.

FEDERAL COMMUNICATIONS,
COMMISSION,²

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-2256 Filed 2-14-72; 8:51 am]

[FCC 72-93]

STATION KUTV, SALT LAKE CITY,
UTAH

Order Regarding "Prime Time" Rule Waiver

In the matter of request for waiver of the "Prime Time Access Rule" § 73.658(k) for Station KUTV, Salt Lake City, Utah (to permit carriage of winter Olympic coverage).

1. The Commission here considers a request for waiver of the "prime time access rule", § 73.658(k) of the Commission's rules, filed on January 24, 1972, by KUTV, Inc., licensee of Station KUTV, Salt Lake City (NBC-affiliated) for

² Commissioner Nicholas Johnson concurring in the result; H. Rex Lee absent.

Thursday and Saturday, February 10 and 12, 1972. The request is based on the fact that NBC will carry coverage of the Winter Olympic Games on these evenings, instead of some of its regular prime-time and late evening material, and KUTV wishes to carry this material. The request reflects the fact that mountain zone stations have a particular problem in relation to the "prime time access rule", in that, under their normal scheduling practices, they must carry, during their prime hours, certain network material which does not originate, and is not carried in other parts of the country, during "prime time". The request is for waiver on these evenings to permit carriage of Olympic coverage starting at 10:30 p.m. Mountain time, in addition to three prime-time hours of earlier NBC programs (in both cases 2 hours of it being Olympic coverage also).¹ Thus, 3½ hours of network programs during prime time are planned in these evenings.

2. Under all of the circumstances—including the facts that these are special programs of considerable appeal not occurring regularly, that the need for waiver arises from the special scheduling problems of mountain zone stations in relation to the "prime time access rule", and KUTV's position in feeding some 10 other mountain zone stations—we are of the view that waiver is warranted.

3. Accordingly, it is ordered, That waiver of the provisions of § 73.658(k) of the Commission's rules is granted to Station KUTV, Salt Lake City, Utah, to permit the presentation of 3½ hours of NBC programs on the evenings of Thursday, February 10 and Saturday, February 12, 1972.

Adopted: February 2, 1972.

Released: February 3, 1972.

FEDERAL COMMUNICATIONS
COMMISSION,²

[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc. 72-2257 Filed 2-14-72; 8:51 am]

[FCC 72-54]

PROGRAM IDENTIFICATION PATTERNS

Memorandum Opinion and Order

In the matter of interim standards for program identification pattern transmission by television broadcast stations pending a decision in Docket 19314.

1. By public notice of September 17, 1971 (FCC 71-969) the Commission specified a temporary or interim standard which would apply to the transmission by television stations of program identification patterns, pending the conclusion of

¹ KUTV also mentions its position as feeding NBC programs to some 10 other stations in smaller markets in the mountain zone, which presents some special problems and means that changes in schedule have a more widespread impact than would changes affecting only its own broadcasting.

² Commissioner Johnson concurring in the result; Commissioner H. Rex Lee absent.

the rule making proceeding in Docket 19314. This proceeding is concerned with the proposed amendment of § 73.682(a) (22), our rule which governs identification pattern transmissions. The interim standard established is, in effect, a limited waiver of those requirements of the present rule which control the vertical location of identification patterns.

2. Specifically, pursuant to this standard, identification patterns are permitted to occupy portions of six field lines, measured downward from the top of the transmitted television picture, and six field lines, measured upward from the bottom of the transmitted picture. In the aforementioned public notice, we stated that we "may find it necessary to take appropriate enforcement action with respect to transmissions which depart substantially from the interim standard."

3. The Commission has received and has had under consideration letters or petitions seeking modification or suspension of the interim standard established by the public notice, filed by International Digisonics Corp. (IDC), Columbia Broadcasting System, Inc. (CBS), National Broadcasting Co., Inc. (NBC), and American Broadcasting Co., Inc. (ABC). It is the basic position of all of these parties that the standard which the Commission has set, and with which it stated it would exact compliance, is impractically severe.

4. IDC suggests that relief be afforded by the issuance of a "clarification" of the public notice, wherein we would hold that identification pattern transmissions would be deemed to "depart substantially" from the interim standard only in instances where patterns contain more than three field lines in excess of the six field line maximum prescribed in the standard. Such a "clarification", in effect, would make acceptable, on a temporary basis, pattern transmissions meeting the requirements of the amendment which IDC has proposed to present § 73.682(a) (22) of our rules. IDC urges that the additional three lines "in order to allow for alignment tolerances" are as necessary a part of an interim standard as of a permanent rule, since "patterns would nevertheless exceed the six line standard, even when produced and broadcast with care, in a small, but statistically noticeable number of cases because of the presence of tolerances in framing processes". The maintenance of an unduly strict interim standard, backed by the prospect of its literal enforcement, states IDC, may deter broadcasters from transmitting identification patterns, and make impossible an orderly determination of the ability of the IDC system to function within the parameters specified in its proposed amendment to § 73.682(a) (22).

5. The three networks seek relief from compliance with any standard for identification patterns transmission, other than a general requirement that such transmission not cause significant picture degradation, until a decision is rendered in Docket 19314, or (assuming that a decision in this Docket will look toward a termination of visual identification pat-

terns transmissions) until commercials containing identification patterns, having been utilized for their normal lifetimes, are retired from circulation. It is the contention of these parties that station licensees have no practical means for insuring, before the actual moment of broadcast, that identification pattern transmissions will meet the interim standard set by the Commission, or, indeed, any standard whatever, and they should be relieved from the obligation for compliance, pending a final solution of the problem, to be reached in formal proceedings by the Commission (there are differing opinions as to the nature of these proceedings).

6. On December 23, 1971, a "Request of International Digisonics Corporation for Expedited Consideration" was filed with the Commission. In this document, IDC notes the pendency of the petitions for relief which it and the three networks have filed, and calls attention to a recent circumstance which, it urges, dictates immediate Commission action.

7. Specifically, it states, on December 15, 1971, the Columbia Broadcasting System wrote to national television advertisers informing them that the CBS network and CBS-owned stations would not accept commercials bearing identification patterns after February 1, 1972. "CBS based its action on the unsupported allegation that the presently applicable specifications for the transmission of identification patterns makes unavoidable a 'significant incidence' of illegal transmissions."¹

8. IDC alleges that if CBS takes the proposed action, "television advertising will be seriously disrupted and the rendition of automatic monitoring services will be halted". In such circumstances, national advertisers must either discard "vast numbers" of commercials bearing identification patterns or remove the patterns; either alternative, says IDC, would be immensely expensive, and would cause chaos in the distribution and scheduling of advertising, and irreparable harm to IDC; the market for its services will be removed, its investment in monitoring equipment rendered valueless, and its very existence jeopardized. Finally, urges IDC, the CBS action will seriously interfere with a fair and comprehensive consideration of issues to be considered in the rule making proceeding in Docket 19314, "because it threatens the continued existence of the primary exponent of the proposal under consideration".

9. To forestall the harm which would be visited on the broadcast advertising industry and on IDC should CBS pursue its present course of action, and to permit a meaningful decision in the rule making docket IDC believes that we should suspend enforcement of specific standards, other than the limitation of pattern transmissions to 1 second, and

¹ In a response, filed Jan. 4, 1972, CBS, in support of its allegations has summarized the results it has obtained thus far, in an extensive program of measurements of identification pattern transmissions.

the maintenance of prohibition against significant picture degradation (which, IDC notes, experience has shown is highly unlikely to occur) pending a decision in the rule making proceeding.

10. Should the Commission adopt this interim procedure, which provides the relief requested by the networks, in IDC's view "neither CBS nor any other broadcaster would appear to have the slightest basis for refusing to accept identified commercials." Assuming such Commission action, IDC suggests that the refusal of CBS, or any other broadcaster, to accept commercials bearing identification patterns" should be found by the Commission to be arbitrary, unreasonable, and contrary to the public interest." Indeed, states IDC, "It would be appropriate for the Commission to notify licensees that a completely arbitrary failure to transmit broadcast material bearing identification patterns would bear negatively on the renewal of broadcast licenses."

11. In its letter of April 12, 1971, which accompanied its petition for rule making, IDC proposed that during the period while the rule amendment was under consideration no specific requirement be imposed on the transmission of identification patterns contained in film commercials produced before April 1, 1971, with the standard specified in its proposed rule amendment applying to commercials of later production dates, or, alternatively, that all pattern transmissions during this period be permitted without specific restriction. In our public notice of September 17, we rejected this proposal, reasoning as follows:

*** our adoption of such an interim relaxation would sanction a degradation of the television picture of greater or lesser degree for a period of many months. How much worse the situation would be than that which now exists, we do not know. It would appear that many broadcasters have been making a conscientious effort to eliminate commercials with patently defective pattern placement. The motivation for continuing this effort would be removed under the IDC proposal, with the likelihood that the number of improper pattern transmissions would increase, at least during a portion of the interim period. While, in the absence of complaints from viewers of picture degradation, this situation might be tolerated if we could look toward early compliance of all transmissions with a reasonable standard, what this standard is remains to be determined.

12. Thus, while at the time the September 17 public notice was issued, we had before us a proposal to permit pattern transmissions on a temporary basis without restriction as to line placement, we chose, instead, to require our licensees to take all reasonable measure to insure that pattern transmissions met the standard set forth in that notice. By imposing this requirement, we sought to promote early retirement of commercials with patently faulty pattern placement, being unwilling to permit their unrestricted transmission over the normal useful lifetime of each commercial. Our attitude on this matter is the same today as it was then.

13. The networks profess themselves unable, by any practicable means, to

insure that their stations will transmit identification patterns in accordance with the interim standard set by the Commission, nor can affiliated stations transmit identified commercials furnished by CBS with confidence that this standard will be met. They ask that they be relieved of this burden. CBS apparently has gone further, and looks toward the elimination of all commercials bearing identification patterns. IDC sees this latter development as threatening the viability of the visual identification system, and rendering futile any subsequent formal determination of the basis on which it may continue to function. Accordingly, we are urged, in the light of this situation, to immediately grant the relief requested.

14. We, of course, will not accede to the request of IDC we inform our licensees that an arbitrary refusal to transmit commercials bearing identification patterns is contrary to the public interest. Such action would be tantamount to the imposition of a direct requirement that broadcasters provide an admittedly nonbroadcast subsidiary service, and constitute an unwarranted invasion of the area of licensee responsibility. The Commission has found it in the public interest to adopt a rule which, pursuant to specified technical standards, permits its licensees to transmit identification patterns for the purpose of automatic program identification. It is unwilling to convert this privilege into a mandatory requirement.

