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HIGHLIGHTS OF THIS ISSUE

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FEDERAL REGISTER

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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.

Rules and Regulations

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 9]

PART 725—FLUE-CURED TOBACCO

Subpart—Flue-cured Tobacco, 1970–71 and Subsequent Marketing Years

On page 793 of the FEDERAL REGISTER of January 19, 1972, there was published a notice of determination to be made with respect to regulations pertaining to farm acreage allotments and farm marketing quotas for flue-cured tobacco for 1970–71 and subsequent marketing years. The notice stated that it was proposed to amend the regulations to clarify the provisions of § 725.72(p)(1) of the regulations to state with particularity the farm against which overmarketings would be charged in any case where a lease of allotment and quota is canceled because of fraud on the part of the owner or operator of the transferring farm but without fault on the part of the owner or operator of the receiving farm.

Interested persons were given 15 days after publication of this notice in which to submit written data, views, or recommendations with respect to the proposed regulations. No data, views, or recommendations were submitted pursuant to such notice.

The proposed amendment to the regulations is adopted.

Section 725.72(p)(1) is revised to read as follows:

§ 725.72 Lease and transfer of tobacco marketing quotas.

* * * * *

(p) *Cancellation, dissolution, or revision of transfer*—(1) *Cancellation.* Any transfer of allotment and quota under this section which was approved by the county committee in error or on the basis of incorrect information furnished by the parties to the agreement shall be canceled by the county committee.

(i) Except as provided in subdivision (ii) of this subparagraph (1), such cancellation shall be effective as of the date of approval for purposes of determining overmarketings and undermarketings from the farms, and for purposes of determining eligibility for price support and marketing quota penalties except that such cancellation shall not be effective for the current marketing year for price support and marketing quota penalty purposes if: (*a*) The transfer approval was made in error or on the basis of incorrect information unknowingly furnished by the parties to the leasing agreement; and, (*b*) The parties to the leasing agreement were not notified of the cancellation before the tobacco was planted.

(ii) Where a lease of allotment and quota is canceled because of fraud on the part of the owner or operator of the transferring farm but without fault on the part of the owner or operator of the receiving farm, such cancellation shall be effective as of the date of approval except for purposes of determining eligibility of price support and marketing quota penalties for the receiving farm. In such case the overmarketings shall be charged against the farm from which the transfer of allotment and quota was made if such farm, after any such reconstitution as may be necessary as a result of the fraud, is assigned an allotment and quota against which the overmarketings could be charged; otherwise, the overmarketings shall be charged against any other farm involved in the fraud having an allotment and quota after any reconstitution required by such fraud: *Provided,* That any overmarketings on the receiving farm which is in excess of the amount of quota involved in the canceled lease shall be charged against the receiving farm.

* * * * *

(Secs. 316, 75 Stat. 469, as amended, 375, 52 Stat. 66, as amended; 7 U.S.C. 1314b, 1375.)

Effective date: Date of filing this document with the Director, Office of the Federal Register.

Signed at Washington, D.C., on February 16, 1972.

CARROLL G. BRUNTHAVER,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 72-2683 Filed 2-23-72;8:46 am]

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

[Navel Orange Reg. 257]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 907.557 Navel Orange Regulation 257.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of Navel oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Navel Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Navel oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on February 22, 1972.

(b) *Order.* (1) The respective quantities of Navel oranges grown in Arizona and designated part of California which may be handled during the period February 25, through March 2, 1972, are hereby fixed as follows:

(i) District 1: 954,000 cartons;

(ii) District 2: 196,000 cartons;

(iii) District 3: Unlimited;

(2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: February 23, 1972.

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

[FR Doc.72-2890 Filed 2-23-72;11:27 am]

[Valencia Orange Reg. 376]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

§ 908.676 Valencia Orange Regulation 376.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on February 22, 1972.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period February 25 through March 2, 1972, are hereby fixed as follows:

(i) District 1: Unlimited;
(ii) District 2: Unlimited;
(iii) District 3: 49,132 cartons.

(2) As used in this section, "handler", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

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

Dated: February 23, 1972.

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

[FR Doc.72-2891 Filed 2-23-72;11:27 am]

Title 15—COMMERCE AND FOREIGN TRADE

Chapter VI—Bureau of Domestic Commerce, Department of Commerce

PART 602—INSTRUMENTS AND APPARATUS FOR EDUCATIONAL AND SCIENTIFIC INSTITUTIONS

CROSS REFERENCE: For a document issued jointly by the Deputy Assistant Secretary for Resources, Department of Commerce, the Assistant Secretary for Domestic and International Business, Department of Commerce, and the Assistant Secretary of the Treasury regarding the carrying out of the functions and responsibilities of the Deputy Assistant Secretary for Resources of the Department of Commerce relating to the Office of Export Programs, see F.R. Doc. 72–2709, Office of Import Programs, Department of Commerce, Part 701, *infra*.

Chapter VII—Office of Import Programs, Department of Commerce

PART 701—INSTRUMENTS AND APPARATUS FOR EDUCATIONAL AND SCIENTIFIC INSTITUTIONS

A new Chapter VII is added to Title 15 of the Code of Federal Regulations to provide for carrying out the functions and responsibilities of the Deputy Assistant Secretary for Resources of the Department of Commerce relating to the Office of Import Programs. Part 701 is added to Chapter VII of Title 15 of the Code of Federal Regulations to provide for rules and regulations relating to duty-free entry of instruments and apparatus for educational and scientific institutions. Regulations formerly found in Part 602 of Chapter VI of Title 15 of the Code of Federal Regulations are revised as set forth below and redesignated as Part 701 of Chapter VII of Title 15.

The notice, public rule making procedure and effective date requirements contained in 5 U.S.C. 553 are omitted as unnecessary because the changes are procedural and editorial in nature. Accordingly, this revision shall become effective on the date of its publication in the FEDERAL REGISTER (2–24–72).

Sec.

AUTHORITY: The provisions of this Part 701 issued under the Educational, Scientific, and Cultural Materials Importation Act of 1966 (80 Stat. 897; 19 U.S.C. 1202), and Department of Commerce Organization Order 10–3 of February 14, 1971 (36 F.R. 4553).

§ 701.1 General provisions.

(a) The purpose of this part is to set forth regulations relating to the responsibilities vested in the Secretary of Commerce under the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897; see particularly section 6(c) thereof and headnote 6(f) to part 4 of Schedule 8, Tariff Schedules of the United States, 19 U.S.C. 1202 as added by said section 6(c)). The Act provides, inter alia, that any nonprofit institution (whether public or private) established for educational or scientific purposes may obtain duty-free treatment of certain instruments and apparatus entered for its use, if the Secretary of Commerce determines that no instrument or apparatus of equivalent scientific value to such article, for the purposes for which the instrument or apparatus is intended to be used, is being manufactured in the United States. The responsibilities of the Secretary of Commerce under the Act have been delegated to the Assistant Secretary for Domestic and International Business of the Department of Commerce, with power of redelegation, by Department of Commerce Organization Order 10–3 of February 14, 1971.

(b) All references in this part to items, headnotes, schedules or parts, unless otherwise indicated, are references to items, headnotes, schedules or parts of the Tariff Schedules of the United States (19 U.S.C. 1202).

(c) Applications for duty-free entry of foreign instruments, and comments submitted in accordance with § 701.9, shall be written, typed or printed, in the English language and shall be legible. Copies of relevant documents, such as manufacturers' specifications, advertisements for bids, correspondence relating

to availability of instruments or apparatus or the like, should be made a part of an application or comments, and be fully identified. Each copy should be permanent and legible, and shall be attached as part of the response to the question to which it relates. A document in a foreign language shall be accompanied by an accurate translation.

(d) The Educational, Scientific, and Cultural Materials Importation Act of 1966 vests certain responsibilities in the Secretary of the Treasury in connection with the duty-free entry of scientific instruments and apparatus. Regulations of the Bureau of Customs pertaining to receipt and processing of applications, exclusion of certain articles from duty-free entry, procedures for entry and liquidation, disposition of articles entered duty-free, and other relevant matters are set forth in 19 CFR 10.114–10.119.

§ 701.2 Definitions.

For the purposes of the regulations in this part and the forms issued to implement them:

(a) "Deputy Assistant Secretary" means the Deputy Assistant Secretary for Resources of the Department of Commerce, or such official as may be designated by him to act in his behalf.

(b) "Instruments and apparatus" embraces only instruments and apparatus classifiable under the tariff items specified in headnote 6(a) of part 4 of Schedule 8. A combination of a basic instrument or apparatus and additional components shall be treated as a single instrument or apparatus provided that, under normal commercial practice, such combination is considered to be a single instrument or apparatus and provided further that the applicant has ordered or, upon favorable action on its application, firmly intends to order the combination as a unit.

(c) "Accessory" has the meaning which it has under normal commercial usage. An accessory for which duty-free entry is sought under item 851.60 shall be the subject of a separate application when it is not an accompanying accessory.

(d) "Accompanying accessory" means an accessory for a foreign instrument that is listed as an item in the same purchase order and that is necessary for accomplishment of the purposes for which the foreign instrument is intended to be used.

(e) "Article" means a foreign instrument and its accompanying accessories, unless context indicates otherwise.

(f) "Foreign instrument" means an instrument, apparatus, or accessory for which duty-free entry is sought under item 851.60. However, "foreign instrument" does not include repair components, which enter under item 851.65.

(g) "Domestic instrument" means an instrument, apparatus, or accessory which is manufactured in the United States.

(h) "United States" includes only the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(i) "Produced for stock" means an instrument, apparatus, or accessory which is manufactured, on sale and available from a stock.

(j) "Produced on order" means an instrument, apparatus, or accessory which a manufacturer lists in a current catalog and is able and willing to produce and have available without unreasonably delay to the applicant.

(k) "Custom-made" means an instrument, apparatus or accessory, which a manufacturer makes to purchaser's specifications.

(l) "Same general category" means the category in which an instrument, apparatus or accessory is customarily classified in trade directories and product-source lists, e.g., electron microscopes, mass spectrometers, light microscopes, X-ray spectrometers, and the like.

(m) "Most closely comparable instrument" means the domestic instrument that most closely fulfills the applicant's technical requirement described in response to question 7 of the application form, without regard to differences in cost, design or structural characteristics.

(n) "Pertinent specifications" of an instrument, apparatus, or accessory means those structural, operational, performance, and other characteristics specified for the instrument, apparatus, or accessory that are necessary for the accomplishment of the purposes described by the applicant in response to question 7 of the application form, excluding from consideration those purposes excluded by headnotes 1 or 6(a) to Part 4 of Schedule 8. The term does not extend to such characteristics as size, durability, complexity, ease of operation, ease of maintenance and versatility, unless the applicant can demonstrate that they are necessary for accomplishing the purposes for which the article is intended to be used. The term does not include cost differences between the domestic and foreign instrument, apparatus or accessory.

(o) "Guaranteed specifications" means those pertinent specifications for the foreign article and comparable domestic instruments, whereby the respective manufacturers define as an explicit part of the contractual agreement with the purchaser, for each related capability, the minimum performance level that the user may routinely expect to achieve as well as the conditions under which the specified minimum level was established by the manufacturer.

§ 701.3 Application for duty-free entry.

(a) Any public or private nonprofit institution established for educational or scientific purposes desiring to obtain duty-free entry of an instrument or apparatus under item 851.60 shall file an application in seven copies on Form OIPF–768, "Request for duty-free entry of scientific instrument or apparatus." Applications and attachments shall comply with the language requirement and other provisions of § 701.1(c). Application forms may be obtained from the Deputy Assistant Secretary, from field offices of the U.S. Department of Commerce, or from U.S. Customs ports. For a period of 60 days from date of publication of this revision in the FEDERAL REGISTER, Form BDSAF–768, "Request for duty-free entry of scientific instruments and apparatus," may be used if Form OIPF–768 is not yet available.

(b) The applicant should answer all applicable questions appearing on Form OIPF–768 in accordance with the instructions set forth on the form and in this part. Unless otherwise indicated from context, terms used in the form have the meanings defined in § 701.2. Questions 5, 7, 8, and 9, together with the certification on the reverse of the form, shall be completed by the person in the applicant institution under whose direction and control the foreign instrument will be used and who is thoroughly familiar with the specific program requiring an instrument, apparatus or accessory having the pertinent specifications of the foreign instrument. Two of such forms shall be executed in original by the aforementioned person, and five shall be true copies. The seven completed copies of the form, with the attachments required to complete the form fully, should be mailed or delivered to:

Bureau of Customs, Attention: Tariff Classification Rulings, Washington, D.C. 20226.

(c) Only one application shall be required for a foreign instrument and its accompanying accessories. A single application may be submitted for any quantity of the same type or model of the foreign instrument, apparatus or accessory, provided that all of that quantity are intended to be used for all of the purposes described in the response to question 7. If the purchase order includes different types or models of the same general category of the foreign instrument, and its accompanying accessories, a separate application shall be submitted for each type or model although all may be intended for the same purposes.

§ 701.4 Description of article.

The specifications provided by the manufacturer of the foreign instrument or facsimile thereof shall be included in the response to question 5 of the application form. These specifications shall be in a form that permits comparison with the specifications for comparable domestic instruments, apparatus, or accessories. If the technical nature of the foreign instrument, apparatus, or accessory is such that the specifications for a performance capability may vary according to variations in test procedures, sample material, sample size, and other parameters, the specifications for the article shall identify the relevant parameters. In the case of produced on order or custom-made instruments, apparatus, or accessories, the response to question 5 shall include a statement from the manufacturer of the foreign instrument attesting to the degree of compliance with purchaser's specifications.

§ 701.5 Intended purposes.

The response to question 7 of the application form shall describe the intended purposes of the article in sufficient detail to permit identifying each specification of the article that is alleged

to be pertinent with the particular purpose(s) and the related objective(s) for the accomplishment of which the specification is claimed to be necessary. If the article is intended to be used in both research and educational programs, the purposes and relevant objectives of each program shall be described separately. Programs that may be undertaken in some unspecified future period shall not be considered in the comparison.

§ 701.6 Justification for duty-free entry.

In response to question 8 of the application form, the applicant shall justify the request for duty-free entry of the article and accompanying accessories on the basis of either scientific equivalency or excessive delivery time.

(a) *Scientific equivalency.* (1) The justification shall include a statement than an instrument, apparatus, or accessory of the same general category as the article is or is not being manufactured in the United States. If any instrument, apparatus, or accessory of the same general category is being manufactured in the United States, without regard to the degree of comparability with the article, the applicant shall justify the nonequivalency of such instrument, apparatus, or accessory.

(2) The applicant shall further justify that no instrument, apparatus, or accessory being manufactured in the United States, whether or not of the same general category, is of equivalent scientific value to the article for such purposes as described in response to question 7.

(3) In justifying nonequivalency, the comparison of the alleged pertinent specifications of the article shall be made with similar specifications of the most closely comparable instrument being manufactured in the United States. In making the comparison only the article and accompanying accessories described in response to question 5 and the purposes described in response to question 7 shall be considered. The planned purchase of additional accessories or the planned conversion of the article at some unspecified future time, for programs that may be undertaken in some unspecified future period, shall not be considered in the comparison.

(b) *Excessive delivery time, without regard to the scientific equivalency of an available domestic instrument.* The applicant should set forth the shortest delivery times quoted by the manufacturer of the foreign article and the manufacturer(s) of the equivalent domestic instrument or apparatus from the place of shipment to the site where the instrument or apparatus is to be delivered. The applicant should also state how the difference in such delivery times will seriously impair the purposes described in response to question 7.

§ 701.7 Availability of domestic instrument.

The response to question 9 of the application form should indicate the efforts made by the applicant to ascertain whether there was being manufactured in the United States an instrument, apparatus, or accessory of equivalent scientific value to the foreign article for the purposes described in response to question 7, as well as the reasons for the applicant's selection of the particular type or model for comparison with the article in response to question 8c when more than one type or model of the same manufacturer was available. If one or more manufacturers of domestic instruments were afforded an opportunity to bid, the response to question 9 should indicate the manner in which such opportunity was offered, such as a formal invitation to bid that included a description of applicant's technical requirements. Copies of any correspondence between the applicant and domestic manufacturers (including invitations to bid and replies thereto should be attached to the application form.

§ 701.8 Denial without prejudice to resubmission.

The Deputy Assistant Secretary may, at any stage in the processing of an application, deny an application without prejudice to its resubmission, if the application contains a deficiency which, in his opinion, prevents its consideration on its merits. The Deputy Assistant Secretary shall state the deficiencies of the application in writing when making such a denial. A copy of the notice of such denial shall be transmitted to the Secretary of Health, Education, and Welfare and the Commissioner of Customs. A copy shall also be transmitted to the district director of Customs for the port of entry concerned, if the information requested in question 10 of the application form has been furnished by the applicant by the time the notice of denial without prejudice to resubmission was being prepared. The applicant shall on or before the 20th day following the date of such notice, inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article for the same intended purposes to which the denied application relates. The applicant shall then resubmit the new application on or before the 90th day following the date of the notice of denial without prejudice to resubmission, unless an extension of time is granted by the Deputy Assistant Secretary in writing prior to the expiration of the 90-day period. The resubmitted application shall indicate in the space provided the docket number of the original application. If the applicant fails, within the applicable time periods specified above, to either (a) inform the Deputy Assistant Secretary whether it intends to resubmit another application for the same article to which the denial without prejudice to resubmission relates, or (b) resubmit the new application, the prior denial without prejudice to resubmission shall have the effect of a final decision by the Deputy Assistant Secretary on the application within the context of § 701.11. In such a case, the Deputy Assistant Secretary shall transmit a summary of the prior denial without prejudice to resubmission to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant. At the same time, he shall make a copy of the record available for public review.

§ 701.9 Public notice and opportunity to present views.

(a) *Publication of notice.* Upon receipt from the Commissioner of Customs of an application that has been found by him to be in accordance with applicable regulations, the Deputy Assistant Secretary shall assign it a docket number and, unless application is denied without prejudice to resubmission under § 701.8, cause an appropriate notice to be published in the FEDERAL REGISTER to afford reasonable opportunity for presentation of views with respect to the question "whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States." (Headnote 6(c) to part 4 of schedule 8.) The complete notice shall include the date on which the Commissioner of Customs received the application, the docket number and applicant's answer to questions 1, 2, 5, and 7 of the application form. The date of the last day of the period for comment shall be 20 days after the date on which the notice of the application is published unless a later date for such last day is published in the notice. As soon as the notice of an application is filed with the FEDERAL REGISTER, the Deputy Assistant Secretary shall make a copy of the application available for public review during ordinary business hours.

(b) *Additional requirements applicable to comments.* Persons who are authorized by headnote 6(e) to part 4 of schedule 8 to appeal an adverse finding upon a question or questions of law to the U.S. Court of Customs and Patent Appeals (hereinafter called "parties") and who wish to comment must submit their views and comments in one of the formats stated in paragraph (c) of this section. Views and comments from other interested persons and Government agencies will be received in any written form complying with § 701.1(c); however, one of the formats of paragraph (c) of this section should be used if feasible. Any comment, to be placed upon the record, must be submitted in three copies and must state the name and address of the person submitting the comment and the docket number of the application to which the comment applies. Since each application file must be complete in itself, a separate set of copies of a comment must be furnished for each application to which the comment pertains, even though the sets of copies pertaining to two or more applications may be identical. Comments should be addressed to the Deputy Assistant Secretary.