15. Since the adoption of § 73.682(a) (22) of the rules in May of 1970, identification pattern transmissions have been subject, at different times, to three different operating standards, (1) the requirements in the basic rule, (2) the interim standard adopted on a temporary basis by public notice of October 22, 1970, and (3) the interim standard subsequently set in the September 17, 1971, public notice. Whatever standard was in force during any particular period of time, each licensee's obligation to operate in accordance with the applicable standard either was implicit or was expressly stated. The interim standard prescribed in the September 17, 1971, notice is appreciably more permissive than the one set in the October 22, 1970, notice, and represents a substantial relaxation of the requirements of the basic rule.

16. Nevertheless, it is the adoption of September 17 standard which has occasioned the networks' petitions for relief, and, presumably, the CBS decision not to accept commercials bearing identification patterns, even though the difficulties allegedly experienced in meeting this standard must be less than those involved in operating under previous standards. It seems apparent that these steps have been taken now because, in its public notice of September 17, the Commission stated its intention to take affirmative action to enforce the interim standard set in that notice. The networks, professedly unable to insure that identification patterns on film commercials will be transmitted consistently within this standard, and unwilling to subject their owned and affiliated stations to the hazards of adverse Commis-

sion action, accordingly have sought the relief requested in the petitions here under consideration.

17. The problem which faces the broadcaster is real—the apparent lack of any practical means for making certain, beforehand, that the identification patterns on any particular commercial will be transmitted in accordance with a specified line standard. We have recognized this problem as one which must be resolved finally in the proceeding in Docket 19314.

18. Since this is the case, some measure of relief from the strictures imposed in the public notice is in order. Nevertheless, if identification patterns on film are to be transmitted under conditions where they do not depart widely from their intended locations, a reasonable amount of care must be exercised by the broadcaster in their transmission. A suspension of any line standard for a period of time extending to or beyond the date of decision in Docket 19314, as requested by the petitioners, would relieve the broadcaster of any obligation in this area, and increase the probability and incidence of faulty pattern transmissions, with the attendant hazard of picture degradation. While the hazard is held not to be great, this question is also at issue in the rule making proceeding, and has been raised in that proceeding by certain of the petitioners herein.

19. Under these circumstances, we will maintain the line standard for the transmission of identification patterns set in the public notice of September 17, and will expect our licensees to take reasonable care in attempting to meet this standard in their pattern transmissions. However, since, at this time, the broadcaster may be unable, as a practical matter, to exercise such control over pattern transmissions as is necessary to achieve strict compliance with the standard, we will rely solely on his good faith efforts to achieve compliance, and, until a final resolution is reached of the matters at issue in Docket 19314, will not hold our licensees responsible for identification pattern transmissions which fail to meet this standard, in the absence of public complaints that significant picture degradation is resulting therefrom.²

20. While we hereby deny the specific relief requested by the petitioners, we believe that we have presented above a practical alternative pursuant to which, and subject to reasonable restraints, identification pattern transmissions may continue, pending a decision in Docket 19314.

Adopted: January 18, 1972.

Released: January 20, 1972.

FEDERAL COMMUNICATIONS

COMMISSION,³

[SEAL] BEN F. WAPLE,

Secretary.

[FR Doc. 72-2253 Filed 2-14-72; 8:51 am]

² While the Commission will monitor identification pattern transmissions, its efforts will be directed toward the accumulation of information for use in the rule making proceeding.

³ Commissioner Johnson concurring in the result; Commissioner H. Rex Lee absent.

FEDERAL POWER COMMISSION

[Docket No. G-9462 etc.]

SUN OIL CO. ET AL.

Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates¹

FEBRUARY 3, 1972.

Take notice that each of the applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before February 28, 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 to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

¹This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-9462 D 7-19-71	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221 (partial abandonment).	Cities Service Gas Co., Hardtner Field, Barber County, Kans.	Depleted	-----
CI72-476 D 1-19-72	Marshall R. Young Oil Co., 1800 First National Bldg., Fort Worth, Tex. 76102.	United Gas Pipe Line Co., Ansley Field, Hancock County, Miss.	Depleted	-----
CI69-1053 C 1-21-72	Champlin Petroleum Co., Post Office Box 9365, Fort Worth, TX 76107.	Panhandle Eastern Pipe Line Co., State Line Fields Woods County, Okla.	* 13.5	14.65
CI71-825 C 1-19-72	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	Arkansas Louisiana Gas Co., Witcherville Field, Sebastian County, Ark.	* 21.5	14.65
CI72-160 A 9-20-71	Monsanto Co., 1300 Post Oak Tower, Houston, Tex. 77027.	Northern Natural Gas Co., Gomez Field, Pecos County, Tex.	* 26.5	14.65
CI72-428 A 1-12-72	Continental Oil Co., Post Office Box 2197, Houston, TX 77001.	Arkansas-Louisiana Gas Co., Northwest Watonga Field, Blaine County, Okla.	* 21.802	14.65
CI72-429 B 1-13-72	Elk Oil Co., Post Office Box 310, Roswell, NM 88201.	Northern Natural Gas Co., Kennitz Marrow Field, Lea County, N. Mex.	Depleted	-----
CI72-430 1-17-72 ⁴	Anadarko Production Co., Post Office Box 296, Liberal, KS 67901.	Northern Natural Gas Co., Mocane Field, Beaver County, Okla.	* 18.015	14.65
CI72-431 B 1-19-72	Claud B. Hamill, 2306 First City National Bank, Houston, Tex. 77002.	United Gas Pipe Line Co., Mount Selman Field, Cherokee and Smith Counties, Tex.	Depleted	-----
CI72-432 A 1-14-72	Atlantic Richfield Co., Post Office Box 2819 Dallas, TX 75221.	Arkansas Louisiana Gas Co., East Kiblah Field, Miller County, Ark.	18.0	14.65
CI72-433 A 1-17-72	Cities Service Oil Co., Post Office Box 300, Tulsa, OK 74102.	Northern Natural Gas Co., Yucca-Baughman Unit, Seward County, Kans.	* 19.0	14.65
CI72-434 A 1-17-72	Anadarko Production Co., Post Office Box 296, Liberal, KS 67901.	Northern Natural Gas Co., Panoma Council Grove Field, Grant and Stevens Counties, Kans.	* 19.0	14.65
CI72-435 1-17-72 ⁴	do.	Cities Service Gas Co., Hull Gas Unit, Northeast Waynoka Field, Woods County, Okla.	15.0	14.65
CI72-436 1-17-72 ⁴	do.	Panhandle Eastern Pipe Line Co., Pastorious, Rein and other gas units, West Valley Center and Northeast Trail Fields, Dewey County, Okla.	* 18.0	14.65
CI72-437 B 1-17-72	Crown Central Petroleum Corp. et al., 1010 Bank of the Southwest Bldg., Houston, Tex. 77002.	Transcontinental Gas Pipe Line Corp., Southwest Kaplan Field, Vermilion Parish, La.	Depleted	-----
CI72-438 A 1-19-72	Shell Oil Co., 1 Shell Plaza, Houston, TX 77001.	United Gas Pipe Line Co., East Texas Field, Gregg County, Tex.	* 23.5	14.65
CI72-439 A 1-19-72	General Crude Oil Co., Post Office Box 2252, Houston, TX 77001.	Michigan Wisconsin Pipe Line Co., West Cameron Area, Block 171, Offshore Louisiana.	* 32.0	15.025
CI72-440 A 1-18-72	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Panhandle Eastern Pipe Line Co., Wattenberg and other fields, Weld, Adams, and Arapahoe Counties, Colo.	* 22.913	14.65
CI72-441 A 1-18-72	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	Arkansas Louisiana Gas Co., East Kiblah Field, Miller County, Ark.	18.0	14.65
CI72-442 B 1-17-72	Phillips Petroleum Co., Bartlesville, Okla. 74003.	Transcontinental Gas Pipe Line Corp., Greenbranch Field, McMullen County, Tex.	Depleted	-----
CI72-443 B 1-13-72	Hewitt B. Fox, Inc., 900 Guaranty Bank Plaza, Corpus Christi, Tex. 78401.	Texas San Juan Oil Corp., Miller & Fox Field, Jim Wells County, Tex.	Uneconomical	-----
CI72-444 B 1-20-72	Tenneco Oil Co., Post Office Box 2511, Houston, TX 77001.	Transcontinental Gas Pipe Line Corp., Vermilion Block 76 Field, Offshore Vermilion Parish, La.	Depleted	-----
CI72-445 B 1-19-72	Sun Oil Co., Post Office Box 2880, Dallas, TX 75221.	Lone Star Gas Co., East Hewitt Field, Carter County, Okla.	Depleted	-----
CI72-446 B 1-19-72	do.	Panhandle Eastern Pipe Line Co., Morse Field, Hansford County, Tex.	Depleted	-----
CI72-447 1-14-72 ¹⁴	Gulf Oil Corp., Post Office Box 1589, Tulsa, OK 74102.	Southern Natural Gas Co., Diamond Field, Plaquemines Parish, La.	* 22.375	15.025
CI72-448 1-14-72 ¹⁴	Diamond Shamrock Corp., Post Office Box 631, Amarillo, TX 79105.	Arkansas Louisiana Gas Co., section 18, township 22 North, Range 6 West, Garfield County, Okla.	16.0	14.65
CI72-449 (CI65-419) F 1-17-72	Amoco Production Co. (successor to Dan R. Wager), Post Office Box 591, Tulsa, OK 74102.	Arkansas Louisiana Gas Co., Wilburton Field, Pittsburg County, Okla.	* 16.255	14.65
CI72-451 (G-3673) F 1-20-72 ¹⁴	John A. Hairford (successor to Petroleum, Inc., et al.), Post Office Box 894, Hooker, OK 73945.	Cities Service Gas Co., Hugoton Field, Stanton County, Kans.	* 12.5	14.65
CI72-452 B 1-21-72	Gulf Oil Corp., Post Office Box 1589, Tulsa, OK 74102.	Arkansas Louisiana Gas Co., Haynesville Field, Claiborne Parish, La.	Depleted	-----
CI72-453 B 1-21-72	Crown Central Petroleum Corp., 1010 Bank of the Southwest Bldg., Houston, Tex. 77002.	Texas Gas Transmission Corp., Iota Field, Acadia Parish, La.	Depleted	-----