(c) *Format for comments.* Comments favoring the granting of an application should be in the form of supplementary answers to the applicable questions on the application form, and should avoid duplication on the content of the application insofar as is practicable. Comments opposing the granting of an application should be in the following form:

(1) State name and address of the party commenting.

(2) State the docket number of the application to which the comment applies.

(3) List instruments or apparatus considered by the party to be scientifically equilavent to the foreign instrument and its accompanying accessory(ies). Provide pertinent specifications for instruments or apparatus manufactured by the party.

(4) Direct the comments to the applicant's response to question 8 and, with respect to each specification of the article listed as pertinent therein, demonstrate—

(i) That the specification can be equaled or exceeded with the instrument or apparatus described in subparagraph (3) of this paragraph; or

(ii) That although the instrument or apparatus differs in design from the article, it is nonetheless scientifically equivalent because it is as capable as or better than the article in fulfilling the purpose(s) relevant to the specification; or

(iii) The specification is not pertinent because it does not relate to one or more purposes described by the applicant in response to question 7, being rather a convenience or representing personal preferences, cost factors and the like.

(5) Where the comments regarding subparagraph (4) (i) or (ii) of this paragraph relate to a particular accessory or optional device offered by the domestic manufacturer, cite the type, model, or other catalog designation of the accessory or device and include the specifications therefor in the comments.

(6) Where the justification for duty-free entry is based on excessive delivery time, show whether—

(i) Such instrument or apparatus are as a general rule either produced for stock, produced on order, or are custom-made; and

(ii) An instrument or apparatus of equivalent scientific value to the article, for the purposes described in response to question 7 could have been produced and delivered to the applicant within a reasonable time following the receipt of the order.

(7) Indicate whether the applicant afforded the domestic manufacturer an opportunity to furnish an instrument or apparatus of equivalent scientific value to the article for the purposes described in response to question 7 and, if such be the case, whether the applicant submitted a formal invitation to bid that included the technical requirements of the applicant.

§ 701.10 Additions to the record.

(a) The Deputy Assistant Secretary shall assemble the application, and those comments meeting the requirements of § 701.9 into a record. After the period for comment (§ 701.9(a)) has ended, he shall not place explanations, arguments, or recommendations, other than those obtained from any selected Federal agency(ies) pursuant to paragraph (b) of this section, in the record in any form. He shall treat written comments received after the period for comment has ended as offers to provide additional information (see paragraph (c) of this section) to the extent that they contain factual information, as contrasted with arguments, explanations or recommendations.

(b) The Deputy Assistant Secretary may add to the record such additional written factual information available within the executive branch of the Government, and such printed information generally available to the public, as he deems appropriate and pertinent. He may also obtain for the record an opinion on any issue before him and reasons therefor from any agency of the Government which he regards as having particular competency in the field in question.

(c) If it appears to the Deputy Assistant Secretary that the information in the record is not sufficient to enable him to render a decision, if the action of denial without prejudice to resubmission appears to be inappropriate, and if it further appears that certain additional factual information will cure the insufficiency of the record, the Deputy Assistant Secretary, in his discretion, may request and place in the record such additional factual information as he feels will enable him to render a decision from the party or those parties that appear best suited to provided the information. The Deputy Assistant Secretary may attach appropriate conditions and time limitations upon the provision of such information, and may draw appropriate inferences from the failure of a party to provide the information requested from him. The Deputy Assistant Secretary shall not, under this procedure, place arguments, explanations or recommendations upon the record. The Deputy Assistant Secretary may also, in his discretion, request from any party or parties to a proceeding hereunder, and place in the record, such additional affirmations as he deems necessary to enable him to render a decision.

§ 701.11 Review and findings of the Department of Commerce.

(a) *Scientific equivalency.* The determination of scientific equivalency shall be based on a comparison of the pertinent specifications of the foreign instrument with similar pertinent specifications of the most closely comparable domestic instrument. The guaranteed specifications for the foreign article will be considered in the comparison, including any amendments to the guaranteed specifications which have been inserted in the record. Similarly, the guaranteed specifications for the most closely comparable domestic instrument will be considered, including any amendments to the guaranteed specifications which have been inserted in the record. In the comparison, the Deputy Assistant Secretary may consider any reasonable combination of domestic instruments and accessories as being comparable to a foreign instrument that combines two or more functions in an integrated unit, if the combination of domestic instruments and accessories is capable of accomplishing the purposes for which the foreign instrument is intended to be used. If the Deputy Assistant Secretary finds that at least one domestic instrument or reasonable combination of domestic instruments does possess all the pertinent specifications of the foreign article, he shall find that there is being manufactured in the United States an instrument of equivalent scientific value to the foreign instrument for such purposes as described in the response to question 7 of the application form. Otherwise, he shall find to the contrary.

(b) *Manufactured in the United States.* An instrument, apparatus, or accessory shall be considered as being manufactured in the United States if it is customarily produced for stock, produced on order, or custom-made within the United States. In determining whether a U.S. manufacturer is able and willing to produce a produced on order, or custom-made instrument, apparatus, or accessory and have it available without unreasonable delay to the applicant the Deputy Assistant Secretary shall take into account the normal commercial practices applicable to the production and delivery of instruments, apparatus, or accessories of the same general category. For example, in determining whether a domestic manufacturer is able to produce a custom-made instrument, apparatus, or accessory the Deputy Assistant Secretary may take into account the production experiences of the domestic manufacturer with respect to the types and complexity of products, the extent of the technological gap between the instrument, apparatus, or accessory to which the application relates and the manufacturer's customary products, and the availability of the professional and technical skills, as well as manufacturing experience, essential to bridging the gap and the time required by the domestic manufacturer to produce an instrument, apparatus, or accessory to purchaser's specifications.

(c) *Excessive delivery time.* Duty-free entry of the article shall be considered justified without regard to whether there is being manufactured in the United States an instrument, apparatus, or accessory of equivalent scientific value for the purposes described in response to question 7 of the application form, if the delay in obtaining such domestic instrument, apparatus, or accessory (as indicated by the difference between the delivery times quoted by domestic manufacturer and foreign manufacturer) will seriously impair the accomplishment of the purposes. In determining whether the difference in delivery times is excessive, the Deputy Assistant Secretary shall take into account the relevancy of the applicant's program to other research programs with respect to timing, the applicant's need to have such instrument, apparatus, or accessory available at the scheduled time for the course(s) in which the article is intended to be used, and other relevant circumstances.

(d) *Decision on the application.* The Deputy Assistant Secretary shall prepare a written decision granting or

denying the application in whole or in part. The decision shall be in the form of one or more findings stating whether an instrument or apparatus of equivalent scientific value to the article for which duty-free entry is sought, for the purposes for which it is intended to be used, is or is not being manufactured in the United States, and it shall include a statement of his reasons for the finding(s). He shall transmit the decision to the FEDERAL REGISTER for publication, to the Commissioner of Customs, and to the applicant. At the same time, he shall make a copy of the record available for public review. (Copies of materials received pursuant to paragraphs (a) and (c) of § 701.10 which were not entered in the record pursuant to § 701.10 shall also be made available for public review. The Deputy Assistant Secretary may dispose of such materials at any time after final disposition of the application.) Pursuant to 19 CFR 10.117, the Deputy Assistant Secretary shall notify the district director of customs for the district in which entry of the merchandise in question was made, or the Commissioner of Customs if the district of entry is not known to the Deputy Assistant Secretary, of the final disposition of each application. If the Deputy Assistant Secretary thereafter receives notice from the applicant in accordance with 19 CFR 10.116(c), he shall then notify said district director of the final disposition of the application. For purposes of this paragraph, disposition of an application shall be deemed final (1) when 20 days have elapsed after publication of the decision in the FEDERAL REGISTER and no appeal has been taken pursuant to § 701.12, or (2) if such appeal has been taken, when final judgment is made and entered by the U.S. Court of Customs and Patent Appeals.

(e) *Consolidated decision.* The Deputy Assistant Secretary may on his own initiative, consolidate two or more applications under a single notice of consolidated decision whenever he deems such consolidation to be appropriate. An appeal from any decision published in such notice of consolidated decision which is taken in accordance with headnote 6(e) to part 4 of Schedule 8, shall affect only that application(s) to which the specified decision and appeal relates.

§ 701.12 Appeal.

An appeal from any decision made pursuant to § 701.11 may be taken, in accordance with headnote 6(e) to part 4 of Schedule 8, only to the U.S. Court of Customs and Patent Appeals and only on a question or questions of law, within 20 days after publication of the decision in the FEDERAL REGISTER. If at any time while its application is under consideration by the Deputy Assistant Secretary or by the Court of Customs and Patent Appeals on an appeal from a finding by him, an institution cancels an order for the instrument or apparatus to which the application relates or ceases to have a firm intention to order such instrument or apparatus, the institution shall promptly notify the Deputy Assistant Secretary or such court, as the case may be.

Dated: October 27, 1971.

STANLEY NEHMER,
Deputy Assistant Secretary for Resources, Department of Commerce.

Dated: October 28, 1971.

HAROLD B. SCOTT,
Assistant Secretary for Domestic and International Business, Department of Commerce.

Dated: February 11, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-2709 Filed 2-23-72;8:48 am]

Title 19—CUSTOMS DUTIES

Chapter I—Bureau of Customs, Department of the Treasury

[T.D. 72-64]

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Instruments and Apparatus for Educational and Scientific Institutions

The Business and Defense Services Administration (BDSA) of the Department of Commerce has been reorganized as the Office of Import Programs (OIP) necessitating amendments of that office's regulations regarding the determination of scientific equivalency for instruments and apparatus sought to be entered free of duty under the provision of item 851.60, Tariff Schedules of the United States. These changes in the OIP regulations make necessary certain editorial changes in the Customs Regulations. The changes are to cross references, form numbers, and "administrator" to "official".

In order to effect these changes the following sections of Part 10 of the Customs Regulations are amended as set forth below:

§ 10.114 [Amended]

In § 10.114, paragraph (a) is amended by substituting "15 CFR 701.9" for "15 CFR 602.4", "15 CFR 701.8" for "15 CFR 602.5(e)", and "15 CFR 701.11" for "15 CFR 602.5" where they appear.

In paragraph (d) of § 10.114, subparagraph (1) is amended by substituting "Form OIPF 768" for "Form BDSAF-768".

In paragraph (d) of § 10.114, subparagraphs (2) and (3) are amended by substituting "Form OIPF 768" for "Form BDSAF-768" and "official" for "Administrator".

Section 10.115 is amended to read as set forth below:

§ 10.115 Application for duty-free entry of foreign instruments.

Form OIPF 768, "Request for duty-free entry of scientific instruments and apparatus" (copies may be obtained from the Deputy Assistant Secretary for Resources, Department of Commerce, field offices, or Customs ports), shall be used in the preparation of an application. This form shall be completed and filed in accordance with 15 CFR 701.3 and the instructions appearing on the form.

(77A Stat. 14, 419, as amended; 19 U.S.C. 1202 (Gen. hdnte. 11, sch. 8, part 4, hdnotes. 1, 6))

§ 10.116 [Amended]

Section 10.116 is amended by substituting "Form OIPF 768" for "Form BDSAF-768" and "official" for "administrator" wherever they appear.

§ 10.117 [Amended]

Section 10.117 is amended by substituting "official" for "administrator" wherever it appears.

In paragraph (a) of § 10.118, subparagraph 4 is amended to read as follows:

§ 10.118 Disposition of articles entered under item 851.60, TSUS.

(a) * * *

(4) The description of the article required by question 5 of Form OIPF 768.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624)

Because these amendments conform the Customs Regulations with changes in the regulations of the Department of Commerce and are merely editorial changes, notice and public procedure thereon are unnecessary, and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

Effective date. These amendments shall be effective upon publication in the FEDERAL REGISTER (2-24-72).

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

Approved: February 11, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-2706 Filed 2-23-72;8:48 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER A—GENERAL

PART 8—COLOR ADDITIVES

Subpart—Provisional Regulations

POSTPONEMENT OF CLOSING DATES OF PROVISIONAL LISTING

Pursuant to the provisions of Title II of the Color Additive Amendments of 1960 (sec. 203(a)(2), Public Law 86-618, 74 Stat. 404; 21 U.S.C. 376, note) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs is authorized to postpone the closing date of a provisional listing of a color additive on his own initiative or upon application of an interested person.

He is also authorized to promulgate and keep current a list or lists of the color additives and of the particular uses thereof, and to provide for the termination of a provisional listing of a color additive or particular use thereof, whenever in his judgment such action is necessary to protect the public health.

In a notice published in the FEDERAL REGISTER on September 11, 1971 (36 F.R. 18336), it was announced that, for those uses of color additives listed in paragraphs (a) and (b) of § 8.501 of the color additive regulations which involved ingestion because of use in products such as food, drugs for internal use and cosmetic lipsticks, petitions for regulations under section 706 of the Federal Food, Drug, and Cosmetic Act (sec. 706, 74 Stat. 399–403; 21 U.S.C. 376) shall include reports of studies for teratological potential and reports of multigeneration reproduction studies in animals.

Requests have been received to postpone the closing dates of provisional listings of a number of color additives including those involving ingestion, for which certain scientific investigations necessary for listing these color additives under section 706 of the act, have not been completed, or for which certain stability data are to be submitted. The requests with respect to ingested colors also meet the requirements for extension of provisional listing prescribed by the FEDERAL REGISTER notice of September 11, 1971, referred to above. The status of the provisional listing of FD&C Red No. 2 will be considered in a future notice in the FEDERAL REGISTER.

The closing date of the provisional listing for the color additive, fustic, for use in surgical sutures, is not postponed; its provisional listing is therefore terminated as of December 31, 1971. This color additive had been provisionally listed on the basis that scientific investigations were underway, preparatory to submission of a petition for its listing. The sponsor of these investigations has decided that he no longer has a commercial interest in this color additive and the Food and Drug Administration knows of no other investigations in progress.

The Commissioner finds that postponement of the closing dates of the provisional listings of the color additives included in this order is consistent with the protection of the public health, and with the objective of carrying to completion the scientific investigations, and regulatory review thereof, necessary for making a determination as to the listing of such color additives, or specified uses thereof, under section 706 of the act.

These extensions are granted on condition that, where applicable, progress reports shall be received on or before June 30, 1972, and final reports of the respective studies for teratological potential shall be received on or before October 1, 1972, by FDA. All future requests for postponement of the closing dates of provisionally listed color additives must be received by FDA no later than 30 days preceding the then-current closing date.

Therefore, pursuant to authority of the Federal Food, Drug, and Cosmetic Act (secs. 203(a)(2), (d)(1)(E), Public Law 86–618; 74 Stat. 404–405; 21 U.S.C. 376, note) and under authority delegated to the Commissioner (21 CFR 2.120), Part 8 is amended by revising § 8.501 as follows:

1. In the provisional listing of color additives in paragraph (f) by deleting the color additive "fustic."

2. In the provisional listings in paragraphs (a), (b), (c), (e), (f), and (g) by changing the closing dates for all of the color additives listed to read "December 31, 1972," except for the color additives FD&C Red No. 2 and fustic.

Notice and public procedure and delayed effective date are not prerequisites to the promulgation of this order, since section 203(a)(2) of Public Law 86–618 provides for this issuance.

Effective date. This order became effective as of January 1, 1972.

(Sec. 203(a)(2), (d)(1)(E), Public Law 86–618, 74 Stat. 404–405; 21 U.S.C. 376, note)

Dated: February 15, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–2689 Filed 2–23–72;8:46 am]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter I—Coast Guard, Department of Transportation

[CGFR 72–30]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Richardson Bay Channel, Mill Valley, Calif.

This amendment adds regulations for the floating work span used in modification of the U.S. 101 bridge to require at least 2 hours notice from 8 a.m. to 5 p.m., Monday through Friday from February 14, 1972 through September 1, 1972, for openings of the draw. The purpose of this amendment is to allow this modification to be made to the U.S. 101 bridge.

This rule is issued without notice of proposed rule making and is effective in less than 30 days. The Coast Guard has found that good cause exists for taking this action on the basis that it would be contrary to the public interests to delay this modification.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a subparagraph (g) to § 117.712 to read as follows:

§ 117.712 **Tributaries of San Francisco Bay and San Pablo Bay, Calif.**

* * * * *

(g) *Work Bridge contiguous to U.S. 101 Bridge, Richardson Bay, Mill Valley, Calif.* The draw of this span shall open on signal from 8 a.m. to 5 p.m., from February 14, 1972 through September 1, 1972, if at least 2 hours' notice has been given. At all other times the draw shall be left in the open position.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4))

Effective date. This revision is effective from February 14 through September 1, 1972.

Dated: February 15, 1972.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc.72–2705 Filed 2–23–72;8:47 am]

Title 37—PATENTS, TRADEMARKS, AND COPYRIGHTS

Chapter I—Patent Office, Department of Commerce

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

Miscellaneous Amendments

A proposal was published at 36 F.R. 19315 to revise §§ 2.54, 2.67, 2.87, 2.88, and 2.187. Pursuant to this notice, comments have been received from interested persons. Full consideration has been given to all matter presented and changes in the text of the original proposal have been made in view thereof.

Section 2.54 is being revised to permit the Patent Office to accept substitute drawings in appropriate situations.

The revision of § 2.67 clarifies the situations in which an examiner may suspend action on an application.

Sections 2.87 and 2.88 are being revised to state that both goods and services may be the subject of a single application or certificate of registration in accordance with section 30 of the Trademark Act of 1946. Additionally, § 2.87 requires five specimens be submitted for each class.

The revision to § 2.187 insures that the certificate of registration issues to the current owner of the mark.

Effective date. This revision shall become effective March 17, 1972.

In consideration of the foregoing and pursuant to the authority contained in section 41 of the Act of July 5, 1946 (60 Stat. 440; 15 U.S.C. 1123) and section 6 of the Act of July 19, 1952 (66 Stat. 793; 35 U.S.C. 6), Part 2 of Chapter I of Title 37 of the Code of Federal Regulations is hereby amended as follows:

1. Section 2.54 is revised to read as follows:

§ 2.54 **Informal drawings.**

A drawing not in conformity with §§ 2.51 to 2.53 may be accepted for purpose of examination, but the drawing must be corrected or a new one furnished, as required, before the mark can be published or the application allowed. The necessary corrections will be made by the Patent Office upon applicant's request and at his expense.

2. Section 2.67 is revised to read as follows:

§ 2.67 Suspension of action by the Patent Office.

Action by the Patent Office may be suspended for a reasonable time for good and sufficient cause. The fact that a proceeding is pending before the Patent Office or a court which is relevant to the issue of registrability of the applicant's mark, or the fact that the basis for registration is, under the provisions of section 44(e) of the Act, registration of the mark in a foreign country and the foreign application is still pending, will be considered prima facie good and sufficient cause. An applicant's request for a suspension of action under this section filed within the 6-month response period (see § 2.62) may be considered responsive to the previous office action. The first suspension is within the discretion of the Examiner of Trademarks and any subsequent suspension must be approved by the Commissioner.

3. Section 2.87 is revised to read as follows:

§ 2.87 Combined applications.

An application also may be filed to register the same mark for any or all of the goods and/or services upon or in connection with which the mark is actually used and which fall within a plurality of classes. However, dates of use for each class, five specimens for each class, and a fee equaling the sum of the fees for filing an application in each class are required. A single certificate of registration for the mark may be issued.

4. Section 2.88 is revised to read as follows:

§ 2.88 Applications may be combined.

(a) When several applications have been filed by the same applicant for registration on the same register of a mark shown in identical form on the drawings for goods and/or services in different classes and each of the applications has been allowed, a single certificate based on such applications may be issued. A request for the issuance of a consolidated certificate must be made of record in each of the applications involved prior to the allowance of any of the applications.

(b) The issuance of any original certificate may be suspended upon request of the applicant, for a period not exceeding 6 months, to permit such consolidation.

5. Section 2.187 is revised to read as follows:

§ 2.187 Certificate of registration may issue to assignee.

The certificate of registration may be issued to the assignee of the applicant provided the assignment is recorded in the Patent Office at least 10 days before the application is allowed, and written notice of the recording of the assignment and the address of the assignee is made of record in the application file by the applicant or assignee.

Dated: February 14, 1972.

ROBERT GOTTSCHALK,
Commissioner of Patents.

Approved:

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

[FR Doc. 72-2684 Filed 2-23-72;8:46 am]

Title 40—PROTECTION OF ENVIRONMENT

Chapter I—Environmental Protection Agency

SUBCHAPTER A—GENERAL

PART 1—STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

A new Part 1 is added to Subchapter A, to read as follows:

Subpart A—Introduction

Subpart B—EPA Headquarters

Subpart C—EPA Field Installations

AUTHORITY: The provisions of this Part 1 issued pursuant to 5 U.S.C. 552.

Subpart A—Introduction

§ 1.1 Creation and authority.

The Environmental Protection Agency (EPA) was established in the executive branch as an independent agency pursuant to Reorganization Plan 3 of 1970, effective December 2, 1970.

§ 1.3 Purpose and functions.

The Environmental Protection Agency was created to permit coordinated and effective governmental action to assure the protection of the environment by abating and controlling pollution on a systematic basis. Reorganization Plan 3 of 1970 transferred to EPA a variety of research, monitoring, standard setting, and enforcement activities related to pollution abatement and control which, when properly integrated, will provide for the treatment of the environment as a single interrelated system. Complementary to these activities is the Agency's coordination and support of research and antipollution activities carried out by State and local governments, private and public groups, individuals, and educational institutions. EPA will also reinforce efforts among other Federal agencies with respect to the impact of their operations on the environment.

§ 1.5 Organization and general information.

(a) The Environmental Protection Agency's basic organization consists of (1) Headquarters; (2) ten regional offices; (3) three National Environmental Research Centers and their "satellite" laboratories and the Western Environmental Research Laboratory; and (4) a small number of field installations carrying out specialized environmental activities. Overall planning, coordination, and control of EPA programs is vested in EPA Headquarters located in Washington, D.C. The regional offices are headed by Regional Administrators who are responsible for the execution of the regional programs of the Agency within the boundaries of their regions. National or basic research programs are carried out at the National Environmental Research Centers and their satellite laboratories.

(b) Definitive statements of EPA's organization, policies, procedures, assignments of responsibility, and delegations of authority are contained in the EPA Management Directives System. Copies are made available for public inspection and copying at the Office of Public Affairs, Fourth and M Streets SW., Washington, DC. Information may also be obtained from the Division of Public Affairs at a regional office.

(c) Procurement by the EPA is conducted pursuant to the Federal Property and Administrative Services Act and implementing EPA regulations.

§ 1.7 Location of principal offices.

(a) The EPA Headquarters is located in Washington, D.C. The mailing address is Fourth and M Streets SW., Washington, DC 20460.

(b) The addresses of and the States served by the EPA regional offices (see § 1.41) are:

(1) Region I, Environmental Protection Agency, Room 2303, John F. Kennedy Federal Building, Boston, Mass. 02203. (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont).

(2) Region II, Environmental Protection Agency, Room 847, 26 Federal Plaza, New York, NY 10007. (New Jersey, New York, Puerto Rico, and the Virgin Islands).

(3) Region III, Environmental Protection Agency, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106. (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia).

(4) Region IV, Environmental Protection Agency, Suite 300, 1421 Peachtree Street NE., Atlanta, GA 30309. (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee).

(5) Region V, Environmental Protection Agency, 1 North Wacker Drive, Chicago, IL 60606. (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin).

(6) Region VI, Environmental Protection Agency, Room 1125, 1600 Patterson Street, Dallas, TX 75201. (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas).

(7) Region VII, Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, MO 64108. (Iowa, Kansas, Missouri, and Nebraska).

(8) Region VIII, Environmental Protection Agency, Lincoln Tower, 1860 Lincoln Street, Denver, CO 80203. (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming).

(9) Region IX, Environmental Protection Agency, 100 California Street, San Francisco, CA 94111. (Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territories of Pacific Islands, and Wake Island).

(10) Region X, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101. (Alaska, Idaho, Oregon, and Washington).

(c) The addresses of the National Environmental Research Centers, the location of their principal laboratories, and the address of the Western Environmental Research Laboratory (see section 7.43) are:

(1) National Environmental Research Center, Environmental Protection Agency, Cincinnati, Ohio 45268.

(2) National Environmental Research Center, Environmental Protection Agency, Research Triangle Park, N.C. 27711.

(i) Eastern Environmental Radiation Laboratory, Montgomery, Ala.

(ii) Twinbrook Research Laboratory, Rockville, Md.

(iii) Perrine Primate Laboratory, Perrine, Fla.

(iv) Chamblee Toxicology Laboratory, Chamblee, Ga.

(3) National Environmental Research Center, Environmental Protection Agency, 200 SW. 35th Street, Corvallis, OR 97330.

(i) Alaska Water Laboratory, College, Alaska.

(ii) Grosse Ile Field Station, Grosse Ile, Mich.

(iii) Gulf Breeze Laboratory, Gulf Breeze, Fla.

(iv) National Marine Water Quality Laboratory, West Kingston, R.I.

(v) National Water Quality Laboratory, Duluth, Minn.

(vi) Robert S. Kerr Water Research Center, Ada, Okla.

(vii) Southeast Water Laboratory, Athens, Ga.

(4) Western Environmental Research Laboratory, Environmental Protection Agency, Post Office Box 15027, Las Vegas, NV 89114.

Subpart B—Headquarters

§ 1.21 General.

EPA Headquarters is comprised of (a) the Office of the Administrator; (b) five staff offices which advise the Administrator on EPA activities and programs with respect to their assigned areas of responsibilities; and (c) five operational offices, each headed by an Assistant Administrator and responsible for a major EPA functional or program area.

§ 1.23 Office of the Administrator.

The Environmental Protection Agency is headed by an Administrator who is appointed from civilian life by the President by and with the consent of the Senate. The Administrator is responsible to the President for providing overall supervision to the Agency. He is assisted by a Deputy Administrator who is appointed from civilian life by the President by and with the consent of the Senate. The Deputy Administrator shall assist the Administrator in the discharge of his duties and responsibilities and shall serve as Acting Administrator in the absence of the Administrator.

§ 1.25 Staff offices.

(a) *Office of Civil Rights and Urban Affairs.* The Office of Civil Rights and Urban Affairs, under the supervision of a Director, serves as the principal adviser to the Administrator with respect to equal opportunity and civil rights programs and policies, minority economic development, and the impact of Agency programs on urban core areas. The Office directs activities to carry out the Agency's responsibilities as required by Civil Rights Acts and applicable Executive orders to assure equal opportunity employment in EPA, prohibit discrimination in employment in EPA, prohibit discrimination in employment on projects receiving EPA financial assistance, and prohibit discrimination in employment by EPA contractors.

(b) *Office of Federal Activities.* The Office of Federal Activities, under the supervision of a Director, develops and recommends policies and procedures for national programs dealing with environmental problems arising from Federal facilities and federally supported or authorized activities. The Office develops internal policies and strategies for carrying out EPA's responsibilities for controlling environmental pollution from Federal facilities and from federally authorized or supported activities. It develops policies and procedures for the processing of environmental impact statements submitted to EPA by other Federal agencies and for the preparation of impact statements on EPA activities. It provides a clearinghouse mechanism for receiving inquiries or requests from Federal agencies for consultation and technical assistance. It reviews other Federal agencies' policies and procedures for correcting environmental problems at Federal facilities and recommends changes where appropriate. The Office collaborates with the Office of the Assistant Administrator for Enforcement and General Counsel and the regional offices in obtaining compliance by Federal installations with applicable environmental standards.

(c) *Office of International Affairs.* The Office of International Affairs, under the supervision of an Associate Administrator, provides leadership to and collaborates with Agency planning and resources management officials and with program managers in the development of international programs and activities designed to further the overall mission of the Environmental Protection Agency, subject to U.S. foreign policy objectives established by the President and the Secretary of State. The Office develops policies, procedures, and agreements for the conduct of international activities, and coordinates the conduct of all Agency international activities, assuring that adequate program, scientific, and technical inputs are provided.

(d) *Office of Legislation.* The Office of Legislation, under the supervision of a Director, serves as the principal point of Congressional contact with the Agency. The Office reviews and advises the Administrator and other Agency officials on all legislative proposals originating within or affecting the Agency. It prepares, reviews, and obtains clearance of proposed legislation and reports on legislation; performs legislative drafting services; coordinates preparation of testimony; and reviews transcripts of hearings. The Office maintains an effective liaison with the Congress on Agency actions of interest to the Congress, and, as necessary, maintains liaison with Agency regional and field officials, other government agencies, and public and private groups having an interest in legislative matters affecting the Agency. It assures the prompt response to the Congress on all inquiries relating to activities of the Agency.

(e) *Office of Public Affairs.* The Office of Public Affairs, under the supervision of a Director, is responsible for providing newsworthy information to the various communications media regarding actions taken or planned by the Agency. It is responsible for providing direction to the Agency's community relations, public participation, and environmental education programs. The Office develops and produces publications and other materials necessary to inform the general public, State, and local governments, and concerned groups about the Agency's mission. It supports, encourages, and promotes public participation in the development, revision, and enforcement of environmental quality standards related to the Agency's program responsibilities.

§ 1.27 Office of the Assistant Administrator for Air and Water Programs.

The Assistant Administrator for Air and Water Programs is responsible for the air and water programs of the Agency, including program policy development and evaluation; air and water quality standards development; technical direction, support, and evaluation of regional air and water activities; development of programs for technical assistance and technology transfer; and selected demonstration programs. Within

the Office of the Assistant Administrator for Air and Water Programs, the Office of Air Programs is responsible for the conduct of Agency air quality programs and the Office of Water Programs is responsible for the conduct of Agency water quality programs.

(a) *Office of Air Programs.* The Office of Air Programs, under the supervision of the Deputy Assistant Administrator for Air Programs, is responsible to the Assistant Administrator for air program activities of the Agency, including program policy development and evaluation; development of air quality and source emission standards; technical direction, support, and evaluation of regional air activities; development of programs for technical assistance and technology transfer; and selected demonstration programs. The Deputy Assistant Administrator for Air Programs exercises program direction to the Divisions of the Office of Air Programs through two intermediate officials—the Director, Stationary Source Pollution Control Programs, and the Director, Mobile Source Pollution Control Programs. These officials provide direct supervision to the Divisions and staffs assigned to them.

(b) *Office of Water Programs.* The Office of Water Programs, under the supervision of the Deputy Assistant Administrator for Water Programs, is responsible to the Assistant Administrator for the water program activities of the Agency, including program policy development and evaluation; development of water quality and effluent guidelines or requirements; technical direction, support, and evaluation of regional water activities; development of programs for technical assistance and technology transfer; and selected demonstration programs. The Deputy Assistant Administrator for Water Programs exercises program direction to the Divisions of the Office of Water Programs through two intermediate officials—the Director, Pollution Source Control Programs, and the Director, Standards Development and Implementation Programs. These officials provide direct supervision to the Divisions and staffs assigned to them.

§ 1.29 Office of the Assistant Administrator for Categorical Programs.

The Assistant Administrator for Categorical Programs is responsible for the pesticides programs, radiation programs, and solid waste management programs of the Agency, including environmental and pollution source standards development; pesticides registration; selected demonstration programs; and selected technical assessment and assistance programs. The program activities of the Assistant Administrator's Office are performed by Offices of Pesticides Programs, Radiation Programs, and Solid Waste Management Programs.

(a) *Office of Pesticides Programs.* The Office of Pesticides Programs, under the supervision of the Deputy Assistant Administrator for Pesticides Programs, is responsible to the Assistant Administrator for the pesticides activities of the Agency, including establishment of tolerance levels for pesticides residues which occur in or on food and the registration of pesticides; monitoring of pesticides residue levels in foods, humans, nontarget fish and wildlife, and their environments; review of pesticides formulations and relevant data for efficacy and hazard; establishment of sale or use restrictions; investigation of pesticide incidents; establishment of guidelines and standards for product examination; provision of program policy direction to technical and manpower training activities in the pesticides area; development of research requirements for pesticides programs; and review of impact statements dealing with pesticides.

(b) *Office of Radiation Programs.* The Office of Radiation Programs, under the supervision of the Deputy Assistant Administrator for Radiation Programs, is responsible to the Assistant Administrator for the radiation activities of the Agency, including development of radiation protection criteria, standards, and policies; development of methodology for measuring and controlling radiation exposure; development of research requirements for radiation programs; provision of technical assistance to States and other agencies having radiation protection programs; establishment and direction of a national surveillance and inspection program for measuring radiation levels in the environment; evaluation and assessment of the impact of new and developing radiation technology on man and the environment; assistance in the training of personnel for radiation protection programs in the States and for other purposes; and maintenance of liaison with other public and private organizations interested in environmental radiation.

(c) *Office of Solid Waste Management Programs.* The Office of Solid Waste Management Programs, under the supervision of the Deputy Assistant Administrator for Solid Waste Management Programs, is responsible to the Assistant Administrator for the solid waste management activities of the Agency. The Office provides program policy direction to and evaluation of such activities throughout the Agency. It establishes research requirements for solid waste management programs. The Office reviews impact statements pertaining to solid wastes.

§ 1.31 Office of the Assistant Administrator for Enforcement and General Counsel.

The Assistant Administrator for Enforcement and General Counsel is the Agency's chief law officer and principal adviser to the Administrator in matters pertaining to the enforcement of standards for environmental quality. He is responsible for the conduct for enforcement activities on an agencywide basis. The Office of Water Enforcement and the Office of General Enforcement are responsible for the conduct of Agency activities for enforcement of environmental quality standards, including the gathering and preparation of evidential data and conduct of enforcement proceedings. The Office of General Counsel is responsible for providing legal services to the Agency.

(a) *Office of General Counsel.* The Office of General Counsel, under the supervision of the Deputy General Counsel, is responsible to the Assistant Administrator for Enforcement and General Counsel for providing legal services to all organizational elements of the Agency with respect to the programs and activities of the Agency; providing legal opinions and legal counsel; assisting in the formulation and administration of the Agency's policies and programs as legal adviser; and supervision of the functions of the offices of regional counsel.

(b) *Office of General Enforcement.* The Office of General Enforcement, under the supervision of the Deputy Assistant Administrator for General Enforcement, provides program policy direction to Agency enforcement activities in the air, noise, radiation, pesticides, and solid waste program areas.

(c) *Office of Water Enforcement.* The Office of Water Enforcement, under the supervision of the Deputy Assistant Administrator for Water Enforcement, provides program policy direction to the water and water hygiene enforcement activities of the Agency, including direct supervision of those enforcement activities reporting directly to the Office of Water Enforcement and technical program direction to the regional water enforcement activities. The Office also develops Agencywide objectives and programs for water enforcement activities including the development of procedures, regulatory material, guidelines, criteria, and policy statements designed to bring about actions by individuals, private enterprise, and governmental bodies to improve the quality of the water.

§ 1.33 Office of the Assistant Administrator for Planning and Management.

The Assistant Administrator for Planning and Management is responsible on an agencywide basis for planning overall program activities; managing the Agency's resources; developing and conducting a comprehensive audit program; developing and conducting administrative programs and systems; and representing the Administrator in dealings with other Federal agencies in areas of Government fiscal, management, and administrative activities. The functions and activities of the Office of the Assistant Administrator are performed by Deputy Assistant Administrators for Administration, Planning and Evaluation, Resources Management, and a Director, Office of Audit.

(a) *Office of Administration.* The Office of Administration, under the supervision of the Deputy Assistant Administrator for Administration, is responsible for development and conduct of programs for organization and management systems, control, and services; personnel policies, procedures, and operations; personnel, physical, and document security and inspections; emergency preparedness and disaster coordination functions; management information systems, automatic data processing management and operations; facilities and space management; Agency safety program; contracting and procurement services; grants

policies and procedures; general administrative and support services; and other areas of administrative management, including records management, committee management, directives systems, and an Agency library system.

(b) *Office of Planning and Evaluation.* The Office of Planning and Evaluation, under the supervision of the Deputy Assistant Administrator for Planning and Evaluation, is responsible for development and conduct of programs for long-range and strategic planning; compiling reports to the Congress and the President on Agency programs and activities; systems analysis of Agency program activities, including the development, initiation, and monitoring of new and redirected Agency programs and goals; coordinating the Agency's environmental standards and regulations development process; economic and industrial analysis of the impact of abatement regulations and programs on firms, industries, and functional and geographic sectors; policy coordination, including analytic input to the budgetary, legislative, and policy development processes; program progress measurement; and planning, policy direction, needs assessment, program review, and evaluation of Agency manpower development programs.

(c) *Office of Resources Management.* The Office of Resources Management, under the supervision of the Deputy Assistant Administrator for Resources Management, is responsible for resources management, including developing and administering a program-planning-budgeting system in accordance with Office of Management and Budget directives; budget formulation, preparation, and execution, including funding allotments and allocations; and financial management and services, including developing and maintaining accounting systems, fiscal controls, and systems for payroll and disbursements.

(d) *Office of Audit.* The Office of Audit, under the supervision of a Director, is responsible for development and conduct of a comprehensive audit program for the Agency, including the conduct of internal and external audits of Agency programs and the provision of an independent appraisal for the Administrator and other Agency officials of the program, financial, and administrative operations of the Agency.

§ 1.35 Office of the Assistant Administrator for Research and Monitoring.