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
CI72-454----- B 1-24-72	Anadarko Production Co., Post Office Box 296, Liberal, KS 67901.	Panhandle Eastern Pipe Line Co., Harris No. 1-5 Well, Boyer Field, Meade County, Kans.	Depleted -----	
CI72-455----- B 1-24-72	Mobil Oil Corp., Post Office Box 1774, Houston, TX 77001.	United Gas Pipe Line Co., Laura La Velle Field, Houston County, Tex.	Depleted -----	
CI72-456----- A 1-24-72	Amerada Hess Corp., Post Office Box 2040, Tulsa, OK 74102.	Tennessee Gas Pipeline Co., a division of Tenneco Inc., Atchafalaya Bay Field, St. Mary Parish, La.	128.0	15.025

- ¹ Subject to upward and downward B.t.u. adjustment.
² Application previously noticed Oct. 15, 1971, in G-3573 et al., at a rate of 22 cents per Mcf. By letter dated Jan. 17, 1972, Applicant amended its application to reflect a rate of 26.5 cents per Mcf for a permanent certificate.
³ Gas-well gas. Includes 1.48 cents per Mcf upward B.t.u. adjustment.
⁴ Applicant proposes to continue the sale of natural gas heretofore authorized in Docket No. CI62-1377 to be made pursuant to Calvert Exploration Co. (Operator) et al., FPC Gas Rate Schedule No. 6.
⁵ Plus 0.015 cent per Mcf for 1967 Oklahoma tax reimbursement.
⁶ Casinghead gas. Subject to upward and downward B.t.u. adjustment.
⁷ Adjusted for B.t.u.
⁸ Applicant proposes to continue the sale of natural gas heretofore authorized in Docket No. CI62-1489 to be made pursuant to May Petroleum, Inc. (Operator), et al., FPC Gas Rate Schedule No. 16.
⁹ Applicant proposes to continue the sale of natural gas heretofore authorized in Docket No. CI63-1394 to be made pursuant to Apache Corp., FPC Gas Rate Schedule No. 28.
¹⁰ Includes 3.006 cents per Mcf upward B.t.u. adjustment and 0.31509 cent per Mcf Oklahoma tax reimbursement.
¹¹ Includes 2.591 cents per Mcf upward B.t.u. adjustment.
¹² Applicant proposes to continue the sale of its own gas heretofore authorized in Docket No. CI68-27 to be made pursuant to American Trading and Production Corp. (Operator) et al., FPC Gas Rate Schedule No. 5.
¹³ Subject to upward and downward B.t.u. adjustment. Applicant is willing to accept a permanent certificate in conformance with the provisions of Opinion No. 598.
¹⁴ Applicant proposes to continue the sale of natural gas heretofore authorized in Docket No. CI68-909 to be made pursuant to L. O. Ward (Operator and Agent) et al., FPC Gas Rate Schedule No. 1.
¹⁵ Includes 0.265 cent per Mcf tax reimbursement.
¹⁶ Applicant, a small producer certificate holder, proposes to sell gas from reserves acquired in place from a large producer.
¹⁷ Pursuant to Opinion No. 586; however, the contract price is 13.5 cents per Mcf.

[FR Doc.72-2061 Filed 2-14-72;8:45 am]

FEDERAL RESERVE SYSTEM

ASSOCIATED BANK SERVICES, INC.

Order Approving Acquisition of Bank

Associated Bank Services, Inc., Green Bay, Wis., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)), to acquire 80 percent or more of the voting shares of Neenah West National Bank (Bank), Neenah, Wis.

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant controls three banks with aggregate deposits of approximately \$215 million, representing 2.1 percent of the total commercial bank deposits in the State, and is the fourth largest banking organization and bank holding company in Wisconsin.¹ Applicant's acquisition of Bank (\$5.7 million in deposits) would increase applicant's share of deposits in the State by 0.1 percentage point without affecting applicant's ranking.

Bank was organized in 1966 by directors and officers of The First National Bank of Neenah (Neenah National), and was an affiliate of Neenah National until the latter bank was acquired by applicant on May 1, 1970. Presently, about 36 percent of Bank's stock is held by man-

agement of Neenah National and over 70 percent of Bank's stock is held by shareholders of applicant; the close association that existed appears to be a continuing relationship. It appears that the two banks do not in fact compete with each other, even though the main offices of Bank and Neenah National are located only 1.5 miles apart and there is considerable overlap of the respective service areas.

Bank is the smallest of the 15 banks in the Appleton banking market, the relevant market, which is approximated by the southeast portion of Outagamie County and the northeast portion of Winnebago County, and holds 1.7 percent of deposits in that market. Applicant's subsidiary, Neenah National (\$43.6 million in deposits), holds 12.8 percent of the total deposits in the market. Two Appleton-based holding companies operate five banks in the market and together they control about 47 percent of total deposits there. Competing in the same market is the third largest banking organization in the State. The acquisition of Bank would have a minimal effect on concentration and, in view of the relationship between Bank and Neenah National, said acquisition apparently would not eliminate any existing competition. If the application were denied, the existing ownership ties might eventually be dissolved and Bank might be able to become an independent competitor. However, in view of the facts of record, including Bank's small size and small market share, and the number and size of banks already in the market, such possible disassociation is not likely to have a significant procompetitive effect. On the basis of the record before it, the Board concludes that consummation of the proposed acquisition would not have a significantly adverse effect on competi-

tion in any relevant area. Nor is consummation likely to have any significant adverse effects on Bank's competitors.

Applicant proposes to aid Bank in the technical aspects of lending, investments, data processing, trust services, marketing, accounting and auditing, as well as provide for management succession. While many of these services are already being furnished, it appears that the acquisition would assure the continuation by Bank of present services and the addition of improved and expanded services in the future. Considerations relating to the convenience and needs of the communities to be served lend some weight toward approval of the application.

Considerations relating to financial and managerial resources and future prospects as they relate to applicant, its subsidiaries and Bank, are regarded as generally satisfactory. Applicant is in a position to assist Bank in meeting its need for additional capital; and proposes to add \$100,000 to Bank's capital account. Applicant's acquisition of Bank would enhance Bank's prospects. Banking factors lend weight toward approval. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the 30th calendar day following the date of this order or (b) later than 3 months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,²
February 7, 1972.

[SEAL]

TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-2196 Filed 2-14-72;8:46 am]

ASSOCIATED BANK SERVICES, INC.

Order Denying Acquisition of Bank

Associated Bank Services, Inc., Green Bay, Wis., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of American National Bank of Green Bay (Bank), Green Bay, Wis.

Notice of receipt of the application has been given in accordance with section 3(b) of the Act, and the time for filing comments and views has expired. The

² Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sheehan. Voting against this action: Governor Robertson. Dissenting statement of Governor Robertson filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20561, or to the Federal Reserve Bank of Chicago.

¹ All banking data are as of June 30, 1971, and reflect holding company formations and acquisitions approved through Nov. 30, 1971.

Board has considered the application and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and finds that:

Applicant controls three banks with aggregate deposits of approximately \$215 million, representing 2.1 percent of the total commercial bank deposits in the State, and is the fourth largest banking organization and bank holding company in Wisconsin.¹ Upon acquisition of Bank (\$13.5 million of deposits), applicant's position in relation to the State's other banking organizations and holding companies would remain unchanged and applicant's share of deposits in the State would be increased by 0.1 percentage point.

Bank was established in 1963 by officers and directors of Kellogg-Citizens National Bank (Kellogg), applicant's lead bank (\$120 million of deposits), and the two banks were affiliated until Kellogg was acquired by applicant upon its formation in 1970. At present, 44 percent of Bank's shares are owned by management of Kellogg and 87 percent of Bank's shares are held by shareholders of applicant. Bank is the seventh largest of 15 banks in the Green Bay banking market (which is approximately Brown County), the relevant market, and controls 3.5 percent of deposits in that market. Applicant's subsidiary, Kellogg, is the largest banking organization in that market with 31.3 percent of deposits there. Bank is located in a shopping center less than 3 miles from Kellogg which is located in downtown Green Bay; and the service areas of Bank and Kellogg overlap. However, due to their previous affiliation and present relationship, it appears that the two banks presently do not compete with each other.

Denial of the application holds out the possibility that the existing ownership links would be broken, and Bank could become an additional independent competitor with a resulting decrease in the share of deposits controlled by applicant in the relevant market. Furthermore, approval of the proposed acquisition would foreclose Bank as a possible point of entry for another bank holding company; and would solidify Kellogg's and applicant's already dominant position in the relevant market. On the basis of the record before it, the Board concludes that the effect of approval of the application herein may be substantially to lessen competition in the Green Bay area. Accordingly, this application should be disapproved unless the Board finds that the anticompetitive effects are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

In our judgment, consummation of applicant's proposal would result in no significant benefit to the convenience

or needs of the community to be served. The record indicates that the area's needs are being served adequately by the banks serving the area. Bank is also providing, directly, or indirectly through Kellogg as its correspondent, the full line of services needed in its service area. If the application is denied, Bank reasonably may be expected to provide similar services with the assistance of one or more correspondents—whether as an independent bank or as a subsidiary of a bank holding company. Considerations relating to the convenience and needs of the communities to be served do not clearly outweigh the anticompetitive effects of the proposed transaction. Considerations relating to financial and managerial resources and future prospects of applicant, its subsidiaries, and Bank are regarded as consistent with approval of the application but do not add strong weight for approval. On the basis of the record, the Board concludes that approval of the proposed acquisition is not in the public interest, and approval is accordingly denied.

By order of the Board of Governors,²
February 7, 1972.

[SEAL]

TYNAN SMITH,
Secretary of the Board.

[FR Doc. 72-2197 Filed 2-14-72; 8:46 am]

FEDERAL OPEN MARKET COMMITTEE

Continuing Authority Directive With Respect to Domestic Open Market Operations

In accordance with § 271.5 of its rules regarding availability of information, notice is given that on December 23, 1971, a majority of Committee members voted to suspend, until close of business on the day of the next meeting of the Committee, the lower limit (set forth in paragraph 1(c) of the continuing authority directive with respect to domestic open market operations) on interest rates on repurchase agreements arranged by the Federal Reserve Bank of New York with nonbank dealers. The suspended provision specified that such repurchase agreements were to be made "at rates not less than (1) the discount rate of the Federal Reserve Bank of New York at the time such agreement is entered into, or (2) the average issuing rate on the most recent issue of 3-month Treasury bills, whichever is the lower."