The Assistant Administrator for Research and Monitoring is the principal science adviser to the Administrator. He is responsible for the development, direction, and conduct of a national research program in pollution control technology. The Assistant Administrator for Research and Monitoring provides direct supervision to the activities of Agency laboratories engaged in national or basic research. Technical policy direction to those Agency laboratories engaged in operations in support of the responsibilities of the Agency Regional Administrators is provided from this office. The Assistant Administrator for Research and Monitoring has the planning responsibility for Agency environmental quality monitoring programs and for selected demonstration programs. The functions and activities of the Office of the Assistant Administrator for Research and Monitoring are performed by Deputy Assistant Administrators for Monitoring, Program Operations, and Research.

(a) *Office of Monitoring.* The Office of Monitoring, under the supervision of the Deputy Assistant Administrator for Monitoring, is responsible for planning, developing, coordinating, and evaluating Agency environmental quality monitoring programs to provide effective support to the Agency's regulatory responsibilities and other program operations and activities. The Office coordinates Agency monitoring efforts with those of Federal agencies, the States, and other public bodies. It devises an overall monitoring strategy to assure the existence of an effective Agency monitoring capability and assures timely incorporation of newly developed monitoring techniques and equipment into monitoring networks. The Office establishes baselines in order that environmental trends may be determined and standards for compliance established. It analyzes and presents monitoring data in an effective manner for use by Agency officials.

(b) *Office of Program Operations.* The Office of Program Operations, under the supervision of the Deputy Assistant Administrator for Program Operations, is responsible for the internal programing operations of the Office of the Assistant Administrator. The Office develops, implements, and coordinates the Agency laboratory operations program, in fulfillment of research requirements established by the Deputy Assistant Administrator for Research, the Deputy Assistant Administrator for Monitoring, other Assistant Administrators, and the Regional Administrators. The Office provides management assistance to and surveillance of the national environmental research centers and field research laboratories. It manages the research information program of the Office. It provides operating control of the research grants review program.

(c) *Office of Research.* The Office of Research, under the supervision of the Deputy Assistant Administrator for Research, is responsible for planning, developing, implementing, coordinating, and evaluating a comprehensive Agency research program, utilizing both internal and extramural capabilities, to serve as a basis for achieving maximum effectiveness in environmental protection and to provide a sound scientific basis for the Agency's program operations. The Office assures that research goals and relative priorities are appropriately identified and pursued. The Office establishes specific research requirements for the overall in-house, grant, and contract programs responsive to the needs of Agency operating programs and activities. It provides technical direction of Agency laboratory staffs in their conduct of research projects. It assists the program operating offices in assuring that research results are translated into operational solutions to environmental problems. The Office coordinates the Agency research program with environmental research programs of other governmental agencies, industry, universities, and other private and public institutions, and provides for international research programs and coordination.

Subpart C—Field Installations

§ 1.41 Regional offices.

Regional offices are headed by Regional Administrators who are responsible to the Administrator for the execution of the regional programs of the Agency within the boundaries of their regions. The Regional Administrators serve as the Administrator's principal representatives in the regions in contacts and relationships with Federal, State, interstate and local agencies, industry, academic institutions, and other public and private groups. They are responsible for accomplishing national program objectives within their regions as established by the Administrator, Deputy Administrator, Assistant Administrators, and heads of Headquarters staff offices. They develop, propose, and implement an approved regional program for comprehensive and integrated environmental protection activities.

§ 1.43 National Environmental Research Centers and the Western Environmental Research Laboratory.

National Environmental Research Centers and their "satellite" laboratories and the Western Environmental Research Laboratories are under the supervision of the Assistant Administrator for Research and Monitoring. These installations and their primary areas of responsibilities are as follows:

(a) National Environmental Research Center—Research Triangle Park, N.C. (health effects research);

(b) National Environmental Research Center—Cincinnati, Ohio (pollution control technology and engineering research);

(c) National Environmental Research Center—Corvallis, Oreg. (ecological systems research); and

(d) The Western Envronmental Research Laboratory at Las Vegas, Nev. (radiation effects research).

Dated: February 17, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72-2678 Filed 2-23-72;8:45 am]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

PART 55—GRANTS FOR ADVANCEMENT OF HEALTH IN COAL MINING

On March 5, 1971, notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 4421) to add a

new Part 55 to Title 42, Code of Federal Regulations. As proposed, the part set forth the conditions and procedures for awarding grants pursuant to section 501 of the Federal Coal Mine Health and Safety Act (30 U.S.C. 951) for the advancement of the health of workers in the coal mining industry. Interested persons were afforded the opportunity to participate in the rule making through the submission of comments. A number of comments were received and due consideration has been given to all material presented.

In light of the comments and subsequent review, a number of revisions and editorial changes have been made principally with respect to Subpart G, "Grantee Accountability".

In accordance with the reference to the effective date specified in the notice of proposed rule making, the regulations as set forth below are hereby adopted effective on the date of their publication in the FEDERAL REGISTER (2-24-72).

Dated: February 2, 1972.

VERNON E. WILSON,
Administrator, Health Services and Mental Health Administration.

Approved: February 16, 1972.

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

Subpart A—General

Subpart B—Evaluation and Disposition of Applications

Subpart C—Grant Awards, Payments, Termination

Subpart D—Grant Conditions: Obligation of Grantee

Subpart E—Reports, Records and Inspections

Subpart F—Expenditures

Subpart G—Grantee Accountability

AUTHORITY: The provisions of this Part 55 issued under sec. 508, 83 Stat. 803; 30 U.S.C. 957.

Subpart A—General

§ 55.1 Applicability.

The regulations of this part apply to to project grants for studies, research, experiments, demonstrations, and other activities relating to coal mine health as set forth in § 55.3.

§ 55.2 Definitions.

Any term defined in the Act and not defined below has the meaning given it in the Act. As used in this part—

(a) "Act" means the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801 et. seq.)

(b) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of Health, Education, and Welfare to whom the authority involved may be delegated.

(c) "Fiscal year" means the 12-month period beginning July 1 and ending on June 30 following.

(d) "Project Period" means the period of time, not exceeding 5 years, which the Secretary finds is reasonably required to initiate and conduct a project meriting support of one or more project grants within the scope of § 55.3, except that such period may be extended by the Secretary beyond 5 years when, in the judgment of the Secretary, such an extension is necessary to carry out the objectives of the Act.

(e) "Applicant" means any public or nonprofit agency or institution which files an application for a grant under section 501 of the Act.

(f) "Project Director" means a single individual designated by the grantee in the grant application and approved by the Secretary, who is responsible for the scientific and technical direction of the project.

(g) "Nonprofit" as applied to an agency or institution, means that no part of the net earnings of such agency or institution inures or may lawfully inure to the benefit of any shareholder or individual.

§ 55.3 Purpose of project grant.

The Secretary is authorized under section 501 of the Act (30 U.S.C. 951) to make grants for studies, research, experiments, and demonstration, (a) to improve working conditions and practices in coal mines affecting health and to prevent occupational diseases originating in the coal mining industry, (b) to develop and revise improved mandatory health standards for the protection of life and the prevention of occupational diseases of miners, (c) to protect life and prevent diseases in persons who, although not miners, work with and around the products of coal mines in areas outside mines and under conditions which may adversely affect the health and well-being of such persons, (d) to develop new or improved means and methods of reducing concentrations of respirable dust in the mine atmosphere of active workings of the coal mine, (e) to develop epidemiological information, (f) to develop techniques for the prevention and control of occupational disease of miners, including tests for hypersusceptibility and early detection, (g) to evaluate the effect on bodily impairment and occupational disability of miners afflicted with an occupational disease, (h) to develop effective respiratory equipment, (i) to prepare and publish from time to time reports on all significant aspects of occupational diseases of miners, (j) to study the relationship between coal mine environments and occupational diseases of miners, and (k) for such other purposes as the Secretary deems necessary to carry out the purposes of the Act.

§ 55.4 Application for grants.

(a) An application for a grant shall be submitted on such forms and in such manner as the Secretary may prescribe.

(b) The application shall be executed by an individual authorized to act for the institution or other applicant, and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any award, including the regulations of this part.

(c) In addition to any other pertinent information which the Secretary may require, each applicant shall submit as part of the application a description of the project in sufficient detail to indicate the nature, duration, purpose, justification, and proposed method of conduct of the project; the qualifications of the principal staff members to be responsible for the project; the total facilities and resources that will be available, and a justification of the amount of funds requested.

§ 55.5 Compliance with the Civil Rights Act.

The applicant shall comply with the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), which provides that no person in the United States shall on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits, or be subjected to discrimination under any program or activity receiving Federal financial assistance (section 601), and to the implementing regulation issued by the Secretary with the approval of the President (45 CFR Part 80).

Subpart B—Evaluation and Disposition of Applications

§ 55.10 Evaluation.

(a) All applications filed in accordance with this part shall be evaluated by the Secretary through such officers and employees and such experts or consultants engaged for this purpose as he determines are specially qualified in the area involved.

(b) The Secretary's evaluation shall take into account, among other pertinent factors, the scientific merit and significance of the project, the competency of the proposed staff in relation to

the type and scope of the project involved, the feasibility of the project, the likelihood of its producing meaningful results, the proposed project period, and the adequacy of the applicant's resources available for the project and the amount of grant funds necessary for completion, and where appropriate, the recommendations of the Advisory Council on Coal Mine Health Research.

§ 55.11 Disposition.

On the basis of his evaluation of an application, pursuant to § 55.10, the Secretary shall either (a) approve, (b) defer because of lack of funds or a need for further evaluation, or (c) disapprove support of the proposed project in whole or in part. With respect to approved projects, the Secretary shall determine the project period during which the project may be supported. Applicants shall be advised of the reason an application has been deferred and upon request the reason it has been disapproved. Any deferral or disapproval of an application shall not preclude its reconsideration or a reapplication.

Subpart C—Grant Awards, Payments, Termination

§ 55.20 Grant awards and payments.

(a) Within the limits of funds available for approved projects, the Secretary shall award a grant to those applicants whose approved projects will in his judgment best promote the purposes of § 55.3. All grant awards shall be in writing and shall set forth the amount of funds granted.

(b) The amount of any award shall be determined by the Secretary on the basis of his estimate of the sum necessary for all or a designated portion of direct project costs plus an additional amount for indirect costs, if any, which will be calculated by the Secretary either (1) on the basis of his estimate of the actual indirect costs reasonably related to the project or (2) on the basis of a percentage of all, or a portion of, the estimated direct costs of the project when there are reasonable assurances that the use of such percentage will not exceed the approximate actual indirect costs. Such award may include an estimated provisional amount for indirect costs or for designated direct costs subject to upward (within the limit of available funds) as well as downward adjustments to actual costs when the amount properly expended by the grantee for provisional items has been determined by the Secretary. In determining the grantee's share of project costs, costs for which Federal grants from other sources have been or may be claimed or received or costs used to match other Federal grants except as may be otherwise provided by law, or costs to be met from the Federal share of grant related income (except as may be permitted by chapter 1-420 of the Department of Health, Education, and Welfare Grants Administration Manual[1]) may not be included.

(c) Except as may otherwise be provided by the regulations of this part, the identification of direct and indirect costs will be consistent with the generally accepted and established accounting practices that the grantee applies to its own activities and in conformance with the applicable principles set forth in chapters 1-76, 2-65, 2-66, and 5-60 of the Department of Health, Education, and Welfare Grants Administration Manual.

(d) A grant award shall be made by the Secretary for either the project period or for such lesser period as he may prescribe in making the award.

(e) Neither the approval of any project nor a grant award shall commit or obligate the United States in any way to make any additional, supplemental or continuation award with respect to any approved project or portion thereof.

(f) Payments with respect to an approved project shall be made periodically, either in advance or by way of reimbursement, as the Secretary may determine, based on the estimated requirements or actual expenditures, respectively, for such period.

(g) No payment shall be paid for any period so long as the applicant fails to comply substantially as determined by the Secretary with any requirement or condition imposed by or pursuant to these regulations.

§ 55.21 Supplemental and continuation grants.

The Secretary may from time to time within the project period, on the basis of an application therefor, make additional grant awards with respect to any approved project where he finds on the basis of such progress, fiscal or other reports as he may require that (a) the amount of any prior award was less than the amount necessary to carry out the approved project within the period with respect to which the prior award was made (a supplemental grant), or (b) the progress made within the period with respect to which any prior awards were made justifies support for an additional specified portion of the project period (a continuation grant).

§ 55.22 Termination.

(a) Whenever, in the judgment of the Secretary, and the grantee continuation of an approved project would produce results of insufficient value in furthering the purposes of § 55.3, grant support may be terminated.

(b) Whenever the Secretary finds that a grantee has failed in a material respect to comply with the Act, the regulations of this part or any of the assurances thereunder, or the terms of the grant, he may, after affording the grantee reasonable notice in writing and an opportunity to present its views and evidence, withhold further payments, and take such other action, including the termination of the grant, as he finds appropriate to carry out the purposes of the Act and regulations.

(1) The views and evidence of the grantee shall be presented in writing unless the Secretary determines that an oral presentation is desirable.

(2) Such views and evidence shall be confined to matters relevant to whether the grantee has failed in a material respect to comply with the Act, the regulations of this part or any assurances thereunder or the terms of the grant.

(c) Upon termination pursuant to this section, the grantee shall render an accounting and final statement as provided in this part. The Secretary may allow credit for the amount required to settle at minimum costs obligations of the grantee properly incurred prior to receipt of notice of termination.

Subpart D—Grant Conditions: Obligations of Grantee

§ 55.30 Use of funds, changes.

(a) Any funds granted pursuant to § 55.20 shall be expended by the grantee solely for carrying out the approved project in accordance with regulations of this part. The grantee may not, in whole or in part, delegate or transfer this responsibility for the use of such funds to any other person.

(b) Changes in project: Permissible changes by the project director in the approved project shall be limited to changes in methodology, approach, or other aspect of the project that would expedite achievement of the project objectives. Whenever the grantee or the project director is uncertain as to whether a change complies with the provisions, the question should be referred to the Secretary for a final determination. Other changes in the approved project may be made only with the approval of the Secretary.

(c) Changes in project period: The project period may be extended by the Secretary, with or without additional funds, for such an additional period as he determines may be required to complete the objectives of the project provided that the total period as extended does not exceed 7 years.

§ 55.31 Project Director.

The project director shall be responsible for the conduct of the project for the duration of the project period. Should he become unavailable to discharge his responsibility, the grant shall be terminated unless the grantee replaces the project director with another person found by the Secretary to be qualified to direct and conduct the project.

§ 55.32 Inventions and discoveries.

Any grant award pursuant to this part shall be subject to the regulations of the

[1] The Department Grants Administration Manual is available for inspection at the Public Information Office of the several Department Regional Offices and available for purchase at the Government Printing Office, GPO Document No. 894-523.

Department of Health, Education, and Welfare as set forth in Title 45 CFR, Parts 6 and 8, as amended, relating to inventions and patents. Such regulations shall apply to any activity for which grant funds are used. Appropriate measures shall be taken by the grantee and the Secretary to assure that no contracts, assignments or other arrangements inconsistent with the grant obligation are continued or entered into, and that all personnel involved in the supported activity are aware of and comply with such obligation. Laboratory notes, related technical data, and information pertaining to inventions or discoveries shall be maintained for such periods, and filed with or otherwise made available to the Secretary or those he may designate at such times and in such manner as he may determine necessary to carry out such Department regulations.

§ 55.33 Other conditions.

The Secretary may impose additional conditions prior to, or at the time of any award when in his judgment such conditions are necessary to assure project advancement, the interest of the public health, or the conservation of grant funds.

Subpart E—Reports, Records and Inspections

§ 55.40 Reports and records.

Each grant award pursuant to § 55.20 shall be subject to the condition that the grantee shall maintain such progress and fiscal records, and file with the Secretary such progress and fiscal reports relating to the conduct and results of the approved project and the use of grant funds as the Secretary may prescribe. Such records shall be retained, as follows:

(a) Records may be destroyed 3 years after the end of the budget period if audit by or on behalf of the Department of Health, Education, and Welfare has occurred by that time.

(b) If audit by or on behalf of the Department of Health, Education, and Welfare has not occurred by that time, the records must be retained until audit or until 5 years following the end of the budget period whichever is earlier.

(c) In all cases an overriding requirement exists to retain records until resolution of any audit questions relating to individual grants.

§ 55.41 Inspection and audit.

An application for a grant award shall constitute the consent of the applicant to inspections at reasonable times by persons designated by the Secretary, of the facilities, equipment, records, and other resources of the applicant and to interviews with principal staff members. The acceptance of the grant award shall constitute the consent of the grantee to inspections and fiscal audit by persons assigned by the Secretary, of the supported activity and of progress and fiscal records relating to the approved project.

Subpart F—Expenditures

§ 55.50 Allocation of costs.

(a) Funds granted for the direct costs of an approved project may be expended for personal services, rental of space, materials and supplies, and other cost items as shown on the award statement to the extent that such services, materials, supplies and other items are required to carry out the approved project.

(b) Indirect costs: The amount of any award for indirect costs shall be calculated by the Secretary either (1) on the basis of his estimate of the actual indirect costs reasonably related to the approved project, or (2) on the basis of a percentage of all, or a portion of, the estimated direct costs of the approved project when there are reasonable assurances that the use of such percentages will not exceed the approximate actual indirect costs.

§ 55.51 Particular direct costs.

Funds granted for the direct costs of an approved project may be expended by the grantee as follows:

(a) *Personal services.* The costs of personal services are payable from grant funds substantially in proportion to the time or effort the individual devotes to carrying out the approved project. Such costs may include all direct costs incident to such services, such as salary during vacations, retirement, workmen's compensation charges, in accordance with the policies and accounting practices consistently applied by the grantee to all its activities.

(b) *Equipment and materials.* The cost of materials or fixed movable equipment not available to the grantee but required for execution of the approved project may be charged to a grant as a direct cost. Such acquisition may be by lease or by outright purchase, subject to accounting as provided in § 55.61. Such costs may include those incurred for delivery, installation, and maintenance services.

(c) *Travel costs.* Costs of travel of individuals are payable as a direct cost where required to carry out the project. To the extent that the grantee has not established rules or policies which uniformly apply regardless of source of funds in determining the amounts and types of reimbursable travel expenses, the Standardized Government Travel Regulations shall be applied in determining the amount of grant funds chargeable for travel expenses.

(d) *Alterations and renovations.* The costs of altering and renovating buildings or other structures (see chapter 1–44 of the Department of Health, Education, and Welfare Grants Administration Manual) in which an approved project is to be conducted may be charged to the grant to the extent that such alterations and renovations are essential to the accomplishment of the specific objective of the project. Such costs may not include enlarging or adding to such structures or the erection of new structures.

(e) *Publication costs.* Costs required to assure effective publication or other distribution of the project results may be charged as a direct cost.

Subpart G—Grantee Accountability

§ 55.60 Accounting for grant award payments.

In addition to such other accounting as the Secretary may require, a grantee shall render, with respect to each grant awarded to it, a full account as of the termination date by presenting or otherwise making available vouchers or any other evidence satisfactory to the Secretary of expenditures for direct and indirect costs meeting the requirements of this part: *Provided, however,* That when the amount awarded for indirect cost was based on a predetermined fixed-percentage of estimated direct costs, the amount allowed for indirect costs shall be computed on the basis of such predetermined fixed-percentage rates applied to the total, or a selected element thereof, of the reimbursable direct costs incurred. The termination date shall be either (a) the end of the project period as determined pursuant to § 55.11 or its extension as provided in § 55.30(c), or (b) the date of any termination of grant support as provided in § 55.22 whichever first occurs.

§ 55.61 Accounting for equipment.

As used in this section the term "equipment" means an article of property procured or fabricated which is complete in itself, is of a durable nature, and has an expected service life of more than 1 year. Equipment on hand on the date of termination for which accounting is required in accordance with the procedures set forth in chapter 1–410 of the Department of Health, Education, and Welfare Grants Administration Manual shall be identified and reported by the grantee in accordance with such procedures, and accounted for, or accountability waived, by one or a combination of the following methods, as determined by the Secretary:

(a) *Waiver of equipment accountability.* Where the grantee is an organization within the terms of the Act of September 6, 1958 (72 Stat. 1793; Public Law 85–934), the obligation to account for the value of any equipment may be waived by the Secretary as provided by such Act.

(b) *Retention of equipment for other health research projects.* Equipment may be used without adjustment of accounts, on other grant-supported projects (whether or not federally supported) within the scope of the Act and no other accounting for such equipment shall be required: *Provided, however,* (1) That during such period of use no charge for depreciation, amortization or for other use of the equipment shall be made against any existing or future Federal grant or contract and (2) if, within the period of its useful life, the equipment is transferred by sale or otherwise for use outside the scope of the Act, the Federal portion of the fair market value at the

time of transfer shall be refunded to the Federal Government.

(c) *Sale or other disposition of equipment, crediting of proceeds or value.* The equipment may be sold by the grantee and the net proceeds of the sale credited to the grant account for project use, or they may be used or disposed of in any manner by the grantee by crediting to the grant account the Federal share of the fair market value on the termination date. To the extent equipment purchased from grant funds is used for credit or trade-in on the purchase of new equipment, the accounting obligation shall apply to the same extent to such new equipment.

(d) *Return or transfer of equipment.* The equipment may be returned to the Federal Government by the grantee or, in accordance with the provisions of chapter 1–410–50B of the Department of Health, Education, and Welfare Grants Administration Manual may be transferred to another grantee for the purpose of continuing the project for which the equipment was purchased.

§ 55.62 Accounting for grant related income.

(a) *Interest.* Pursuant to section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), a State will not be held accountable for interest earned on grant funds, pending their disbursement for grant purposes. A State, as defined in section 102 of the Intergovernmental Cooperation Act, means any one of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States or any agency or instrumentality of a State, but does not include the governments of the political subdivisions of the State. All grantees other than a State, as defined in this subsection, must return all interest earned on grant funds to the Federal Government.

(b) *Royalties.* Royalties earned from publications or similar material produced from a grant must first be used to reduce the Federal share of the grant to cover the costs of publishing or producing the materials. Royalties in excess of the costs of publishing or producing the materials shall be distributed as in paragraph (c) of this section.

(c) *Other income.* Other income earned by the grantee shall be disposed of in accordance with one of the alternatives specified in chapter 1–420 of the Grants Administration Manual as determined by the Secretary in the grant award.

§ 55.63 Final settlement.

There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(a) Any amount not accounted for pursuant to § 55.60;

(b) Any credits for equipment on hand as provided in § 55.61;

(c) Any credits for earned interest pursuant to § 55.62(a); and

(d) Any other settlements required pursuant to § 55.62 (b) and (c).

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by set off or other action as provided by law.

[FR Doc.72–2707 Filed 2–23–72;8:48 am]

Title 49—TRANSPORTATION

Chapter III—Federal Highway Administration, Department of Transportation

SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER SAFETY PROCEEDINGS UNDER SECTION 204(c) OF THE INTERSTATE COMMERCE ACT

Incorporation of Mandatory Orders in Settlement Agreements; Delegation of Authority

The Federal Highway Administrator is amending the rules of practice governing cease-and-desist proceedings under section 204(c) of the Interstate Commerce Act (49 U.S.C. 304(c)) to authorize the Director of the Bureau of Motor Carrier Safety to execute orders compelling compliance with the statutes and regulations pertaining to motor carrier safety, when those orders are incorporated into agreements compromising civil forfeiture claims under section 222(h) of the Interstate Commerce Act (49 U.S.C. 322(h)).

Since this amendment relates to procedure and practice before the Federal Highway Administration, notice and public procedure are unnecessary, and it is effective on the date of issuance set forth below.

In consideration of the foregoing, Part 386 in Chapter III of Title 49 CFR is amended by adding a new § 386.45 at the end of the part, reading as follows:

§ 386.45 Incorporation of order in settlement agreement.

(a) In a proceeding under Part 385 of this chapter, the Director of the Bureau of Motor Carrier Safety is authorized to negotiate for the incorporation of, and, with the consent of the respondent, to incorporate, an order compelling respondent's compliance with Part II of the Interstate Commerce Act, 18 U.S.C. 831–835, or any regulation issued thereunder in a settlement agreement compromising a claim for forfeiture under section 222 (h) of the Interstate Commerce Act.

(b) The Director of the Bureau of Motor Carrier Safety is authorized to execute an order incorporated in a settlement agreement as prescribed in paragraph (a) of this section. When it is incorporated into a fully executed settlement agreement, such an order has the same force and effect as an order issued pursuant to the rules in this part.

(Secs. 204, 220, 222, Interstate Commerce Act, as amended, 49 U.S.C. 204, 320, 322, sec. 6, Department of Transportation Act, 49 U.S.C. 1655, The Federal Claims Collection Act, 31 U.S.C. 951–953, and delegations of authority by the Secretary of Transportation at 49 CFR 1.48 and 49 CFR Part 89)

Issued on February 14, 1972.

F. C. TURNER,
Federal Highway Administrator.

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Chapter V—National Highway Traffic Safety Administration, Department of Transportation

[Dockets Nos. 70–16, 70–17; Notice 3]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Air Brake Systems

The purpose of this notice is to respond to petitions requesting reconsideration of Motor Vehicle Safety Standard No. 121, *Air Brake Systems*, § 571.121 of Title 49, Code of Federal Regulations. After issuance of the standard on February 19, 1971 (36 F.R. 3817, February 27, 1971), petitions for reconsideration were filed pursuant to 49 CFR 535.35 by a number of vehicle and equipment manufacturers. This notice grants some of the requests by amending the standard, and denies other requests.

1. *Service brake system.* The service brake system requirements have been reorganized for reasons of clarity and have been amended with respect to the order of testing and the number of tests to be conducted. The dynamometer tests have been separated from the road tests and placed in section S5.4. The road test section has been amended to specify the order in which the stopping tests are to be run. The section is further amended to provide that a truck or bus will be stopped six times for each combination of loading, speed and road conditions and that it will be considered to meet the requirement if one stop is made in the required distance with the required stability and freedom from wheel lockup. This amendment has been adopted to ease the problems arising from a test driver's unfamiliarity with a vehicle's behavior. To accommodate antilock systems that permit some wheels to lock for longer periods than others, the reference to "momentary" lockup in S5.3.1 and S5.3.2 has been amended to refer to "controlled" lockup.

S5.3.2. *Stopping Capability, Trailers,* has been amended in minor respects, to make it clear that the 90 p.s.i. pressure level is systemwide and not confined to the brake control lines, and to provide that the trailer is to stop the combination of vehicles without benefit of the towing vehicle's brakes.

The brake power requirements of S5.4.2 and the dynamometer test conditions of S6.2 are each amended to refer to the drum "or disc" to avoid the possibility that the sections would be misconstrued as requiring drum brakes. The brake recovery requirements of S5.4.3 are amended by lowering the minimum air pressure requirement to 20 p.s.i.

from 40 p.s.i. This amendment is based on a reassessment of the problems associated with over-recovery that has led the NHTSA to conclude that 20 p.s.i. is a reasonable level.

The requirements concerning antilock system failure and the provision of power for antilock systems on trailers have been separated from the other service brake requirements and placed in S5.5.

2. *Service brake retardation force.* The standard as adopted in February 1971 required the brakes on each axle to produce specified retardation forces at each of several brake chamber air pressures. As indicated in the issuance of the standard, the primary goal of the retardation force requirement was to insure brake compatibility between vehicles used in combination. On review of petitions requesting exemption of vehicles that do not tow other vehicles from the retardation force requirements, the NHTSA has determined that for these vehicles the requirements are not necessary. Accordingly, S5.4.1 is amended to apply only to vehicles that are intended to tow or to be towed by another vehicle equipped with air brakes.

In response to petitions objecting to axle by axle force calculations, the retardation force requirements are further amended to provide that the retardation force for all axles shall be added together and divided by the sum of gross axle ratings to arrive at the values shown in Table III. The effect of the amendment is to allow greater flexibility in the allocation of braking force between axles.

The overall braking force required of the vehicle's brakes, however, remains the same as before. The NHTSA has considered and rejected the requests for different retardation values and for substitution of SAE J992a for the dynamometer tests of S5.4.1. The present retardation force requirements in Table III are considered to be a reasonable accommodation between the need for compatibility with existing vehicles and the need to establish a uniform pattern of brake response over the range of operating pressures. The dynamometer procedures of S5.4.1.1, which permit measurement of brake forces on an individual vehicle, are more suited to the regulatory purpose of this standard than are the procedures of SAE J992a, which provides for road testing of vehicles in combination. The agency recognizes that the availability of dynamometers of sufficient capacity is a concern to many petitioners, but available evidence indicates that dynamometer access will not be a major long-term problem. The petitions to delete dynamometer testing are therefore denied.

3. *Parking brake system.* The parking brake system required by S5.4 of the standard had several features that were widely objected to by the petitioners. In particular, petitioners objected to the requirement for automatic application of the parking brakes in the event of pressure loss. Although the standard specified a maximum retardation force level of 0.40 to reduce the possibility of lock-up during automatic application, many petitioners stated that automatic application of the brakes would surprise the driver and adversely affect his handling of the vehicle.

The NHTSA remains convinced that automatic application of the parking brake is a satisfactory means of providing braking in the event of service brake failure. The low pressure warning signal required by S5.1.5 is considered adequate to warn a driver of impending application of the parking brake to avoid most of the effects of surprise. However, review of the petitions has persuaded the agency that automatic application of the parking brake need not be mandatory. Accordingly, the standard is amended to provide for an alternative parking brake system that is manually, and not automatically applied.

To accommodate the new alternative, the parking brake requirements have been reorganized into two main sections: S5.6, which specifies requirements for parking brakes generally, and S5.7, which sets out the emergency braking capabilities for automatic systems (S5.7.1) and manual systems (S5.7.2) on trucks and buses. A third section (S5.8) deals with the emergency braking of trailers.

The general requirements of S5.6 are derived from S5.4 of the original standard, with some additions and amendments. The braking force generated by the parking brakes is measured, at the manufacturer's option, either by a static draw bar test, which must produce a force level of 0.28, or by a holding test on a 20 percent grade. The tests are to be conducted in both forward and rearward directions. As provided in the original standard, the parking brakes must be applied by an energy source that is independent of the air pressure in the service brake system.

Additional changes have been made in S5.6 with respect to the requirements for the parking brake control. The standard as published in February 1971 specified the shape and color of the parking brake control, as well as its location, and provided that manual operation and release after automatic application should be accomplished by movement of a single control. After review of the petitions, it has been decided to allow greater flexibility in the design and operation of the control. Efforts are now underway within the industry to standardize controls, and it may be that a consensus will be reached upon which a more standardized control can be based. In the meantime, the standard's specifications have been reduced to requiring the control to be separate from the service brake control, operable from the normal driving position, and identifiable as to its method of operation. The shape, color, and number of controls, and the method of operation, are left to the judgment of the manufacturer.

The major difference between the emergency braking performance required of a vehicle with a manual system and the performance required of a vehicle with an automatic system is that a vehicle with a manual parking brake is required by S5.7.2.3 to meet a stopping distance test with an air pressure failure in the service brake system. Although a manufacturer may elect to use the parking brakes to provide this emergency stopping capacity, he may use other components to supplement the parking brakes or he may use a system entirely independent of the parking brakes.

A vehicle with an automatic parking brake may, at the manufacturer's option, either meet the stopping distance test of S5.7.2.3, or have a maximum static retardation force not greater than 0.40, measured in accordance with S5.6.1. Several petitioners requested deletion of the maximum retardation force levels for automatic brakes. Although the agency remains concerned about the effects on a vehicle's stability of automatic brake application, it has determined that a vehicle capable of meeting specified stopping distance requirements when the brakes are automatically applied should not be held to the maximum force level requirement.

With respect to both automatic and manual brakes, provision is made for control of the parking brakes of the towed vehicle. It was noted by some petitioners that automatic application of a towing vehicle's brakes, without simultaneous application of a towed vehicle's brakes, could lead to unstable braking and possibly to jackknifing. To lessen the risk of such instability, the automatic brake requirements are amended to require the venting of the towed vehicle's supply line so that its brakes will apply upon application of the towing vehicle's brakes.

4. *Other provisions amended.* In S4 the definition of "antilock system" has been amended to refer to "rotational wheel slip" to distinguish the phenomenon controlled by the antilock systems from other types of wheel slip. The definitions of "gross axle weight rating," "gross vehicle weight rating," and "unloaded vehicle weight" have been omitted, since they have been incorporated in the general definitions section of Part 571, 49 CFR 571.3(b).

The equipment requirements have been amended in a number of minor respects. S5.1.1 has been amended to include supply reservoir capacities. The reservoir capacity required has not been changed, but the requirement is clarified by striking the words "greater than" in S5.1.2.1 and in S5.2.1.1. The requirement for a towing vehicle protection valve (S5.1.3) has been amended by the use of the broader term "system" in place of "valve."

The pressure gauge requirement (S5.-1.4) has been amended to require a gauge in each service brake system, rather than to require a gauge directly on the service reservoir. The warning signal requirement (S5.1.6) is amended in response to petitions to provide that warning must be by means other than the pressure gauge indicator. The antilock warning signal requirement (S5.1.6), has been amended to limit the warning to the event

of electrical failure, pending investigation of other types of failure for which a warning may be practicable.

5. *Petitions denied.* Several requests for amendment of the equipment requirements have been denied. A request that the service reservoirs be connected in series has been rejected as unnecessary and design restrictive. Requests for reduction in minimum reservoir capacity are also denied. The present requirement of 12 times the combined volume of service brake chambers has been applied by the SAE to intracity buses and school buses for some time and is considered a reasonable requirement for other vehicles, particularly in the light of additional demands made on air capacity by antilock systems.

Several petitions requested amendment of the vehicle weights specified in S5.3 for the service brake tests. Requests were made for additional weight on the vehicle in its unloaded condition to allow for the weight of the completed body and for safety equipment such as roll bars used during testing. Since the vehicles tested by the NHTSA will be completed vehicles, however, it is not appropriate to specify an additional weight. If an incomplete vehicle manufacturer wishes to ascertain the performance of this vehicle in one or more of its completed variations, he may do so by placing weights on the incomplete vehicle, by actually mounting a body on it, or by any other means that are reasonably calculated to evaluate the braking performance of the completed vehicle. With respect to safety equipment, the NHTSA regards the problem of weight associated with safety devices as easily surmountable. Each of the petitions requesting changes in the weights specified in S5.3 is accordingly denied.

A number of petitions requested increases in the stopping distance required by S5.3.1. The distances specified are considered reasonable and well within the state of the art. Greater distances would increase the disparity between trucks and cars and be contrary to the interests of safety. The petitions are denied. Similarly, the petitions for an increase in the skid number of the dry surface from 75 to 80 are denied. The 75 number is representative of road surfaces, and has been a part of the consumer information requirements long enough that the availability of skid pads should not be a problem. Similarly, the requests that 30 skid number tests be run on dry pavement or that they be abandoned are denied. Braking in wet weather is an evident problem with vehicles of all types, and the NHTSA regards the wet-track test as an essential part of the standard.

The stopping capability requirement for trailers (S5.3.2) was the subject of petitions requesting deletion of the 90-p.s.i. pressure level requirement and objecting to the uncertainty involved in determining whether the tractor or the trailer is responsible if the trailer leaves the 12-foot-wide lane. The NHTSA regards a uniform service line pressure specification as an appropriate means of insuring uniformity in trailer response, even though some tractors may be designed to modulate air pressure in the lines. Since only the trailer is to be braked, the cause of deviation from the lane will be the trailers' brakes, not the tractor's. The petitions are denied.

The actuation and release requirements of S5.3.3 and S5.3.4 were subject to a variety of objections. One petitioner requested deletion of both requirements, while others requested elimination of the 50-cubic-inch test reservoir for trailers that tow other trailers. On review, the NHTSA has decided to deny the petitions. Although the stopping distance test of S5.3.1 necessarily limits the actuation time that a manufacturer can allow, the additional constraint placed on timing by S5.3.3 has the important effect of producing full braking at a very early point during the braking maneuver where the speed is greatest and the effects of a reduction in speed most significant from the standpoint of the forces involved in a crash. The brake release time has an important bearing on the maneuverability and directional stability of vehicles in emergency situations. It can sometimes be as important for the brakes to come off quickly and evenly as for them to be applied quickly.

The 50-cubic-inch test reservoir has been employed for some time in the SAE brake testing. It has therefore been retained. Other suggestions in the petitions for service reservoir timing and for additional test component specifications are not adopted at this time but may be appropriate subjects for future amendment.

With respect to the loading conditions specified in S6.1.1, a number of petitioners stated that the front-rear brake balance needed to achieve conforming performance on a truck-tractor loaded to GVWR in its bob-tail configuration would not be the best balance for that tractor when towing a trailer. This appears to be a valid objection, but the most obvious alternative—testing with a trailer in tow—involves complexities that have not been fully discussed in the petitions. A notice is therefore being prepared to propose that a truck tractor be tested with a trailer during the stopping distance tests.

Effective date: September 1, 1974. Review of the numerous petitions for extension of the effective date from January 1, 1973, has led to the conclusion that an effective date of September 1, 1974, would permit a longer period of fleet testing to evaluate the durability of the new systems and that the resulting production systems are likely to be substantially improved by the additional time allowed. An effective date later than 1 year from the date of issuance is therefore found, for good cause shown, to be in the public interest.

In consideration of the above, Motor Vehicle Safety Standard No. 121, Air Brake Systems, in § 571.121 of Title 49, Code of Federal Regulations, is amended to read as set forth below. This amendment is issued under the authority of sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407, and the delegation of authority by the Secretary of Transportation to the National Highway Traffic Safety Administrator, 49 CFR 1.51.

Issued on February 16, 1972.

DOUGLAS W. TOMS,
Administrator.

§ 571.121 Standard No. 121; Air Brake Systems (Effective Sept. 1, 1974).