NOTE: For paragraph 1(a) of the directive, see 36 F.R. 22697, for paragraph 1 (b) and (c), see 32 F.R. 9584, for paragraph 2, see 36 F.R. 19277, and for paragraph 3, see 35 F.R. 447.

By order of the Federal Open Market Committee, February 3, 1972.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc. 72-2218 Filed 2-14-72; 8:48 am]

² Voting for this action: Chairman Burns and Governors Robertson, Mitchell, Daane, Maisel, Brimmer, and Sheehan.

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on November 16, 1971.¹

The information reviewed at this meeting indicates that real output of goods and services expanded modestly in the third quarter, but greater growth appears in prospect for the current quarter. Although the unemployment rate has declined recently, it remains high. Available data indicate that the 90-day freeze effectively limited increases in prices and wages, and basic policies for the post-freeze stabilization program have been announced. The narrowly defined money stock declined further in October, but inflows of consumer-type time and savings deposits to banks expanded considerably and the broadly defined money stock increased moderately. Expansion in the bank credit proxy slowed substantially as the volume of large-denomination CD's outstanding rose less than in September and as U.S. Government deposits were reduced. Interest rates on both short- and long-term market securities have continued to decline in recent weeks and Federal Reserve discount rates were reduced by one-quarter of a percentage point to 4¾ percent. The U.S. foreign trade balance was raised in September by a sharp acceleration of export shipments in advance of an east coast port strike. In recent weeks net outflows of short-term capital apparently have diminished further, market exchange rates for foreign currencies against the dollar on average have not changed much, and foreign official reserve holdings have increased less than they did in September. In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions consistent with the aims of the new governmental program, including sustainable real economic growth and increased employment, abatement of inflationary pressures and attainment of reasonable equilibrium in the country's balance of payments.

To implement this policy, the Committee seeks to promote somewhat greater growth in monetary and credit aggregates over the months ahead. System open market operations until the next meeting of the Committee shall be conducted with a view to achieving bank reserve and money market conditions consistent with that objective.

By order of the Federal Open Market Committee, February 3, 1972.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc. 72-2217 Filed 2-14-72; 8:48 am]

¹ The Record of Policy Actions of the Committee for the meeting of November 16, 1971, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

¹ All banking data are as of June 30, 1971, and reflect holding company formations and acquisitions approved through Nov. 30, 1971.

FEDERAL OPEN MARKET COMMITTEE

Current Economic Policy Directive

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Current Economic Policy Directive issued at its meeting held on December 14, 1971.¹

The information reviewed at this meeting suggests that real output of goods and services is increasing more rapidly in the current quarter than it had in the third quarter, but the unemployment rate remains high. Increases in prices and wages were effectively limited by the 90-day freeze, which ended in mid-November. Since then some wage and price increases have occurred, but other increases requested have been cut back or not approved by the Pay Board and the Price Commission. The narrowly defined money stock changed little in November and has not grown on balance since August. Inflows of consumer-type time and savings deposits to banks remained rapid in November and the broadly defined money stock continued to increase moderately. Expansion in the bank credit proxy stepped up as U.S. Government deposits and nondeposit liabilities increased on average. After advancing in the latter part of November, most market interest rates have been declining recently, and discount rates at four Federal Reserve Banks were reduced by an additional one-quarter of a percentage point. The U.S. foreign trade balance was heavily in deficit in October. In recent weeks net outflows of short-term capital apparently have been substantial, market exchange rates for foreign currencies against the dollar on average have risen further, and official reserve holdings of some countries have increased considerably. In light of the foregoing developments, it is the policy of the Federal Open Market Committee to foster financial conditions consistent with the aims of the new governmental program, including sustainable real economic growth and increased employment, abatement of inflationary pressures, and attainment of reasonable equilibrium in the country's balance of payments.

To implement this policy, the Committee seeks to promote the degree of ease in bank reserve and money market conditions essential to greater growth in monetary aggregates over the months ahead.

On December 20, 1971, Committee members voted unanimously to amend this current economic policy directive by adding the clause "while taking account of international developments" at the end of the final sentence. As amended, that sentence reads as follows:

To implement this policy, the Committee seeks to promote the degree of ease in bank reserve and money market conditions essential to greater growth in monetary aggregates

over the months ahead, while taking account of international developments.

By order of the Federal Open Market Committee, February 3, 1972.

ARTHUR L. BROIDA,
Deputy Secretary.

[FR Doc.72-2216 Filed 2-14-72;8:48 am]

SECURITIES AND EXCHANGE
COMMISSION

[811-1862-811-1863]

ABLE ASSOCIATES AND
ABLE RETIREMENT FUND

Notice of Filing of Application Declaring That Companies Have Ceased To Be Investment Companies

FEBRUARY 9, 1972.

Notice is hereby given that Able Associates (Able) and Able Retirement Fund (Retirement), 174 Birch Drive, Manhasset Hills, NY (collectively called "Applicants") both registered as open-end, nondiversified management investment companies under the Investment Company Act of 1940 (Act), have filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicants have ceased to be investment companies as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicants represent that they registered under the Act on May 14, 1969, by filing notifications of registration on Form N-8A.

Able Associates Fund (Fund), an open-end, nondiversified management investment company was registered under the Act on September 30, 1969, for the purpose of effecting an exchange on the Fund's shares for outstanding interests in Able and Retirement. The Fund's currently effective Form S-5 Registration Statement was filed with the Commission on October 13, 1971. Applicants represent that pursuant to a Plan (Plan) approved by their partners, Able and Retirement would be dissolved after the effective date of the Funds' registration statement, and their assets would be distributed in proportion to the respective interests of the partners. Applicants further represent that according to the Plan, the Fund offered to each partner of Able and Retirement the option to receive Fund shares in exchange for an assignment of each respective partner's interest in the cash and securities held by Able and Retirement. The exchange offer terminated when all the partners assigned their respective interests in the assets of Able and Retirement for shares of the Fund. Applicants state that at present, neither Able nor Retirement have assets or limited partners. According to the Plan, Able, and Retirement are now in the process of dissolution.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than March 1, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advise as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL]

RONALD F. HUNT,
Secretary.

[FR Doc.72-2225 Filed 2-14-72;8:48 am]

[70-5137]

NARRAGANSETT ELECTRIC CO.

Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

FEBRUARY 9, 1972.

Notice is hereby given that The Narragansett Electric Co. (Narragansett), 280 Melrose Street, Providence, RI 02901, an electric utility subsidiary company of New England Electric System (NEES), a registered holding company, has filed an application pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(b), 9(a), 10, and 12 of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

¹ The Record of Policy Actions of the Committee for the meeting of Dec. 14, 1971, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Narragansett proposes to issue and sell \$7,500,000 aggregate principal amount of its First Mortgage Bonds, Series I, ----- percent, to mature not less than 5 years nor more than 30 years from the first day of the month of March 1972. Such bonds will be sold pursuant to the competitive bidding requirements of Rule 50 and the interest rate (which shall be a multiple of one-eighth of 1 percent) and the price exclusive of accrued interest (which shall be not less than 100 percent nor more than 102.75 percent of the principal amount) will be determined by the competitive bidding. The bonds will be issued under the First Mortgage and Indenture and Deed of Trust dated as of September 1, 1944, between Narragansett and Rhode Island Hospital Trust National Bank, trustee, as heretofore supplemented and amended and as to be further supplemented by an Eighth Supplemental Indenture to be dated as of March 1, 1972, which may include a prohibition until March 1, 1977, against refunding the bonds with the proceeds of funds borrowed at an effective interest cost lower than that of the Series I Bonds. Narragansett will decide on both the maturity and refundability of the bonds after the date of public invitation for proposals and subsequently notify prospective bidders, but not later than the second full business day prior to the time of the bidding.

The proceeds from the sale of the bonds will be applied towards the reduction of \$10 million of outstanding short-term promissory notes evidencing borrowings made for capitalizable expenditures or to reimburse the treasury therefor.

The application-declaration states that the Department of Business Regulation of Rhode Island has jurisdiction over the issue and sale of the bonds, and that an appropriate order will be obtained from that Commission and copies thereof will be filed herein by amendment and that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses to be paid by Narragansett are estimated at \$60,000, including service fees, at cost, of New England Power Service Co., a wholly owned subsidiary company of NEES, of \$26,000. The fees of counsel for the underwriters are to be paid by the successful bidders and will be supplied by amendment.

Notice is further given that any interested person may, not later than March 6, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address,

and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL]

RONALD F. HUNT,
Secretary.

[FR Doc.72-2226 Filed 2-14-72;8:48 am]

[812-3027]

NATIONAL SECURITIES FUNDS**Notice of Filing of Application
For Exemption**

FEBRUARY 9, 1972.

Notice is hereby given that National Securities & Research Corp. (Applicant), 120 Broadway, New York, NY, has filed on behalf of National Securities Funds (Fund), an open-end diversified management investment company registered under the Investment Company Act of 1940 (Act), an application pursuant to section 6(c) of the Act for an order exempting Charles A. Foehl, Jr., a director of Applicant, from the definition of interested person in section 2(a)(19) for the purposes of section 10 of the Act as it applies to Fund and to Applicant. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below.

Fund was created prior to the enactment of the Act as an unincorporated common-law trust pursuant to a trust agreement, dated as of June 1, 1940. Since Fund's inception Applicant has acted as its depositor, principal underwriter, and investment manager.

Charles A. Foehl, Jr., a director of Applicant since 1961, is also a director of Berkshire Life Insurance Co. (Berkshire). In 1968 Berkshire organized Equity Sales, Inc. (Equity), an N.A.S.D. affiliate whose function is to offer for sale mutual funds sponsored by Berkshire. Applicant alleges that the business of Equity is a minor part of Berkshire's business and that Mr. Foehl takes no active part in it.

Equity sells to the public no securities other than securities of registered investment companies. Although it has dealer agreements with underwriters for 14 funds or groups of funds, its sales of mutual fund shares to the public have been predominantly sales of Berkshire Growth Fund and Berkshire Capital Fund, which are underwritten by Equity.

Total sales of mutual fund shares by Equity amounted to \$1,006,213 in the period between January 1, 1971, through October 31, 1971. Of such amount \$897,835 or about 90 percent, was accounted for by sales of Berkshire Growth Fund and Berkshire Capital Fund.