S1. *Scope.* This standard establishes performance and equipment requirements for braking systems on vehicles equipped with air brake systems.

S2. *Purpose.* The purpose of this standard is to insure safe braking performance under normal and emergency conditions.

S3. *Application.* This standard applies to trucks, buses, and trailers equipped with air brake systems.

S4. *Definitions.*

"Air brake system" means a system that uses air as a medium for transmitting pressure or force from the driver control to the service brake, but does not include a system that uses compressed air or vacuum only to assist the driver in applying muscular force to hydraulic or mechanical components.

"Antilock system" means a portion of a service brake system that automatically controls the degree of rotational wheel slip at one or more road wheels of the vehicle during braking.

"Skid number" means the frictional resistance of a pavement measured in accordance with American Society for Testing and Materials Method E–274–65T at 40 m.p.h., omitting water delivery as specified in paragraph 7.1 of that method.

S5. *Requirements.* Each vehicle shall meet the following requirements under the conditions specified in S6.

S5.1 *Required equipment—trucks and buses.* Each truck and bus shall have the following equipment:

S5.1.1 *Air compressor.* An air compressor of sufficient capacity to increase air pressure in the supply and service reservoirs from 85 pounds per square inch (p.s.i.) to 100 p.s.i. when the engine is operating at the vehicle manufacturer's maximum recommended r.p.m. within a time, in seconds, determined by the quotient

$$\frac{\text{Actual reservoir capacity} \times 25}{\text{Required reservoir capacity}}.$$

S5.1.2 *Reservoirs.* One or more service reservoir systems, from which air is delivered to the brake chambers, and either an automatic condensate drain valve for each service reservoir or a supply reservoir between the service reservoir system and the source of air pressure.

S5.1.2.1 The combined volume of all service reservoirs and supply reservoirs shall be at least 12 times the combined volume of all service brake chambers at maximum travel of the pistons or diaphragms.

S5.1.2.2 Each reservoir shall be capable of withstanding an internal hydrostatic pressure of five times the compressor cutout pressure or 500 p.s.i., whichever is greater, for 10 minutes.

S5.1.2.3 Each service reservoir system shall be protected against loss of air pressure due to failure or leakage in the system between the service reservoir and the source of air pressure, by check valves or equivalent devices whose proper functioning can be checked without disconnecting any air line or fitting.

S5.1.2.4 Each reservoir shall have a condensate drain valve that can be manually operated.

S5.1.3 *Towing vehicle protection system.* If the vehicle is intended to tow another vehicle equipped with air brakes, a system to protect the air pressure in the towing vehicle from the effects of a loss of air pressure in the towed vehicle.

S5.1.4 *Pressure gauge.* A pressure gauge in each service brake system, readily visible to a person seated in the normal driving position, that indicates the service reservoir system air pressure. The accuracy of the gauge shall be within plus or minus 7 percent of the compressor cut-out pressure.

S5.1.5 *Warning signal.* A signal, other than a pressure gauge, that gives a continuous warning to a person in the normal driving position when the ignition is in the "on" position and the air pressure in the service reservoir system is below 60 p.s.i. The signal shall be either visible within the driver's forward field of view, or both audible and visible.

S5.1.6 *Antilock warning signal.* A signal on each vehicle equipped with an antilock system that gives a person seated in the normal driving position an audible warning of at least 10 seconds duration and a continuous visible warning when the ignition is in the "on" position in the event of a total electrical failure of the antilock system. The signal shall operate in the specified manner each time the ignition is returned to the "on" position.

S5.1.7 *Service brake stop lamp switch.* A switch that lights the stop lamps when the service brake control is statistically depressed to a point that produces a pressure of 6 p.s.i. or less in the service brake chambers.

S5.2 *Required equipment—trailers.* Each trailer shall have the following equipment:

S5.2.1 *Reservoirs.* One or more reservoirs to which the air is delivered from the towing vehicle.

S5.2.1.1 A reservoir shall be provided that is capable of releasing the vehicle's parking brakes at least once and that is unaffected by a loss of air pressure in the service brake system.

S5.2.1.2 Total reservoir volume shall be at least eight times the combined volume of all service brake chambers at maximum travel of the pistons or diaphragms.

S5.2.1.3 Each reservoir shall be capable of withstanding an internal hydrostatic pressure of 500 p.s.i. for 10 minutes.

S5.2.1.4 Each reservoir shall have a condensate drain valve that can be manually operated.

S5.2.1.5 Each service reservoir shall be protected against loss of air pressure due to failure or leakage in the system between the service reservoir and its source of air pressure by check valves or equivalent devices.

S5.3 *Service brakes—road tests.* The service brake system on each truck and bus shall, under the conditions of S6.1, meet the requirements of S5.3.1, S5.3.3, and S5.3.4 when tested without adjustments other than those specified in this standard. The service brake system on each trailer shall, under the conditions of S6.1, meet the requirements of S5.3.2, S5.3.3, and S5.3.4 when tested without adjustments other than those specified in this standard.

S5.3.1 *Stopping distance—trucks and buses.* When stopped six times for each combination of weight, speed, and road condition specified in S5.3.1.1, in the sequence specified in Table I, the vehicle shall stop at least once in not more than the distance specified in Table II, measured from the point at which movement of the service brake control begins, without any part of the vehicle leaving the roadway and without lockup of any wheel at speeds above 10 m.p.h. except for controlled lockup of wheels allowed by an antilock system and except for lockup of wheels on nonsteerable axles other than the two rearmost nonsteerable axles.

S5.3.1.1 Stop the vehicle from 60 m.p.h. and 20 m.p.h. on a surface with a skid number of 75, and from 20 m.p.h. on a wet surface with a skid number of 30, with the vehicle (a) loaded to its gross vehicle weight rating, and (b) at its unloaded vehicle weight plus 500 pounds (including driver and instrumentation). If the speed attaintable in 2 miles is less than 60 m.p.h., the vehicle shall stop from a speed in Table II that is 4 to 8 m.p.h. less than the speed attainable in 2 miles.

S5.3.2 *Stopping capability—trailers.* When tested at each combination of weight, speed, and road conditions specified in S5.3.2.1, in the sequence specified in Table I, with air pressure of 90 p.s.i. in the control line and service reservoir system and with no application of the towing vehicle's brakes, a trailer shall stop without any part of the trailer leaving the roadway and without lockup of any wheel at speeds above 10 m.p.h., except for controlled lockup of wheels allowed by an antilock system and except for lockup of wheels on nonsteerable axles other than the two rearmost nonsteerable axles.

S5.3.2.1 Stop the vehicle from 60 m.p.h. and 20 m.p.h. on a surface with skid number of 75, and from 20 m.p.h. on a wet surface with a skid number of 30, with the vehicle (a) loaded to its gross vehicle weight rating, and (b) at its unloaded vehicle weight plus 500 pounds (including instrumentation).

S5.3.3 *Brake actuation time.* With an initial service reservoir system air pressure of 100 p.s.i., the air pressure in each brake chamber shall reach 60 p.s.i. in not more than 0.25 second measured from the first movement of the service brake control. A vehicle designed to tow a vehicle equipped with air brakes shall be capable of meeting the above actuation time requirement with a 50-cubic-inch test reservoir connected to the control line coupling. A trailer shall meet the above actuation time requirement with its brake system connected to the test rig shown in Figure 1.

S5.3.4 *Brake release time.* With an initial brake chamber air pressure of 95 p.s.i., the air pressure in each brake chamber shall fall to 5 p.s.i. in not more than 0.50 second measured from the first movement of the service brake control. A vehicle designed to tow another vehicle equipped with air brakes shall be capable of meeting the above release time requirement with a 50-cubic-inch test reservoir connected to the control line coupling. A trailer shall meet the above release time requirement with its brake system connected to the test rig shown in Figure 1.

S5.4 *Service brake system—dynamometer tests.* Under the conditions of S6.2, each brake assembly shall meet the requirements of S5.4.1, S5.4.2, and S5.4.3 when tested in sequence and without adjustments other than those specified in this standard. A brake assembly that has undergone a road test pursuant to S5.3 need not conform to the requirements of this section. For purposes of the requirements of S5.4.1, S5.4.2, and S5.4.3, an average deceleration rate is the change in velocity divided by the deceleration time measured from the onset of deceleration.

S5.4.1 *Brake retardation force.* The sum of the retardation forces exerted by the barkes on each vehicle designed to tow or to be towed by another vehicle equipped with air brakes shall be such that the quotient

$$\frac{\text{Sum of brake retardation forces}}{\text{Sum of GAWR's}}$$

relative to brake chamber air pressure, shall have values not less than those shown in Table III. Retardation force shall be determined as follows:

S5.4.1.1 After burnishing the brake pursuant to S6.2.6, retain the brake assembly on the inertia dynamometer. With an initial brake temperature between 125° F. and 200° F., conduct a stop from 50 m.p.h., maintaining brake chamber air pressure at a constant 20 p.s.i. Measure the average torque exerted by the brake from the time the specified air pressure is reached until the brake stops and divide by the static loaded tire radius specified by the tire manufacturer to determine the retardation force. Repeat the procedure six times, increasing the brake drum or disc until the temper- p.s.i. each time. After each stop, rotate the brake drum or disc until the temperature of the brake falls to between 125° F. and 200° F.

S5.4.2 *Brake power.* When mounted on an inertia dynamometer, each brake shall be capable of making 10 consecutive decelerations at an average rate of 9 f.p.s.p.s. from 50 m.p.h. to 15 m.p.h., at equal intervals of 72 seconds, and shall be capable of decelerating to a stop from 20 m.p.h. at an average deceleration rate of 14 f.p.s.p.s. 1 minute after the 10th deceleration. The series of decelerations shall be conducted as follows:

S5.4.2.1 With an initial brake temperature between 150° F. and 200° F. for

the first brake application, and the drum or disc rotating at a speed equivalent to 50 m.p.h., apply the brake and decelerate at an average deceleration rate of 9 f.p.s.p.s. to 15 m.p.h. Upon reaching 15 m.p.h., accelerate to 50 m.p.h. and apply the brake for a second time 72 seconds after the start of the first application. Repeat the cycle until 10 decelerations have been made. The service line air pressure shall not exceed 90 p.s.i. during any deceleration.

S5.4.2.2 One minute after the end of the last deceleration required by S5.4.2.1 and with the drum or disc rotating at a speed of 20 m.p.h., decelerate to a stop at an average deceleration rate of 14 f.p.s.p.s. The service brake line air pressure shall not exceed 108 p.s.i.

S5.4.3 *Brake recovery.* Starting two minutes after completing the tests required by S5.4.2, the brake shall be capable of making 20 consecutive stops from 30 m.p.h. at an average deceleration rate of 12 f.p.s.p.s., at equal intervals of 1 minute measured from the start of each brake application. The service line air pressure needed to attain a rate of 12 f.p.s.p.s. shall not be less than 20 p.s.i. nor more than 75 p.s.i.

S5.5 *Antilock system.*

S5.5.1 *Antilock system failure.* On a vehicle equipped with an antilock system, electrical failure of any part of the antilock system shall not increase the actuation and release times of the service brakes.

S5.5.2 *Antilock system power—trailers.* On a trailer equipped with an antilock system that requires electrical power for operation, the power shall be obtained from the stop lamp circuit. Additional circuits may also be used to obtain redundant sources of electrical power.

S5.6 *Parking brake system.* Each vehicle shall have a parking brake system that under the conditions of S6.1 meets the requirements of S5.6.1 or S5.6.2, at the manufacturer's option, and the requirements of S5.6.3 and S5.6.4.

S5.6.1 *Static retardation force.* With all other brakes rendered inoperative, the static retardation force produced by the application of the parking brakes on an axle other than a steerable front axle during a static drawbar pull in a forward or rearward direction shall be such that the quotient

$$\frac{\text{Static retardation force}}{\text{GAWR}}$$

is not less than 0.28.

S5.6.2 *Grade holding.* With all parking brakes applied, the vehicle shall remain stationary facing uphill and facing downhill on a smooth, dry portland cement concrete roadway with a 20-percent grade, both (a) when loaded to its gross vehicle weight rating, and (b) at its unloaded vehicle weight plus 500 pounds (including driver and instrumentation).

S5.6.3 *Application and holding.* The parking brakes shall be applied by an energy source that is not affected by loss of air pressure or brake fluid pressure in the service brake system. Once applied, the parking brakes shall be held in the applied position solely by mechanical means.

S5.6.4 *Parking brake control—trucks and buses.* The parking brake control shall be separate from the service brake control. It shall be operable by a person seated in the normal driving position. The control shall be identified in a manner that specifies the method of control operation. The parking brake control shall control the parking brakes of the vehicle and of any air braked vehicle that it is designed to tow.

S5.7 *Emergency braking capability—trucks and buses.* Each truck and bus shall have a braking system with emergency braking capability that meets the requirements of S5.7.1, or, at the manufacturer's option, the requirements of S5.7.2.

S5.7.1 *Parking brake system with automatic application.* Each vehicle shall have a parking brake system acting on each axle, except steerable front axles, that conforms to S5.6 and that meets the following requirements:

S5.7.1.1 *Automatic application.* The parking brakes shall be automatically applied and the supply line to any towed vehicle vented to atmospheric pressure when the air pressure in all service reservoirs is less that the automatic application pressure level. The automatic application pressure level shall be between 20 and 45 p.s.i.

S5.7.1.2 *Automatic braking performance.* With the parking brake automatically applied, a vehicle shall either be capable of meeting the requirements of S5.7.2.3, with distances measured from the point of automatic application, or shall have a static retardation force not greater than 0.40 for any axle, determined in accordance with S5.6.1.

S5.7.1.3 *Release after automatic application.* After automatic application, the parking brakes shall be releasable at least once by means of a parking brake control. The parking brakes shall be releasable only if they can be automatically reapplied and exert the force required by S5.6 immediately after release.

S5.7.1.4 *Manual operation.* The parking brakes shall be manually operable and releasable when the air pressure in any service reservoir is greater than the automatic application pressure.

S5.7.2 *Modulated emergency braking system.* Each vehicle that does not have a parking brake system that is automatically applied in the event of air pressure loss shall have a parking brake system conforming to S5.6 that is capable of manual application at any reservoir system pressure level, and shall have an emergency braking system that meets the following requirements.

S5.7.2.1 *Emergency braking control.* The emergency braking system shall be controlled by the service brake control or the parking brake control. The control for the emergency braking system shall control the brakes on any towed vehicle equipped with air brakes.

S5.7.2.2 *Emergency braking system failure.* In the event of a failure of a valve, manifold, brake fluid housing, or brake chamber housing that is common to the service brake and emergency braking systems, loss of air shall not cause the parking brake to be inoperable.

S5.7.2.3 *Emergency braking stopping distance.* When stopped six times for each combination of weight and speed specified in S5.3.1.1 on a road surface with a skid number of 75, with a single failure in the service brake system of a part designed to contain compressed air or brake fluid (except failure of a common valve, manifold, brake fluid housing, or brake chamber housing) the vehicle shall stop at least once in not more than the distance specified in Table II, measured from the point at which movement of the brake control begins, without any part of the vehicle leaving the roadway.

S5.8 *Emergency braking capability—trailers.* Each trailer shall have a parking brake system that conforms to S5.6 and that applies with the force specified in S5.6.1 or S5.6.2 when the air pressure in the supply line is at atmospheric pressure.

S6. *Conditions.* The requirements of S5 shall be met under the following conditions. Where a range of conditions is specified, the vehicle must be capable of meeting the requirements at all points within the range.

S6.1 *Road test conditions.*

S6.1.1 Except as specified in S5.3 and S5.6.2, the vehicle is loaded to its gross vehicle weight rating, distributed proportionally to its gross axle weight ratings.

S6.1.2 The inflation pressure is as specified by the vehicle manufacturer for the gross vehicle weight rating.

S6.1.3 Unless otherwise specified, the transmission selector control is in neutral or the clutch is disengaged during all decelerations and during static parking brake tests.

S6.1.4 All vehicle openings (doors, windows, hood, trunk, cargo doors, etc.) are in a closed position except as required for instrumentation purposes.

S6.1.5 The ambient temperature is between 32° F. and 100° F.

S6.1.6 The wind velocity is zero.

S6.1.7 Stopping tests are conducted on a 12-foot wide level roadway having a skid number of 75, unless otherwise specified. The vehicle is alined in the center of the roadway at the beginning of a stop.

S6.1.8 Brakes are burnished before testing as follows: With the transmission in the highest gear approximately for 40 m.p.h., make 400 brake applications from 40 m.p.h. to 20 m.p.h. at 10 f.p.s.p.s. After each brake application accelerate to 40 m.p.h. and maintain that speed until making the next application at a point 1.5 miles from the point of the previous brake application. After burnishing, adjust the brakes as recommended by the vehicle manufacturer.

S6.1.9 Static parking brake tests for a semitrailer are conducted with the front-end supported by an unbraked dolly. The weight of the dolly is included as part of the trailer load.

S6.2 *Dynamometer test conditions.*

S6.2.1 The dynamometer inertia for each wheel is equivalent to the load on the wheel with the axle loaded to its gross axle weight rating.

S6.2.2 The ambient temperature is between 75° F. and 100° F.

S6.2.3 Air at ambient temperature is directed uniformly and continuously over

the brake drum or disc at a velocity of 2,200 feet per minute.

S6.2.4 The temperature of each brake is measured by a single plug-type thermocouple installed in the center of the lining surface of the most heavily loaded shoe or pad as shown in Figure II. The thermocouple is outside any center groove.

S6.2.5 The rate of brake drum or disc rotation on a dynamometer corresponding to the rate of rotation on a vehicle at a given speed is calculated by assuming a tire radius equal to the static loaded radius specified by the tire manufacturer.

S6.2.6 Brakes are burnished before testing as follows: Place the brake assembly on an inertia dynamometer and adjust the brake as recommended by the brake manufacturer. Make 200 stops from 40 m.p.h. at a deceleration of 10 f.p.s.p.s., with an initial brake temperature on each stop of not less than 315° F. and not more than 385° F. Make 200 additional stops from 40 m.p.h. at a deceleration of 10 f.p.s.p.s. with an initial brake temperature on each stop of not less than 450° F. and not more than 550° F. After burnishing, the brakes are adjusted as recommended by the brake manufacturer.

S6.2.7 The brake temperature is increased to a specified level by conducting one or more stops from 40 m.p.h. at a deceleration of 10 f.p.s.p.s. The brake temperature is decreased to a specified level by rotating the drum or disc at a constant 30 m.p.h.

TABLE I—STOPPING SEQUENCE

1. Burnish.
2. Stops with vehicle at GVWR:
   (a) 20 m.p.h. on skid number of 75.
   (b) 60 m.p.h. on skid number of 75.
   (c) 20 m.p.h. on skid number of 30.
3. Stops with vehicle at unloaded weight plus 500 pounds:
   (a) 20 m.p.h. on skid number of 75.
   (b) 60 m.p.h. on skid number of 75.
   (c) 20 m.p.h. on skid number of 30.
4. Emergency system stops with vehicle at unloaded weight plus 500 pounds (for vehicles required to conform to S5.7.2.3). Same sequence as 3 above ((a) and (b) only).
5. Emergency system stops with vehicle at GVWR (for vehicles required to conform to S5.7.2.3). Same sequence as 2 above ((a) and (b) only).

TABLE II—STOPPING DISTANCE IN FEET

Vehicle speed (m.p.h.)	Service brakes		Emergency brakes
	Skid No. 75	Skid No. 30	Skid No. 75
20	33	54	83
25	49		123
30	68		170
35	90		225
40	115		288
45	143		358
50	174		435
55	208		520
60	245		613

TABLE III—BRAKE RETARDATION FORCE

Brake retardation force GAWR:	*Brake chamber pressure, p.s.i.*
0.100	20
0.175	30
0.250	40
0.325	50
0.400	60
0.475	70
0.550	80

FIGURE 1

TRAILER TEST RIG

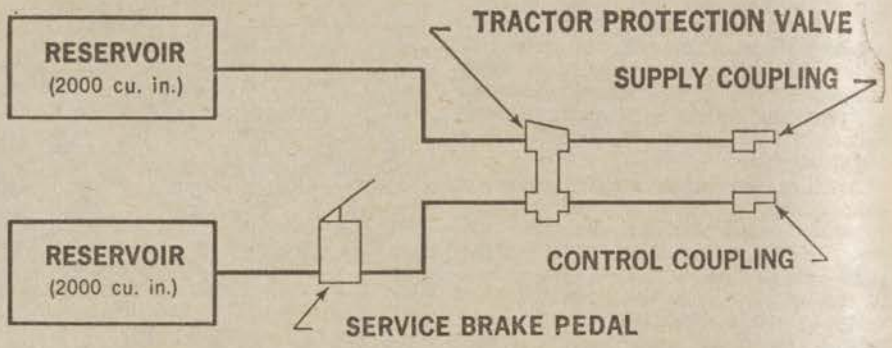
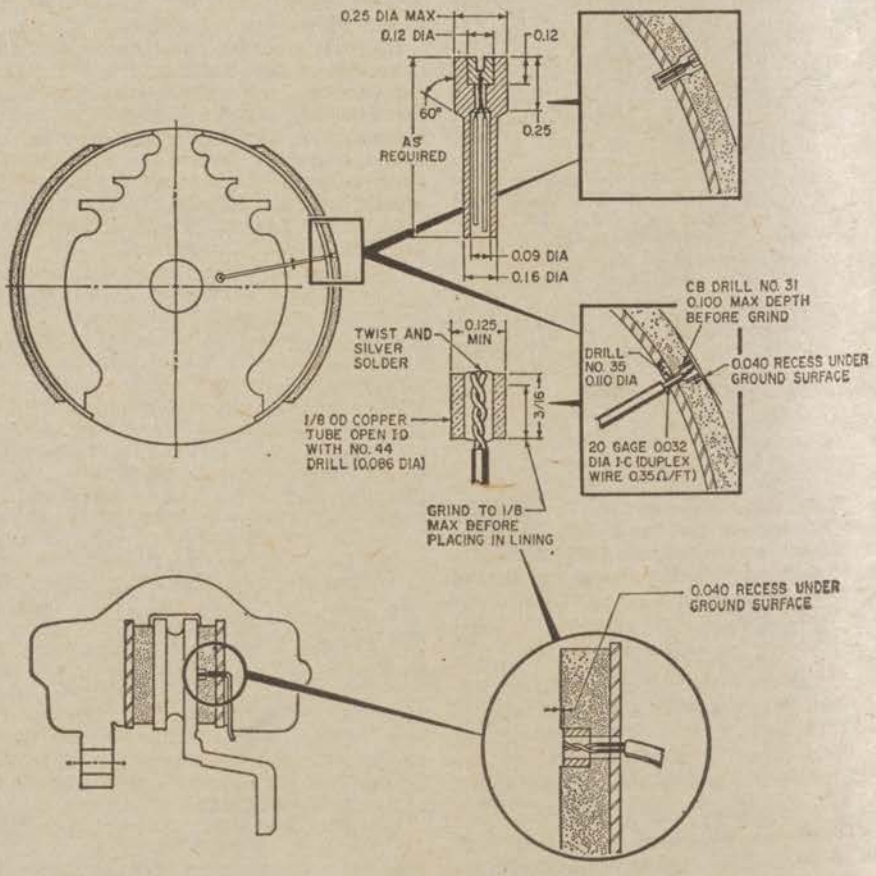


FIGURE 2

THERMOCOUPLE INSTALLATION



[FR Doc.72-2633 Filed 2-22-72;8:45 am]

[Docket 69-7; Notice 16]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

Occupant Crash Protection

The purpose of this notice is to amend Standard No. 208, Occupant Crash Protection, as proposed September 29, 1971 (36 F.R. 19266, October 1, 1971) with respect to the occupant protection options available between August 15, 1973, and August 15, 1975. The amendments proposed on September 29 are adopted essentially as proposed, with minor modifications.

The notice proposed a third occupant protection option (S4.1.2.3) for passenger cars manufactured between August 15, 1973, and August 15, 1975. The salient feature of the new option was the use of seat belts equipped with an ignition interlock system that would prevent the engine from starting if any front seat occupant did not have his belt fastened. The belts at the front outboard positions would have to meet the injury criteria of the standard in a 30-m.p.h. frontal barrier crash, and any lap belt in the center position would have to remain intact in the same crash. If shoulder belts were provided at the front positions, they would have to be nondetachable and have emergency locking retractors. Additional features of the interlock system as specified in S7.3.5 included an antidefeat measure that would require the belt to be fastened after the occupant is seated, a requirement that unfastening the belt would not stop the engine, and a provision for seat belt warning system operation when the ignition is in the "start" position and a belt is unfastened at an occupied front seat position. With minor exceptions noted in the following discussion, the option is adopted as proposed.

Several comments approved of the interlock option. Mr. Ralph Nader and the Center for Auto Safety raised procedural objections concerning the issue of placing intragovernmental communications in the docket. This issue is presently the subject of litigation in the Federal courts, and would not be appropriate for discussion herein. The Center also objected that both the interlock option, to begin August 15, 1973, and the passive restraint requirement, beginning August 15, 1975, should be instituted one year earlier. The option that includes the interlock system also requires emergency-locking shoulder belt retractors, however, and the agency has determined that the 1974 model year is the earliest practicable time by which the option can be effectuated. As for the passive restraint requirement to become effective on August 15, 1975, the reasons for setting that effective date were discussed at length in Notice 12 (36 F.R. 19254, October 1, 1971), and need not be restated here.

There were differences of opinion among the comments on the desirability of various other aspects of S4.1.2.3. The requirement of greatest concern appears to be S4.1.2.3(b), which requires the injury criteria to be met at the front outboard positions in a 30-m.p.h. frontal barrier crash with the test dummy restrained by the seat belt. It was the intent of the proposal to allow another means of providing the requisite level of occupant protection, not to lower the level of protection. Present information indicates that systems meeting the injury criteria are available using current seat belt technology, and the agency therefore adopts the requirement as proposed.

To allow greater diversity in belt system development, it has been decided to accept the suggestion made in a number of comments that conformity to Standard No. 209 should not be required of belt systems that meet the injury criteria. Accordingly, those options that require a seat belt to meet the injury criteria (S4.1.1.2, S4.1.2.2, and S4.1.2.3) are amended by limiting the application of Standard No. 209 to belts other than those meeting the injury criteria. A belt provided at a center front position is not required to meet the injury criteria and is therefore required to conform to Standard No. 209.

Related requests for exemption from the anchorage requirements of Standard No. 210 have not been adopted in that they appear to be unnecessary. An amendment to permit anchorages that absorb energy by elongating under force is not necessary, since Standard No. 210 expressly permits deformation so long as the maximum force is sustained. In the absence of other data indicating a need to amend Standard No. 210, no change is proposed in that standard.

Chrysler's suggestion that a shoulder belt shaped as an inverted Y could be used in lieu of a nondetachable upper torso belt has not been adopted, primarily because of the likelihood that it would often go unused. There is nothing to prevent a manufacturer from installing such a belt along with the lap belt, so long as the lap belt alone is capable of meeting the injury criteria.

The interlock requirements were the subject of diverse comments. Some generally endorsed the requirement for interlock at all front positions, some stated that it should not be required at any position, while others suggested that it should be installed only at the outboard seats or only at the driver's seat. Several comments indicated doubts as to the system's reliability and expressed concern about its possible interference with vehicle operation.

Upon review of the comments, the NHTSA has decided to adopt the interlock system as an option applying to all front seating positions. The 1973 options, whether active or passive, are intended to set minimum protection requirements for all front seating positions. If the third option is to give protection better than that of present belt systems, belt usage must be increased. The interlock system has the potential to increase belt usage and is therefore adopted as part of the third option. Exemption of the center front seat, as proposed by several comments, could result in increased occupancy of the center seat as an easy means of avoiding the effects of the interlock system. The effect of such avoidance would be to substantially lessen the protection afforded occupants, and the requests for center seat exemption are therefore denied. However, in consideration of some technical problems arising from the placement of sensors in the center seats, it has been decided to change the preconditions for warning system and interlock system operation. It was pointed out that the center seat cushion may be depressed far enough to activate the warning signal by the weight of two large men in the outboard positions. To alleviate this problem, S7.3.1(c), S7.3.5.2(b), and S7.4.1(b) are changed to provide for activation by the weight of a child in the front nondriver positions only when a 50th percentile adult male is seated in the driver's position.

Other problems of convenience arising from the interlock system are dealt with by the addition of two new subsections to S7.4. As a convenience in situations such as parking garages or vehicles stalled in traffic, a new S7.4.3 has been adopted, permitting restarting of the engine within 3 minutes of shutoff without interference by the interlock system. To facilitate repair and maintenance work, a new S7.4.4 is adopted to permit the interlock to be overridden by a switch that is actuated after opening the cover of the engine compartment. To reduce the possibility that the engine compartment switch will be misused, S7.4.4 provides that the switch will not defeat the interlock unless it is operated after each period of engine operation.

The requirements of S7.3.3 and S7.3.4 have been amended by adding engine operation as a necessary condition for mandatory warning system shutoff. This limits the situation in which the system must not operate; it may now operate when the ignition is in the "start" position, as requested by General Motors.

The relationship of the "start" position to system operation is also affected by the interlock system requirements. S7.3.5.4 requires the warning system to operate when the ignition is in the start position to tell the driver of a vehicle with unbelted front seat occupants why the engine fails to start.

One additional feature of the belts used in interlock systems attracted considerable comment. The amendment to S7.1.1 that would require shoulder belts provided under S4.1.2.3 to have emergency-locking retractors has been adopted as proposed. The NHTSA regards the convenience of an emergency locking retractor as a significant incentive for belt usage. In response to comments requesting an interpretation as to the number of retractors required, the standard permits a system with a single emergency-locking retractor acting on both lap and shoulder belts. In response to requests for allowance of auxiliary manual adjustment devices, such devices are permissible if they cannot be adjusted so as to cause the belt to fail the automatic

adjustment requirements of Standard No. 208.

General Motors raised a question concerning the number of test devices to be used in the frontal barrier crash test specified in S5.1. The NHTSA has interpreted the section as requiring test devices only in those seating positions for which a barrier crash test is specified by S4. The question is of general interest and is considered significant enough to warrant a clarifying amendment to S5.1 at this time.

In consideration of the foregoing, Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, § 571.208 of Title 49, Code of Federal Regulations is amended as set forth below. The standard is hereby amended upon publication of this notice in the FEDERAL REGISTER; effective dates are as stated in the text of the standard.

1. S4.1.1.2 is amended to read as follows:

S4.1.1.2 *Second option—lap belt protection system with belt warning.* The vehicle shall—

(a) At each designated seating position have a Type 1 seatbelt assembly or a Type 2 seatbelt assembly with a detachable upper torso portion that conforms to S7.1 and S7.2 of this standard.

* * * * *

2. S4.1.2 is amended to read as follows:

S4.1.2 *Passenger cars manufactured from August 15, 1973, to August 14, 1975.* Passenger cars manufactured from August 15, 1973, to August 14, 1975, inclusive, shall meet the requirements of S4.1.2.1, S4.1.2.2, or S4.1.2.3. A protection system that meets the requirements of S4.1.2.1 or S4.1.2.2 may be installed at one or more designated seating positions of a vehicle that otherwise meets the requirements of S4.1.2.3.

3. S4.1.2.2 is amended to read as follows:

S4.1.2.2 *Second option—head-on passive protection system.* The vehicle shall—

(a) At each designated seating position have a Type 1 seat belt assembly or a Type 2 seat belt assembly with a detachable upper torso portion that conforms to S7.1 and S7.2 of this standard.

* * * * *

4. A new section S4.1.2.3 is added, reading as follows:

S4.1.2.3 *Third option—lap and shoulder belt protection system with ignition interlock and belt warning.*

S4.1.2.3.1 Except for convertibles and open-body vehicles, the vehicle shall—

(a) At each front outboard designated seating position have a Type 1 seat belt assembly or a Type 2 seat belt assembly with a nondetachable upper torso portion that conforms to S7.1 and S7.2 of this standard, a seat belt warning system that conforms to S7.3, and a belt interlock system that conforms to S7.4;

(b) At any center front designated seating position, have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and to S7.1 and S7.2 of this standard, a seat belt warning system that conforms to S7.3, and a belt interlock system that conforms to S7.4;

(c) At each other designated seating position, have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and S7.1 and S7.2 of this standard;

(d) At each front outboard designated seating position, meet the frontal crash protection requirements of S5.1, in a perpendicular impact, with the test device restrained by a Type 1 seat belt assembly or a Type 2 seat belt assembly with a nondetachable upper torso portion; and

(e) When it perpendicularly impacts a fixed collision barrier, while moving longitudinally forward at any speed up to and including 30 m.p.h., under the test conditions of S8.1, with an anthropomorphic test device at any front center seating position restrained by a Type 1 or Type 2 seatbelt assembly, experience no complete separation of any load-bearing element of the seatbelt assembly or anchorage.

S4.1.2.3.2 Convertibles and open-body type vehicles shall at each designated seating position have a Type 1 or Type 2 seatbelt assembly that conforms to Standard No. 209 and to S7.1 and S7.2 of this standard, and at each front designated seating position have a seatbelt warning system that conforms to S7.3, and a belt interlock system that conforms to S7.4.

5. S5.1 is amended to read as follows:

S5.1 *Frontal barrier crash.* When the vehicle, traveling longitudinally forward at any speed up to and including 30 m.p.h., impacts a fixed collision barrier that is perpendicular to the line of travel of the vehicle, or at any angle up to 30° in either direction from the perpendicular to the line of travel of the vehicle, under the applicable conditions of S8, with anthropomorphic test devices at each designated seating position for which a barrier crash test is required under S4, it shall meet the injury criteria of S6.

6. The following sentence is added at the end of S7.1.1:

S7.1.1 * * * However, an upper torso restraint furnished in accordance with S4.1.2.3.1(a) shall adjust by means of an emergency-locking retractor that conforms to Standard No. 209.

7. S7.3 is amended, and a new S7.4 added, to read as follows:

S7.3 *Seat belt warning system.* The following provisions shall apply to all seat belt assemblies furnished in accordance with S4.1.1 or S4.1.2, except as provided by S7.3.5 with respect to belt interlock systems furnished in accordance with S4.1.2.3.

S7.3.1 * * *

(b) The driver's lap belt is not in use, as determined, at the manufacturer's option, either by the belt latch mechanism being fastened or by the belt being extended at least 4 inches from its stowed position.

(c) A person of at least the weight of a 50th percentile adult male is seated with the belt fastened at the driver's position, and a person of at least the weight of a 50th percentile 6-year-old child is seated in the right front designated seating position and the lap belt for that position is not in use, as determined, at the manufacturer's option, either by the belt latch mechanism being fastened or by the belt being extended at least 4 inches from its stowed position.

* * * * *

S7.3.3 The warning systems shall not activate if the vehicle has an automatic transmission, the engine is operating, and the gear selector is in the "Park" position.

S7.3.4 Notwithstanding the provisions of S7.3.1 and S7.3.5.2, when the engine of a vehicle with a manual transmission is operating, the warning system shall either—

(a) Not activate when the transmission is in neutral; or

(b) Not activate when the parking brake is engaged.

S7.3.5 The above provisions of S7.3 shall apply to seat belt assemblies with interlock systems furnished in accordance with S4.1.2.3, with the following exceptions.

S7.3.5.1 The warning system shall also be provided for the center front seating position, if any.

S7.3.5.2 In addition to the conditions specified in S7.3.1, the warning system shall activate if—

(a) The vehicle's engine is operating and the transmission gear selector is in any forward position, and

(b) A person of at least the weight of a 50th percentile adult male is seated with the belt fastened at the driver's position, and a person of at least the weight of a 50th percentile 6-year-old child is seated in a center front designated seating position and the lap belt for the center front position is not in use, as determined, at the manufacturer's option, either by the belt latch mechanism being fastened or the belt being extended at least 4 inches from its stowed position.

S7.3.5.3 The provisions of S7.3.2 shall apply to all front seating positions.

S7.3.5.4 Notwithstanding the other provisions of S7.3, the warning system shall activate whenever the ignition switch is in the "start" position and the operation of the seatbelt systems required by S7.4.1 to start the engine has not been performed.

S7.4 *Belt interlock system.*

S7.4.1 Except as otherwise provided in S7.4.3 and S7.4.4, the engine starting system of a passenger car manufactured in accordance with S4.1.2.3 shall not be operable when either condition (a) or (b) exists, unless the belt system at each occupied position is operated after the occupant is seated. At each seating position, the operation that allows the starting of the engine shall be, at the manufacturer's option, either the extension of the belt assembly at least 4 inches from its stowed position, or the fastening of the belt latch mechanism.

(a) A person of at least the weight of a 5th percentile adult female is seated at the driver's seating position.

(b) A person of at least the weight of a 50th percentile adult male is seated at

the driver's seating position and a person of at least the weight of a 50th percentile 6-year-old child is seated at any other front designated seating position.

S7.4.2 A belt interlock system furnished in accordance with S7.4.1 shall not affect the operation of the vehicle when the engine is running.

S7.4.3 Notwithstanding the provisions of S7.4.1, an engine starting system may operate without interference from a belt interlock system within a period of not more than 3 minutes after the engine has been stopped.

S7.4.4 Notwithstanding the provisions of S7.4.1, an engine starting system may be operable if, after each period of engine operation, a manual switch is operated within the engine compartment.

(Secs. 103 and 119, National Traffic and Motor Vehicle Safety Act, 15 U.S.C. 1392, 1407; delegation of authority by the Secretary of Transportation to the National Highway Traffic Safety Administrator, 49 CFR 1.51)

Issued on February 17, 1972.

DOUGLAS W. TOMS,
Administrator.