Prior to December 14, 1971, section 10(a) of the Act provided that no registered investment company should have a board of directors more than 60 percent of the members of which were persons who are investment advisers of, affiliated persons of, an investment adviser of, or officers or employees of such registered company. Effective December 14, 1971, amended section 10(a) of the Act provides that no registered investment company shall have a board of directors more than 60 percent of the members of which are persons who are interested persons of such registered company.

Section 2(a)(19) of the Act, in relevant part, defined an interested person, when used with respect to an investment company, as any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such a broker or dealer.

Section 2(a)(3) of the Act defines an affiliated person of another person to include any director, officer, or employee of such other person.

Section 10(h) of the Act provides that in the case of a registered management company such as Fund which is an unincorporated company not having a board of directors, section 10(a) shall apply to the board of directors of the depositor of such company, i.e., Applicant. Under an order of the Commission of September 15, 1965 (Investment Company Act Release No. 4356), Applicant was exempted from section 10(a) provided that such exemption would terminate if at any time a majority of the board of directors of Applicant consists of persons who are affiliated with Applicant otherwise than as directors.

The board of directors of Applicant is currently composed of nine members. Three such directors are also officers of Applicant; one is a partner in a law firm which acts as counsel to Applicant; four have no relationship to Applicant other than their status as directors; and the remaining director is Mr. Foehl, the subject of this application, whose only relationship to Applicant other than as director, is his directorship in Berkshire. Thus, although Applicant presently meets the literal terms of the 1965 order in that a majority of its directors are persons affiliated with it only by virtue of their directorships, it is also true that, pursuant to section 10(a), as amended, a majority of Applicant's board of directors would be deemed interested persons of Applicant, unless the order requested as to Mr. Foehl is granted.

Section 6(c) of the Act provides that the Commission by order upon application, may conditionally or unconditionally exempt any person, security or transaction from any provision or provisions of the Act or rules or regulations thereunder, if and to the extent that

such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant asserts that Charles A. Foehl, Jr., should not be deemed an "interested person" of Applicant because his affiliation with Berkshire does not and will not inhibit his independence or create an "interest" such as section 2(a)(19) was designed to reach, and that the requested exemption is, therefore, consistent with the interest of the Fund and the public.

Notice is further given that any interested person may, not later than March 1, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-2227 Filed 2-14-72; 8:49 am]

[File No. 500-1]

TOPPER CORP.

Order Suspending Trading

FEBRUARY 9, 1972.

The common stock, \$1 par value, of Topper Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Topper Corp. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities

on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order will be effective at 10 a.m., e.s.t., on February 9, 1972, and will terminate on February 18, 1972.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-2228 Filed 2-14-72; 8:49 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 875;
Class B]

WASHINGTON

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of January 1972, because of the effects of certain disasters, damage resulted to residences and business property located in the State of Washington;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Deputy Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the offices below indicated from persons or firms whose property situated in Cowlitz, Skamania, Whitman, Asotin, Grays Harbor, Lewis, and Thurston Counties, Wash., suffered damage or destruction resulting from storms and floods beginning about January 19, 1972.

OFFICES

Small Business Administration Regional Office, 1206 Smith Tower, 506 Second Avenue, Seattle, WA 98104.

Small Business Administration District Office, 651 U.S. Courthouse, Post Office Box 2167, Spokane, WA 99210.

Small Business Administration District Office, 700 Pittock Block, 921 Southwest Washington Street, Portland, OR 97205.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to August 31, 1972.

Dated: February 4, 1972.

ANTHONY G. CHASE,
Deputy Administrator.

[FR Doc.72-2201 Filed 2-14-72; 8:47 am]

[MESBIC License Application 04/05-5102]

ENTERPRISES NOW, INC.

Notice of Application for a License as a Minority Enterprise Small Business Investment Company

An application for a license to operate as a minority enterprise small business investment company (MESBIC) under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), has been filed by Enterprises Now, Inc., with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA rules and regulations governing small business investment companies (13 CFR 107.102 (1971)).

The officers and directors of the applicant are as follows:

Calvin H. Felder, 2142 Beecher Circle SW., Atlanta, GA 30311, President, Director.

Dr. W. Earle Wilson, 1498 Mozley Drive SW., Atlanta, GA 30314, Treasurer, Assistant Secretary, Director.

Mrs. Thelma D. Barnes, 899 Beckwith Street SW., Atlanta, GA 30314, Secretary, Director. James M. Shopshire, Sr., 899 Beckwith Street SW., Atlanta, GA 30314, Director.

Floyd C. Green, Jr., 2701 Oakland Avenue, Augusta, GA 30904, General Manager.

The applicant, a Georgia corporation with its principal place of business located at 898 Beckwith Street SW., Atlanta, GA 30314, will begin operations with \$200,000 of paid-in capital, consisting of 100,000 shares of common stock. All of the issued and outstanding stock will be owned by Black Methodists for Church Renewal, Inc., a nonprofit organization located at 890 Beckwith Street SW., Atlanta, GA 30314.

Applicant will not concentrate its investments in any particular industry. According to the company's stated investment policy, its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Any interested person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed MESBIC. Any such communication should be addressed to the Associate Administrator for Operations and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Atlanta, Ga.

Dated: February 7, 1972.

A. H. SINGER,
Associate Administrator for
Operations and Investment.

[FR Doc.72-2203 Filed 2-14-72; 8:47 am]

[License 04/05-0100]

SPACE COAST SBIC, INC.

Notice of Issuance of Small Business Investment Company License

On January 15, 1972, a notice was published in the FEDERAL REGISTER (37 F.R. 689) stating that Space Coast SBIC, Inc., 101 South Courtenay Parkway, Merritt Island, FL 32952, had filed an application with the Small Business Administration (SBA) pursuant to the Regulations governing small business investment companies (13 CFR Part 107, 33 F.R. 326) for a license to operate as a small business investment company.

Interested parties were given to the close of business January 25, 1972, to submit written comments to SBA. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 04/05-0100 to Space Coast SBIC, Inc., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

Dated: February 7, 1972.

A. H. SINGER,
Associate Administrator
for Investment.

[FR Doc.72-2204 Filed 2-14-72; 8:47 am]

ASSISTANT ADMINISTRATOR FOR ADMINISTRATION AND OPERATIONS AND ASSOCIATE ADMINISTRATOR FOR INVESTMENT

Transfer of Functions and Title Changes

Notice is hereby given that the title of "Assistant Administrator for Administration" is changed to "Assistant Administrator for Administration and Operations" and the title of "Associate Administrator for Investment and Operations" is changed to "Associate Administrator for Investment." This is to provide for a transfer of responsibilities with respect to all field operations of the Small Business Administration.

Effective date: February 1, 1972.

THOMAS S. KLEPPE,
Administrator.

[FR Doc.72-2202 Filed 2-14-72; 8:47 am]

TARIFF COMMISSION

[337-L-46]

CLOSED TOE CIRCULAR HOSIERY KNITTING MACHINES AND DEVICES

Extension of Time for Filing Written Views

On December 2, 1971, the U.S. Tariff Commission published notice of the receipt of a complaint under section 337 of the Tariff Act of 1930, filed by Scott & Williams, Inc., of Laconia, N.H., alleging unfair methods of competition and unfair acts in the unauthorized importation and sale of certain closed toe circular hosiery knitting machines and devices said to be embraced within the claims of U.S. Patent No. 3,340,706 and Reissue No. 26,580, which reissued patent is owned by complainant (36 F.R. 23018). The complaint also alleged further unfair methods or acts in the form of a conspiracy or combination among the respondents to avoid competition among themselves in the United States and to boycott complainant's patents.

Interested parties were given until January 10, 1972, to file written views pertinent to the subject matter of a preliminary inquiry into the allegations of the complaint. On December 27, 1971, the time for filing written views was extended until February 9, 1972 (36 F.R. 25267). The time for filing written views has now been extended until the close of business on February 16, 1972.

Issued: February 10, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-2240 Filed 2-14-72; 8:50 am]

[337-L-43]

PAPER STITCHERS

Notice of Dismissal of Complaint

After preliminary inquiry in accordance with § 203.3 of its rules of practice and procedure (19 CFR 203.3), the U.S. Tariff Commission, on February 4, 1972, dismissed (Commissioner Leonard dissenting) the complaint filed under section 337 of the Tariff Act of 1930 by Robert T. Kaufman of Silver Spring, Md., alleging unfair methods of competition and unfair acts in the importation and sale of certain paper stitchers which are embraced within the claims of U.S. Patent No. 2,994,881 owned by the complainant. Notice of the receipt of the complaint was published in the FEDERAL REGISTER (36 F.R. 303) on January 8, 1971.

The Commission dismissed the complaint at this time without ordering a full investigation or recommending the

issuance of a temporary exclusion order because there is no definable producing industry in existence nor is there an industry within the purview of the statute prevented from being established.

Issued: February 10, 1972.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.72-2239 Filed 2-14-72; 8:49 am]

DEPARTMENT OF LABOR

Employment Standards Administration

EXTENSION OF EXPIRATION DATES OF DAVIS-BACON AREA WAGE DETERMINATIONS

Notice of Variation From Certain Labor Standards

Whereas a number of general or area wage determinations of the Secretary of Labor issued under the Davis-Bacon Act and the provisions of other Federal statutes containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act will soon expire; and whereas the burdensome process of republication of these determinations would not be in the public interest because all appropriate changes in such wage determinations have regularly been incorporated into the determinations by modifications published in the FEDERAL REGISTER, I find that the variation from the provisions of 29 CFR 5.4 set forth below is necessary in order to avoid serious impairment in the conduct of Government business. I also find that notice, public procedure, and delay in the effective date of this document extending the life of wage determinations would be contrary to the public interest within the meaning of 5 U.S.C. 553.

Accordingly, notice is hereby given that pursuant to the provisions of 29 CFR 5.13 the expiration date of each outstanding general or area wage determination of the Secretary of Labor issued under the Davis-Bacon Act and the related statutes, as modified, is extended for a period of 120 days from the date on which it would have expired: *Provided, however*, That during this period of extension such area wage determinations will continue to be modified as appropriate.

Signed at Washington, D.C., this 11th day of February 1972.

HORACE E. MENASCO,
Administrator of
Employment Standards.

[FR Doc.72-2331 Filed 2-14-72; 8:52 am]

INTERSTATE COMMERCE COMMISSION

FOURTH SECTION APPLICATION FOR RELIEF

FEBRUARY 10, 1972.

Protests to the granting of an application must be prepared in accordance with § 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. 42349—*Boards or sheets from and to points in southwestern territory.* Filed by Southwestern Freight Bureau, agent (No. B-286), for interested rail carriers. Rates on boards or sheets, in carloads, as described in the application, from points in southwestern territory, to points in western trunkline, official (including Illinois) territories, on the one hand; also from specified points in Illinois, also Kansas and Missouri, to points in southwestern territory, on the other.

Grounds for relief—Market competition, rate relationship, and short-line distance formula and grouping.

Tariff—Supplement 115 to Southwestern Freight Bureau, agent, tariff ICC 4883. Rates are published to become effective on March 11, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-2265 Filed 2-14-72; 8:52 am]

[Notice 21]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 9, 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 103490 (Sub-No. 67 TA), filed January 31, 1972. Applicant: PROVAN TRANSPORT CORP., 210 Mill Street, Newburgh, NY 12550. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete pipe and fittings* on flatbed trailers, from Newburgh, N.Y., to Waukegan, Long Island, N.Y., and Jones Beach, Long Island, N.Y., for the account of Price Brothers Co., for 180 days. Supporting shipper: Price Brothers Co., Post Office Box 825, Dayton, OH 45401. Send protests to: Robert A. Radler, Officer in Charge, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y. 12207.

No. MC 107983 (Sub-No. 15 TA), filed January 26, 1972. Applicant: COLDWAY EXPRESS, INC., Box 26, 1069 Johnson Street, Morton, IL 61550. Applicant's representative: George S. Mullins, 4704 West Irving Park Road, Chicago, IL 60641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Gravity flow wagon boxes, running gear, wheels, hubs, fertilizer equipment, plows and related parts*, between Goodfield, Ill., and points in Alabama, Arkansas, Colorado, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Montana, Missouri, Nebraska, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Wisconsin, and Wyoming, for 180 days. Supporting shipper: William J. Dietrich, Dietrich Manufacturing, Inc., Post Office Box 65, Goodfield, IL 61742. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 111170 (Sub-No. 182 TA), filed January 27, 1972. Applicant: WHEELING PIPE LINE, INC., Post Office Box 1718, 2811 North West Avenue, El Dorado, AR 71730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Weed killing compound*, in bulk, from Jacksonville, Ark., to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Transvaal, Inc., Post Office Box 69, Jacksonville, AR 72076. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 112963 (Sub-No. 24 TA), filed January 28, 1972. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, MA 01866. Applicant's representative: Leonard E. Murphy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Di-calcium phosphate*, dry in bulk,

in tank vehicles, from Peabody, Mass., to Portland and Lewiston, Maine, for 180 days. Supporting shipper: Eastman Gelatine Corp., Peabody, Mass. 01960. Send protests to: James F. Martin, Jr., Assistant Regional Director, Interstate Commerce Commission, Bureau of Operations, John F. Kennedy Federal Building, Government Center, Boston, MA 02203.

No. MC 114890 (Sub-No. 56 TA), filed January 27, 1972. Applicant: C. E. REYNOLDS TRANSPORT, INC., Post Office Box A, Joplin, MO 64801, Terminal: A. A. Highway, Caterville, 64835. Applicant's representative: Frank Shagets (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, from Tulsa Port of Catoosa, Okla., to points in Arkansas, Kansas, Missouri, Oklahoma, and Texas, for 180 days. Supporting shippers: Willchemco, Inc., National Bank of Tulsa Building, Tulsa, Okla. 74103; Olin Agricultural Division, Post Office Box 991, Little Rock, AR 72203. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 117119 (Sub-No. 450 TA), filed January 27, 1972. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 108, Elm Springs, AR 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food-stuffs*, from Stilwell, Okla., to points in Oklahoma, Arkansas, New Mexico, Texas, Colorado, Kansas, Missouri, and California, for 180 days. Supporting shipper: Stilwell Foods, Stilwell, Okla. 74960. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 117147 (Sub-No. 5 TA), filed January 27, 1972. Applicant: STARR'S TRANSPORTATION, INC., Upper Main Street, North Troy, VT 05859. Applicant's representative: Mary E. Kelley, 11 Riverside Avenue, Medford, MA 02155. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plywood finishes*, such as, *varnish, paints, enamels, and thinning compounds*, in containers, from Milwaukee, Wis., to Hancock, Vt., under contract with Weyerhaeuser Co. to Chicago, Ill., for 180 days. Supporting shipper: Weyerhaeuser Co., 545 Westminster Street, Fitchburg, MA 01420. Send protests to: District Supervisor Martin P. Monaghan, Jr., Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, VT 05602.

No. MC 117304 (Sub-No. 28 TA), filed January 26, 1972. Applicant: DON PAF-FILE, doing business as PAFFILE TRUCK LINES, 2906 29th Street North,

Lewiston, ID 83501. Applicant's representative: George R. LaBissoniere, 1424 Washington Building, Seattle, WA 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from points in Idaho north of the southern boundaries of Idaho and Lemhi Counties, Idaho, to points in Wyoming and Colorado, for 180 days. Supporting shippers: Potlatch Forests, Inc., General Offices, Lewiston, Idaho 83501; Kamiah Mills, Post Office Box 638, Kamiah, ID 83536; Konkolville Lumber Co., Inc., Orofino, Idaho 84544; Daugherty & Sons, Star Route, Rooskia, Idaho 83539; Zellco, Inc., Kooskia, Idaho. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 117799 (Sub-No. 26 TA), filed January 26, 1972. Applicant: BEST WAY FROZEN EXPRESS, INC., Room 205, 3033 Excelsior Boulevard, Minneapolis, MN 55416. Applicant's representative: K. O. Petrick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Styropar*, (in drums), from Jamesburg, N.J., to Nixa, Mo., for 150 days. Supporting shipper: Diversified Plastics Corp., Nixa, Mo. Send protests to: A. N. Spath, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 119399 (Sub-No. 32 TA), filed January 28, 1972. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Post Office Box 1375, Joplin, MO 64801. Applicant's representative: David L. Sitton (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and fertilizer materials*, from Tulsa Port of Catoosa, Okla., to points in Arkansas, Kansas, Missouri, Oklahoma, and Texas, for 180 days. Supporting shippers: Willchemco, Inc., National Bank of Tulsa Building, Tulsa, Okla. 74103; Olin Corp., Agricultural Division, Post Office Box 991, Little Rock, AR 72203. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1100 Federal Office Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 123061 (Sub-No. 62 TA), filed December 27, 1971. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberglass bathroom fixtures and auxiliary hardware incidental to the fixture and/or the installation thereof*, from Boise, Idaho, to Belgrade and Livingston, Mont., for 180 days. Supporting shipper: Component Structures, Inc., 1622 Taggart Street, Boise, ID 83705 (Ronald A. West, Vice

President and General Manager). Send protests to: John T. Vaughan, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5239 Federal Building, Salt Lake City, Utah 84111.

No. MC 124328 (Sub-No. 50 TA), filed December 27, 1971. Applicant: BRINK'S INCORPORATED, 234 East 24th Street, Chicago, IL 60616. Applicant's representative: F. D. Partland (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin*, between Coral Gables, Fla., on the one hand, and, on the other, Boston, Mass.; New York, and Buffalo, N.Y.; Philadelphia, Pa.; Cleveland and Cincinnati, Ohio; Pittsburgh, Pa.; Baltimore, Md.; Charlotte, N.C.; Atlanta, Ga.; Birmingham, Ala.; Nashville, Tenn.; New Orleans, La.; Chicago, Ill.; Detroit, Mich.; St. Louis, Mo.; Little Rock, Ark.; Louisville, Ky.; Memphis, Tenn.; Minneapolis, Minn.; Helena, Mont.; Kansas City, Mo.; Denver, Colo.; Oklahoma City, Okla.; Omaha, Nebr.; Dallas, El Paso, Houston, San Antonio, Tex.; San Francisco and Los Angeles, Calif.; Portland, Ore.; Salt Lake City, Utah; Seattle, Wash.; Culpeper, Va.; Ft. Knox, Ky.; Richmond, Va.; Washington, D.C.; and West Point, N.Y.; for 180 days. Supporting shipper: Mr. Robert F. Lenzi, Chief, Contracts and Negotiations Branch, Transportation and Communications Service, General Services Administration, Washington, D.C. 20405. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, Room 1086, 219 South Dearborn Street, Chicago, IL 60604.

No. MC 124813 (Sub-No. 90 TA), filed January 26, 1972. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. 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: *Soybean meal*, in bulk, in hopper vehicles, from the plantsite of Cargill, Inc., Cedar Rapids, Iowa, to points in Illinois on and north of U.S. Highway 36, for 150 days. Supporting shipper: Cargill, Inc., Cargill Building, Minneapolis, Minn. 55402. Send protests to: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 134145 (Sub-No. 16 TA), filed January 27, 1972. Applicant: NORTH STAR TRANSPORT, INC., Post Office Box 51, Thief River Falls, MN 56701. Applicant's representative: Robert P. Sack, Post Office Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts, materials, supplies, and equipment*, used in the manufacture of motor bikes, lawn mowers, and attachments, and snowmobiles, from points in Cali-

fornia, Connecticut, Massachusetts, and New Jersey to Omaha, Nebr., for 180 days. Supporting shipper: General Leisure Products Corp., Post Office Box 529, Downtown Station, Omaha, NE 68101. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

No. MC 134387 (Sub-No. 10 TA), filed January 26, 1972. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Bran- yon Avenue, South Gate, CA 90280. Applicant's representative: David P. Christianson, 825 City National Bank Building, 606 South Olive Street, Los Angeles, CA 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal cans and can ends*, from points in Alameda and Santa Clara Counties, Calif., to Kent and Vancouver, Wash., for 180 days. Supporting shipper: National Can Corp., 1657 Rollins Road, Burlingame, CA. 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 134875 (Sub-No. 1 TA), filed January 31, 1972. Applicant: John W. Smoot, Box 124, Mount Jackson, VA 22842. Applicant's representative: M. Bruce Morgan, 201 Azar Building, Glen Burnie, Md. 21061. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textiles*, such as spun yarn and/or synthetic yarn, between Edinburg, Winchester, and Woodstock, Va., Belmont, Albermarle, High Point, and Valdese, N.C., and Spartanburg, S.C., on the one hand, and, on the other, Abilene, Tex., for 180 days. Supporting shipper: Aileen, Inc., Manufacturing Division, Edinburg, Va. 22824. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, DC 20423.

No. MC 136365 TA, filed January 27, 1972. Applicant: MIXON MILLING COMPANY OF CAIRO, INC., Second Avenue SE., Cairo, GA 31728. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from Cairo, Ga., to points in Alabama and Florida, for 180 days. Supporting shipper: Cargill, Inc., Salt Department, Minneapolis, Minn. 55402. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

By the Commission.

[SEAL]

ROBERT L. OSWALD,
Secretary.

[FR Doc. 72-2264 Filed 2-14-72; 8:51 am]

[Notice 14-A]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 10, 1972.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-73398. By order of February 7, 1972, the Motor Carrier Board approved the transfer to Mallory Moving & Storage, Inc., 207 North 10th Street, Columbia, MO, of certificate No. MC-86457 issued February 20, 1950, to Scurlock Transfer & Storage Co., Inc., 207 North 10th Street, Columbia, MO, authorizing the transportation of: General commodities, including household goods, but with certain exceptions, between Columbia, Mo., and points within 4 miles thereof.

No. MC-FC-73428. By order of February 8, 1972, the Motor Carrier Board approved the transfer to Berkshire Express, Inc., Pittsfield, Mass., of certificates Nos. MC-85608 (Sub-No. 1) and MC-85608 (Sub-No. 3) issued September 14, 1967, and November 21, 1963, to Richard L. Conway, doing business as Berkshire Express, Pittsfield, Mass., authorizing the transportation of: General commodities, with the usual exceptions, between spe-

cified points and areas in Massachusetts, Connecticut, and specified commodities of a general commodity nature, between points in Massachusetts, Vermont, Rhode Island, Connecticut, and New York. Harris N. Aaronson, attorney, 57 Wendell Avenue, Pittsfield, MA 01201.

No. MC-FC-73451. By order of February 3, 1972, the Motor Carrier Board approved the transfer to Rone Trucking, Inc., Morgantown, Ky., of the operating rights in permit No. MC-127824 (Sub-No. 1) issued November 14, 1966, to Otto Rone, Logansport, Ky., authorizing the transportation of various commodities from specified points in Kentucky to points in Illinois, Indiana, Michigan, and Ohio. Robert M. Pearce, Post Office Box E, Bowling Green, KY 42101, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-2263 Filed 2-14-72;8:51 am]

CUMULATIVE LIST OF PARTS AFFECTED—FEBRUARY

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during February.

3 CFR	Page	6 CFR	Page	7 CFR—Continued	Page
PROCLAMATIONS:					
2032 (see PLO 5158)	3058	101	2491, 2678	1049	2933
2372 (see PLO 5158)	3058	102	2478	1050	2934
2761A (see Proc. 4102)	2417	200	2479	1060	2934
2929 (see Proc. 4102)	2417	201	3357	1061	2934
3140 (see Proc. 4102)	2417	300	2842	1063	2934
3987 (see Proc. 4102)	2417	311	2480	1064	2935
4102	2417				
4103	2489				
4104	2643				
4105	2831				
4106	2921				
4107	3165				
EXECUTIVE ORDERS:					
January 27, 1913 (partially re- voked by PLO 5159)	3184				
5237 (partially revoked by PLO 5155)	2840				
5327 (see PLO 5157)	3057				
7295 (see PLO 5162)	3185				
8592 (see PLO 5162)	3185				
11248 (amended by EO 11641)	2421				
11345 (amended by EO 11646)	2925				
11568 (see EO 11642)	2565				
11641	2421				
11642	2565				
11643	2875				
11644	2877				
11645	2923				
11646	2925				
11647	3167				
PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:					
Memorandum of January 27, 1972	2567				
5 CFR					
213	2423, 2491, 2841, 2842, 2879,				
550	3049				
PROPOSED RULES:					
900	2589				
7 CFR—Continued					
1065	2497, 2935				
1068	2935				
1069	2935				
1070	2936				
1071	2936				
1073	2936				
1075	2936				
1076	2937				
1078	2937				
1079	2937				
1090	2937				
1094	2938, 2944				
1096	2938				
1097	2938				
1098	2938				
1099	2939				
1101	2939				
1102	2939				
1103	2939				
1104	2940				
1106	2940				
1108	2940				
1120	2940				
1124	2940				
1125	2941				
1126	2941				
1127	2941				
1128	2941				
1129	2942				
1130	2942				
1131	2942				
1132	2942				
1133	2943				
1134	2943				
1136	2943				
1137	2943				
1138	2944				
1806	2879				
1823	2879, 3172				

7 CFR—Continued

1871	2569
1890	3174
1890i	3172
PROPOSED RULES:	
29	3362
51	3363
59	2775, 3187
81	2778
726	2773
729	2774
909	3366
945	2844
966	2845
982	2515
987	2890
993	2515
1001	3187
1002	3187
1046	2969
1421	2844
1434	2775
1446	2844
1481	2890
1701	2846

8 CFR

214	2766
238	2766
332	2767
332d	2767
334	2767
334a	2767
339	2767
341	2767
342	2767

9 CFR

11	2426
73	2945
82	2429, 2498, 3050
97	2430
113	2430
301	2661
311	2661
315	2661
PROPOSED RULES	
316	2779
317	2779

12 CFR

701	2946, 3174
PROPOSED RULES:	
529	2447
750	2594

13 CFR

120	2569
123	2947

14 CFR

39	2498, 2570, 2662, 2835, 2880
71	2570-2572, 2835-2837, 2952, 2953, 3050, 3349
73	2499, 2837
75	2499, 2500, 2572, 2767
93	2953
95	2573
97	2662, 3174
121	2500
221	2664
241	2501
PROPOSED RULES:	
61	2523
67	2523
71	2524, 2587, 2682, 2683, 3059, 3367

14 CFR—Continued

PROPOSED RULES—Continued	
73	2847
103	2587, 2588
121	2523, 2684
127	2523
159	3059
183	2523

15 CFR

377	2430
386	3175

PROPOSED RULES:

7	2846
---	------

16 CFR

13	2575, 2576, 2578-2581, 2953
----	-----------------------------

PROPOSED RULES:

425	2848
432	2454, 2849

17 CFR

241	3050
-----	------

PROPOSED RULES:

230	2596, 2598
239	2596, 2598
240	3059

18 CFR

2	2502, 2954
---	------------

PROPOSED RULES:

101	2451
104	2451
105	2451
141	2451
260	2451, 3193

19 CFR

12	2430, 2665
----	------------

PROPOSED RULES:

1	2443
11	2509
134	2509

20 CFR

614	2434
617	2434

PROPOSED RULES:

620	2684
-----	------

21 CFR

1	3175
3	2503, 3175
8	3177
121	2437, 2958-2960, 3177
135	2961, 3053
135b	3053
135c	3178
135e	2960, 2961
141c	2665
141d	3178
144	2960
146a	2665, 3178
146c	2665
146d	3178
146e	2665, 3179
148i	3179
148n	2665
149a	2438

PROPOSED RULES:

15	3189
17	3189
121	3060, 3366
130	2969
135	2444

22 CFR

41	2439, 3053
----	------------

24 CFR

275	3185
600	2665
1710	2768
1911	3350
1914	2505, 2881
1915	2505, 2882

25 CFR

221	2506
-----	------

PROPOSED RULES:

43h	2679
221	3060

26 CFR

1	2506
301	2481, 2506

PROPOSED RULES:

1	2773
---	------

28 CFR

0	3180
9	2768
45	2769

29 CFR

727	3180
1904	2439
1910	3053

PROPOSED RULES:

460	2443
1926	2443

30 CFR

PROPOSED RULES:	
80	2968

31 CFR

316	2554
-----	------

32 CFR

1452	3181
1801	2672
1808	2673

PROPOSED RULES:

1499	2649
------	------

32A CFR

Ch. X:	
OI Reg. 1	2439

33 CFR

3	3350
117	2838

PROPOSED RULES:

110	2446, 2447, 2587, 2890
117	2521, 2522

36 CFR

6	3350
---	------

37 CFR

2	2880
202	3055

PROPOSED RULES:

1	2520
---	------

38 CFR

1	2676
8	3352

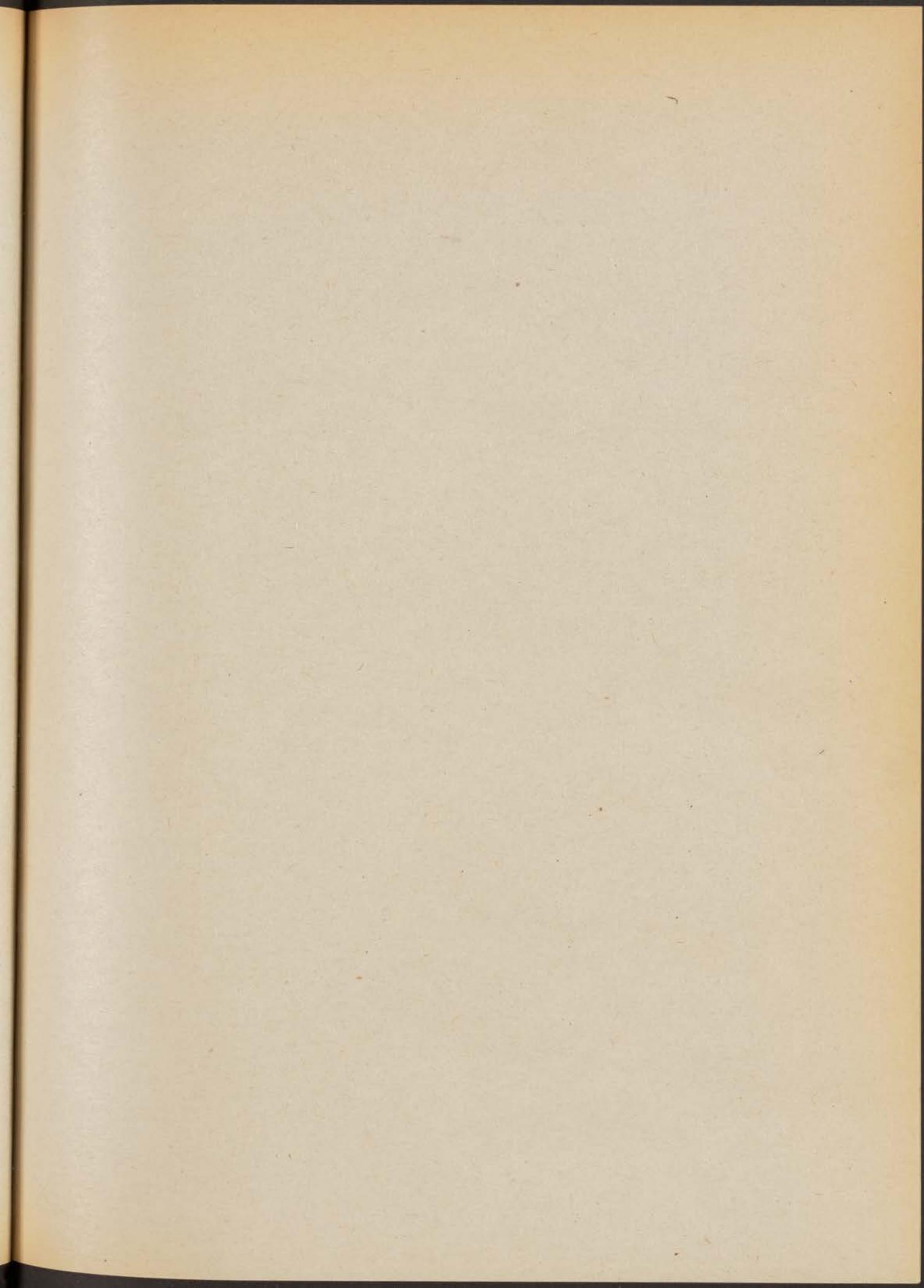
39 CFR	Page
Ch. I.....	2423
273.....	3352
619.....	3056
40 CFR	
52.....	2581
85.....	2432
106.....	2433
180.....	2676, 2839, 2883, 3181, 3352
PROPOSED RULES:	
6.....	3367
164.....	3060
41 CFR	
1-2.....	2769
1-7.....	2769
1-12.....	2769
1-16.....	2771
3-1.....	3353
3-2.....	3353
5A-1.....	3182
5A-2.....	3182
5A-8.....	2507
5A-72.....	3183
5A-73.....	2441, 3183
8-14.....	2508
8-74.....	2508
101-11.....	2962
101-27.....	2771
PROPOSED RULES:	
14-10.....	2680
60-7.....	2847
42 CFR	
PROPOSED RULES:	
51b.....	2970
54.....	2970

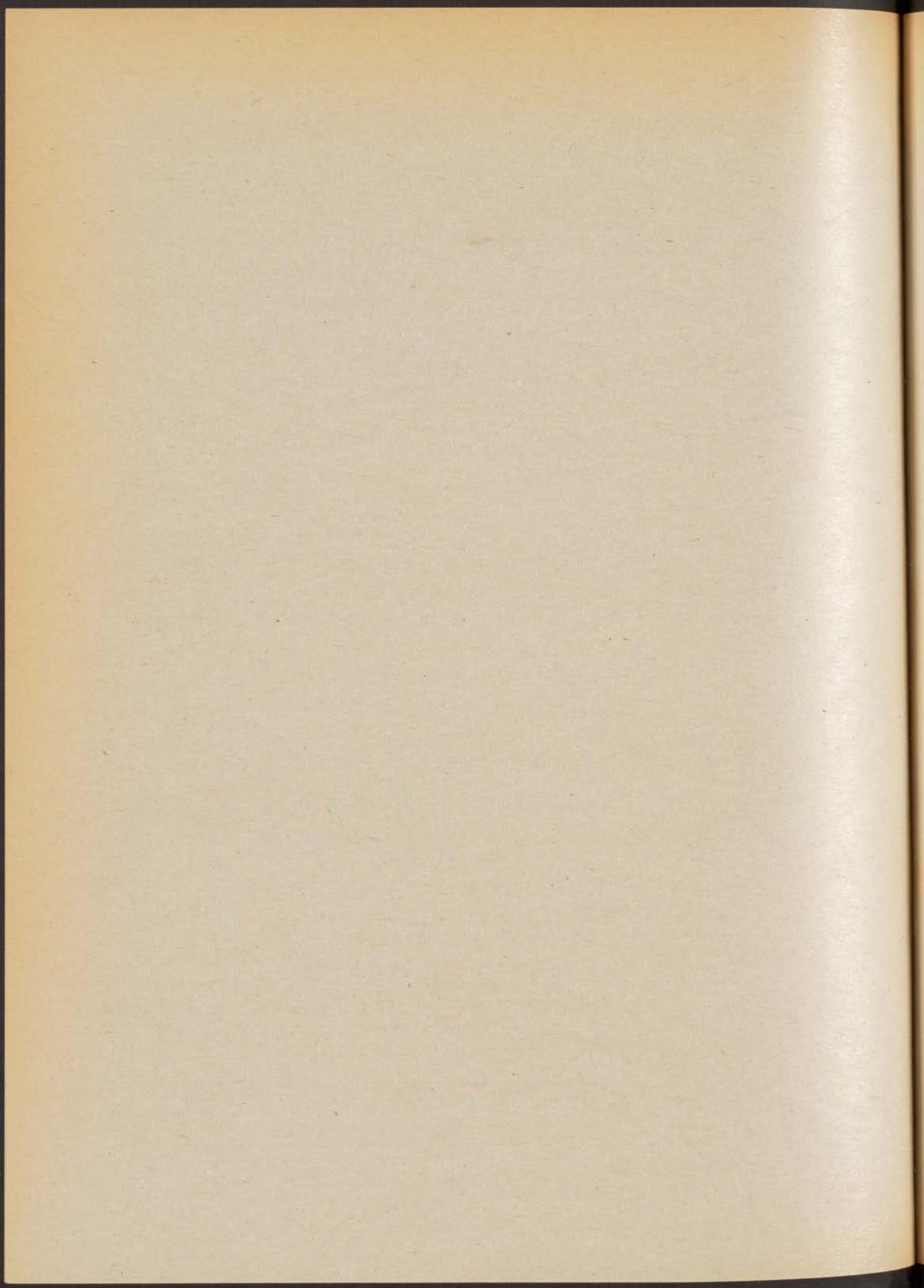
43 CFR	Page
2.....	2677
25.....	3183
PUBLIC LAND ORDERS:	
1272 (modified by PLO 5161).....	3185
2732 (amended by PLO 5160).....	3184
4522 (amended by PLO 5157).....	3057
5154.....	2677
5155.....	2840
5156.....	3056
5157.....	3057
5158.....	3058
5159.....	3184
5160.....	3184
5161.....	3185
5162.....	3185
45 CFR	
102.....	2882
170.....	2882
1015.....	2840
PROPOSED RULES:	
118.....	2779
143.....	2779
220.....	2445
222.....	2445
415.....	2986
46 CFR	
PROPOSED RULES:	
12.....	3190
66.....	2681
193.....	2682

47 CFR	Page
1.....	3277
2.....	2771
15.....	3277
21.....	2583, 3277, 3354
74.....	3278
76.....	3278
78.....	3292
83.....	2884
91.....	3297
211.....	2771
PROPOSED RULES:	
73.....	2524, 2790, 2891
76.....	3190, 3192
81.....	2524
49 CFR	
173.....	2885
174.....	2886
177.....	2886
178.....	2886
179.....	3058
571.....	3185
1033.....	2677, 3354
1211.....	2841
1311.....	3354
PROPOSED RULES:	
173.....	2588
178.....	2588
50 CFR	
28.....	2964
33.....	2441, 2502, 2841, 2964, 2967
280.....	2516
PROPOSED RULES:	
17.....	2589
280.....	2890

LIST OF FEDERAL REGISTER PAGES AND DATES—FEBRUARY

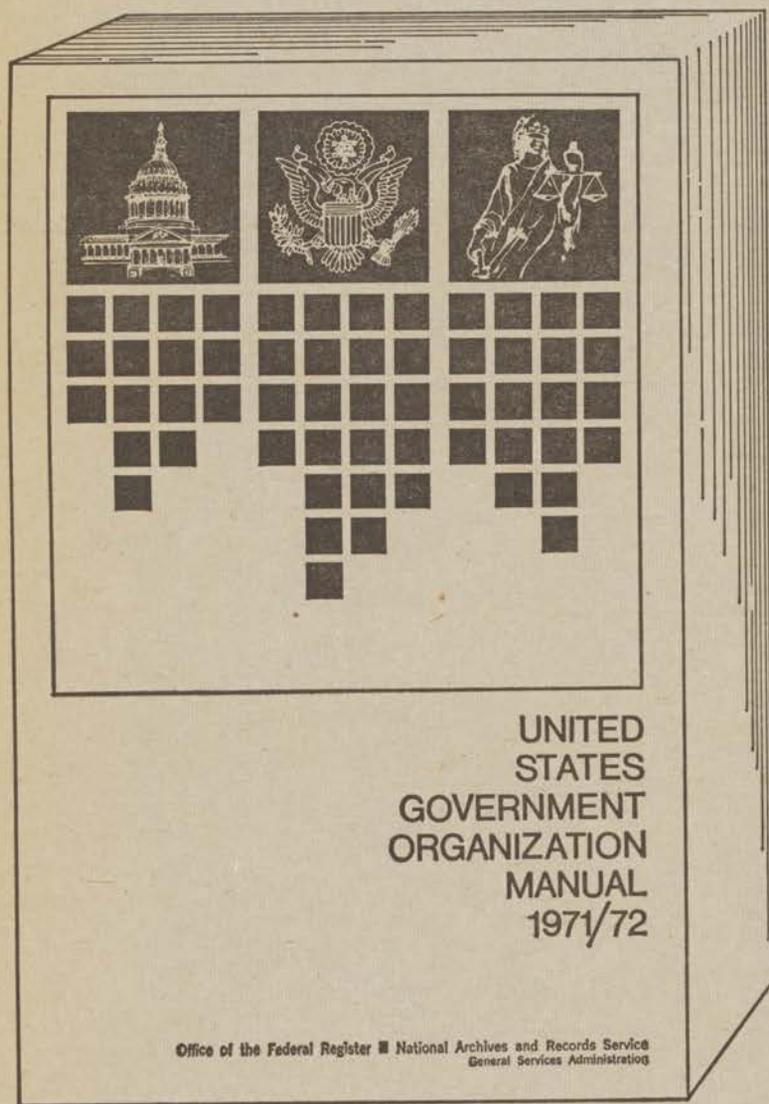
Pages	Date	Pages	Date	Pages	Date
2411-2482.....	Feb. 1	2739-2823.....	Feb. 5	2915-3041.....	Feb. 10
2483-2557.....	2	2825-2867.....	8	3043-3157.....	11
2559-2636.....	3	2869-2913.....	9	3159-3341.....	12
2637-2737.....	4			3343-3401.....	15







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