[FR Doc.72-2674 Filed 2-18-72;9:23 am]

Title 6—ECONOMIC STABILIZATION

Chapter I—Cost of Living Council

PART 101—COVERAGE, EXEMPTIONS AND CLASSIFICATION OF ECONOMIC UNITS

Miscellaneous Amendments

Part 101—Coverage, Exemptions and Classification of Economic Units was added to a new Title 6 and a new Chapter I of the Code of Federal Regulations on November 13, 1971 (36 F.R. 21788). Part 101 was amended and republished on January 27, 1972 (37 F.R. 1237) and further amended on February 4, 1972 (37 F.R. 2678).

The purpose of the amendment in § 101.1(e) of Subpart A is to make clear that the previous exemption of Puerto Rico does not cover the sale of goods and services by firms in the United States and the District of Columbia to firms in the Commonwealth of Puerto Rico. In § 101.2 a definition of "Real estate with improvements" has been added to refer only to land upon which there is a structure, dwelling or other building.

Section 101.33(a)(2)(i) of Subpart D was intended to exempt all nonresidential property which may not be properly classified as farm, industrial or commercial. Accordingly, this section has been rearranged. Section 101.34(j) of Subpart D has been revised to state expressly that it applies only to price adjustments. Section 101.104 of Subpart F has been amended to make express the intent that the exemption applies only so long as the individual's wages are less than $1.90 per hour.

Because the purpose of this regulation is to amend and modify Part 101, to provide immediate guidance and information as to Cost of Living Council decisions, the Cost of Living Council finds that its publication in accordance with usual rule making procedures is impracticable and that good cause exists for making this regulation effective in less than 30 days.

This amendment shall become effective when filed with the Office of the Federal Register.

DONALD RUMSFELD,
Director, Cost of Living Council.

Part 101 of Chapter I of Title 6 of the Code of Federal Regulations is amended as follows:

1. Subpart A is revised and amended in § 101.1(e) to read as follows:

§ 101.1 Purpose and scope.

* * * * *

(e) This part applies to:

(1) Economic units and transactions in the several States and the District of Columbia; and

(2) Sales of goods and services by firms in the several States and the District of Columbia to firms in the Commonwealth of Puerto Rico.

2. Subpart A is further amended in § 101.2 to add a definition for "Real estate with improvements", after the definition of "Price Commission", to read as follows:

§ 101.2 Definitions.

* * * * *

"Real estate with improvements" means land upon which there is a structure, dwelling, or other building. It does not mean land on which roads, water, sewer, or drainage facilities have been constructed.

3. Subpart D is amended by revising §§ 101.33(a)(2)(i) and 101.34(j), to read as follows:

§ 101.33 Real estate and insurance premiums.

(a) * * *

(2) *Rentals.* (i) All nonresidential property, including property leased for industrial, farm, or commercial purposes.

* * * * *

§ 101.34 Certain price adjustments.

* * * * *

(j) *Retail firms, including restaurants.* Price adjustments of retail firms, including restaurants, with annual sales or revenues of less than $100,000.

4. Subpart F is amended by revising § 101.104, to read as follows:

§ 101.104 Pay adjustments to those individuals earning less than $1.90 per hour.

Notwithstanding the provisions of this title, this title shall be implemented in such a manner that pay adjustments to any individual who is paid at a rate of less than $1.90 per hour shall not be limited in any manner until such time as the earnings of such individuals are no longer less than $1.90 per hour.

(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; and Executive Order No. 11640)

[FR Doc.72-2843 Filed 2-23-72;9:45 am]

Chapter III—Price Commission

PART 300—PRICE STABILIZATION

Miscellaneous Amendments

The purpose of these amendments is to make several changes of a clarifying or perfecting nature in Part 300.

In § 300.5, the definition of the term "Profit margin" is revised to reflect the opinion of the Commission, as set forth in the forms printed in Appendix II to Part 300, that "operating income" is a better measure of profits for its purposes than "net profits" and that the use of the words "net sales" rather than "gross sales" would be more consistent with business practices as the basis for calculating profit ratios. The definition of "Retailer" is revised to insert the phrase "without substantially changing the form of that property" to more clearly distinguish retailers from manufacturers. The definition of "Wholesaler" is revised to include a person who resells property to industrial, commercial, institutional, and professional business users, to conform to other Federal definitions that classify such sales as a wholesaling activity and to conform to business practices in the distribution trade.

Paragraph (h) of § 300.20, relating to quarterly reports by insurers, is amended to limit the regular quarterly reporting requirement thereunder to rate increases during that quarter that affect $250,000 or more in aggregate annualized premiums under the existing rate. It is also amended by adding a new sentence requiring each insurer that had annual revenues of $50 million or more during the calendar year 1971 to file a report of each rate increase made by it during the last quarter of that year.

A new § 300.21 is added to prescribe the limitations on fees charged by brokers for trading securities over-the-counter. The new section is based on information to the Commission that it is not feasible for firms which trade securities to charge fees when securities are traded over the counter that differ from those charged when securities are traded on a securities exchange. (See Price Commission notice published on February 23, 1972, 37 F.R. 3863.)

To reflect a decision made by the Commission in prescribing reporting forms under Appendix II to this part, §§ 300.51(e) and 300.52(a) are amended to conform to the requirements applicable to those forms that reports under those sections be filed within 45 days after the end of each fiscal quarter, except for the quarter ending a firm's fiscal year.

Section 300.405 is amended to make it clear that the base price determination under that section is determined by

the highest price specified in contracts, and not necessarily the highest price "charged." For various reasons, the seller may not have been able to "change" the price specified in a contract and should not be penalized therefor.

Section 300.409, which relates to "new property" and "new services" is unclear as to whether it applies to new models and as to the status of a property or service offered for sale or lease after a hiatus of more than 1 year. To reflect the Price Commission's intent in both regards, paragraphs (a) and (b) are revised to make it clear that property or services being offered for sale or lease by a person after a hiatus of more than 1 year do not have to meet the test of the first three sentences of paragraph (b) of the section to qualify as a new product or service, and to make it clear that other products or services do have to meet the test of the first three sentences of paragraph (b). Therefore, changes that constitute only a "new model" of a product or service are not considered to be a new product or service. In addition, paragraph (a) as presently written can be construed to discriminate, in the making of determinations regarding new property or services, between the purchaser of an unincorporated firm which is not a "legal person" and the purchaser of an incorporated firm which is a "legal person." The purchaser of an incorporated retail business would not be able, for example, to determine the base price for the purchased business because the "person" (i.e. the corporation) offering property for sale is the same. A new sentence has been added to the revised paragraph (a) to eliminate the distinction.

A new § 300.511 is added to clarify the Price Commission's intent, when stating in this part that a specific function will be performed by the Internal Revenue Service, to effect a delegation to the Secretary of the Treasury and, through a standing delegation, from the Secretary to the Internal Revenue Service.

Section 300.551, relating to criminal and civil penalties for violations of the regulations, and injunctive relief, is added to reflect sections 208 and 209 of the Economic Stabilization Act, as amended by the Economic Stabilization Act Amendments of 1971 (Public Law 92–210, 85 Stat. 743) and Executive Order 11640 (37 F.R. 1213).

Because the purpose of these amendments is to provide immediate guidance and information as to the price stabilization program, it is hereby found that notice and public procedure thereon is impracticable and that good cause exists for making them effective less than 30 days after publication.

(Economic Stabilization Act of 1970, as amended, Public Law 91–379, 84 Stat. 799; Public Law 91–558, 84 Stat. 1468; Public Law 92–8, 85 Stat. 13; Public Law 92–15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92–210; Executive Order No. 11640, 37 F.R. 1213, Jan. 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

In consideration of the foregoing, Part 300 of Title 6 of the Code of Federal Regulations is amended as set forth below, effective February 24, 1972.

Issued in Washington, D.C., on February 23, 1972.

C. JACKSON GRAYSON, Jr.,
Chairman, Price Commission.

1. The definitions of "Profit margin," "Retailer," and "Wholesaler" in § 300.5 are revised to read as follows:

§ 300.5 Definitions.

* * * * *

"Profit margin" means the ratio that operating income (net sales less cost of sales and less normal and generally recurring costs of business operations, determined before nonoperating items, extraordinary items, and income taxes) bears to net sales as reported on the person's financial statement prepared in accordance with generally accepted accounting principles consistently applied.

* * * * *

"Retailer" means a person who carries on the trade or business of purchasing property and, without substantially changing the form of that property, reselling it to ultimate consumers, and, whenever the Price Commission considers it appropriate, includes any retailing subsidiary, division, affiliate, or similar entity that is a part of, or is directly or indirectly controlled by, another person.

* * * * *

"Wholesaler" means a person who carries on the trade or business of purchasing property and, without substantially changing the form of that property, reselling it to retailers for resale or to industrial, commercial, institutional, or professional business users. It also includes, whenever the Price Commission considers it appropriate, any wholesaling subsidiary, division, affiliate, or similar entity that is a part of, or is directly or indirectly controlled by, another person.

2. Paragraph (h) of § 300.20 is revised to read as follows:

§ 300.20 Insurers.

* * * * *

(h) *Reporting.* Each insurer that had annual revenues of $50 million or more during the calendar year preceding any rate increase proposed by it shall file a quarterly report with the Price Commission, at the time it normally releases its quarterly reports, but in any event not more than 45 days after the end of the quarter, of each rate increase by it during that quarter that affects $250,000 or more in aggregate annualized premiums under the existing rate. In addition, each insurer that had annual revenues of $50 million or more during the calendar year 1971 shall, not more than 90 days after the end of its last fiscal quarter ending before January 1, 1972, file a report with the Price Commission of each rate increase made by it during that quarter. Each report under this section shall be made on a form prescribed by the Commission and shall contain the information required by that form.

3. The following new section is inserted after § 300.20:

§ 300.21 Securities traded over-the-counter.

No person may charge a brokerage fee for the over-the-counter trading of any security that exceeds the fee which would be charged on a similar transaction on a securities exchange, under a fee schedule which has been certified by the Securities and Exchange Commission as being consistent with the Economic Stabilization Program.

§ 300.51 [Amended]

4. Paragraph (e) of § 300.51 is amended by deleting therefrom the words "at the time it normally releases its quarterly report, but".

§ 300.52 [Amended]

5. Paragraph (a) of § 300.52 is amended by deleting therefore the words "at the time it normally releases its quarterly report, but in any event".

§ 300.405 [Amended]

6. Paragraph (a) of § 300.405 is amended by striking out the words "highest price charged by the seller to" and inserting the words "highest price specified by the seller in contracts with" in place thereof.

7. Paragraph (b) of § 300.405 is amended by striking out the words "highest price charged to" and inserting the words "highest price specified by the seller in contracts with" in place thereof.

8. Paragraphs (a) and (b) of § 300.409 are revised to read as follows:

§ 300.409 New property and new services.

(a) *Definition.* For the purposes of this section, "new property" or "new services" means any personal property or any service which—

(1) Meets the requirements of the first three sentences of paragraph (b) of this section and was not offered for sale or lease by the person at any time during the 1-year period immediately preceding the date on which he is offering the property or service for sale or lease; or

(2) Without regard to the first three sentences of (b) of this section, was previously offered for sale or lease by the person in the same or substantially similar form, but was not offered for sale or lease by that person at any time during the 1-year period immediately preceding the date on which he is offering the property or service for sale or lease. For the purposes of this section, the fact that the person offering the new property or services is incorporated, does not exclude it from the coverage of this section.

(b) *Personal property or services.* To be considered as new personal property or new services under paragraph (a)(1) of this section, a property or service must be substantially different from other property or services in purpose, function, quality, or technology, or the use of that property or service must effect a substantially different result. Property or services that differ from

other property or services only in appearance, arrangement, or combination is not to be considered to be new. A change in fashion, style, form, or packaging is not ordinarily considered to create a new property or service. A property, or part thereof, which undergoes a substantial capital improvement is treated as new property for purposes of a lease. For the purposes of this paragraph, "substantial capital improvement" means a permanent improvement or betterment made to increase the value of the property or to restore the property, the cost of which equals or exceeds at least 3 months' rent and which exceeds $100.

* * * * *

9. The following new section is added after § 300.506:

§ 300.511 Delegations to Internal Revenue Service.

It is the Price Commission's intent, whenever it states in this part that a function is to be performed by the Internal Revenue Service, to effect a delegation to the Secretary of the Treasury and, through a standing delegation by him, from the Secretary to the Internal Revenue Service.

10. Section 300.551 is revised to read as follows:

§ 300.551 Penalties.

(a) *Criminal.* Any person who wilfully violates any provision of this part or any order issued thereunder shall be subject to a fine of not more than $5,000 for each violation.

(b) *Civil penalties.* A person who violates any provision of this part or any order issued thereunder shall be subject to a civil penalty of not more than $2,500 for each violation.

(c) *Injunctions and other relief.* Whenever it appears to the Price Commission that any individual or organization has engaged, is engaged, or is about to engage in any act or practice constituting a violation of this part or any order issued thereunder, the Commission may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin that act or practice. The relief sought may include a mandatory injunction commanding any person to comply with any such order or regulation and restitution of moneys received in violation of any such order or regulations.

[FR Doc.72-2895 Filed 2-23-72;11:42 am]

PART 305—PRICE COMMISSION PROCEDURAL REGULATIONS

Miscellaneous Amendments

The purpose of these amendments is to make certain corrections in Part 305 and to require applications for exceptions filed by prenotification firms to be filed with the Price Commission.

In § 305.1(c), the reference to "§ 102.2 of this title" is deleted and a reference is inserted to section 204(a) of the Economic Stabilization Act Amendments of 1971, with respect to small business concerns. The word "sentence" which erroneously appears in § 305.27(a) is deleted and the word "instance" is inserted in its place. In § 305.27(c), the word "applicant" is deleted and the word "appellant" is inserted in its place. In § 305.50(b), the reference to "5 U.S.C. 533" is changed to "5 U.S.C. 553."

Pursuant to a decision of the Price Commission, requests for exceptions by Tier I (prenotification) firms will be filed directly with the Price Commission. Section 305.30(a) is therefore being amended to reflect this decision.

Because the purpose of these amendments is to make corrections and clarifications and to provide immediate guidance and information as to the price stabilization program, it is hereby found that notice and public procedure thereon is impracticable and that good cause exists for making them effective less than 30 days after publication.

(Economic Stabilization Act of 1970, as amended, Public Law 91-379, 84 Stat. 799; Public Law 91-558, 84 Stat. 1468; Public Law 92-8, 85 Stat. 13; Public Law 92-15, 85 Stat. 38; Economic Stabilization Act Amendments of 1971, Public Law 92-210; Executive Order No. 11640, 37 F.R. 1213, January 27, 1972; Cost of Living Council Order No. 4, 36 F.R. 20202, Oct. 16, 1971)

In consideration of the foregoing, Part 305 of Title 6 of the Code of Federal Regulations is amended as set forth below, effective February 24, 1972.

Issued in Washington, D.C., on February 23, 1972.

C. JACKSON GRAYSON, JR.,
Chairman, Price Commission.

§ 305.1 [Amended]

1. Paragraph (c) of § 305.1 is amended by striking out the words "§ 102.2 of this title" and inserting the words "section 204(a) of the Economic Stabilization Act Amendments of 1971" in place thereof.

§ 305.27 [Amended]

2. Paragraph (a) of § 305.27 is amended by striking out the word "sentence" and inserting the word "instance in place thereof.

3. Paragraph (c) of § 305.27 is amended by striking out the word "applicant" and inserting the word "appellant" in place thereof.

4. Paragraph (a) of § 305.30 is revised to read as follows:

§ 305.30 Purpose and scope.

(a) Except for those filed by prenotification firms (as defined in § 300.5 of this chapter) which shall be filed directly with the Price Commission, requests for exceptions are initiated pursuant to Subpart D of Part 401 of this title.

* * * * *

§ 305.50 [Amended]

5. Paragraph (b) of § 305.50 is amended by striking out the reference to "5 U.S.C. 533" and inserting a reference to "5 U.S.C. 553" in place thereof.

[FR Doc.72-2894 Filed 2-23-72;11:42 am]

Proposed Rule Making

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 73]

BIOLOGICAL PRODUCTS

Neurovirulence Safety Tests for Live Measles, Mumps, and Rubella Vaccine

Notice is hereby given that the Director, National Institutes of Health, proposes to amend Part 73 of the Public Health Service regulations by (1) deleting the neurovirulence safety test in monkeys for neurotropic agents presently required on each lot of Measles Virus Vaccine, Live, Attenuated; Mumps Virus Vaccine, Live and Rubella Virus Vaccine, Live and (2) revising the neurovirulence safety test on the virus seed strain of these three vaccines. It is the conclusion of the Division of Biologics Standards that the safety, purity and potency of these vaccines will not be affected by such amendments.

Inquiries may be addressed, and data, views, and arguments may be presented by interested parties, in writing, in triplicate, to the Director, Division of Biologics Standards, National Institutes of Health, Public Health Service, 900 Rockville Pike, Bethesda, MD 20014. All comments received in response to this notice will be available for public inspection and copying in the Office of the Assistant to the Director, Division of Biologics Standards, Room 122, Building 29, National Institutes of Health, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m. All relevant material received not later than 30 days after publication of this notice in the FEDERAL REGISTER will be considered.

Notice is also given that it is proposed to make any amendments that are adopted effective 30 days after publication in the FEDERAL REGISTER.

It is therefore proposed to amend Part 73 as set forth below.

Dated: February 15, 1972.

ROBERT Q. MARSTON,
Director,
National Institutes of Health.

1. Amend § 73.1060 by revising paragraph (c) to read as follows:

§ 73.1060 The product.

* * * * *

(c) *Neurovirulence safety test of the virus seed strain in monkeys*—(1) *The test.* A demonstration shall be made in monkeys of the lack of neurotropic properties of the seed strain of attenuated measles virus used in manufacture of measles virus vaccine. For this purpose, vaccine from each of the five consecutive lots (§ 73.1065) used by the manufacturer to establish consistency of manufacture of the vaccine shall be tested separately in the following manner:

(i) Samples of each of the five lots of vaccine shall be tested in measles susceptible monkeys. Immediately prior to initiation of a test each monkey shall have been shown to be serologically negative for neutralizing antibodies by means of a tissue culture neutralization test with undiluted serum from each monkey tested at approximately 100 $TCID_{50}$ of Edmonston strain measles virus, or negative for measles virus antibodies as demonstrated by tests of equal sensitivity.

(ii) A test sample of vaccine removed after clarification but before final dilution for standardization of virus content shall be used for the test.

(iii) Vaccine shall be injected by combined intracerebral, intraspinal, and intramuscular routes into not less than 20 Macaca or Cercopithecus monkeys or a species found by the Director, Division of Biologics Standards, to be equally suitable for the purpose. The animals shall be in overt good health and injected under deep barbiturate anesthesia. The intramuscular injection shall consist of 1.0 milliliter of test sample into the right leg muscles. At the same time, 200 milligrams of cortisone acetate shall be injected into the left leg muscles, and 1.0 milliliter of procaine penicillin (300,000 units) into the right arm muscles. The intracerebral injection shall consist of 0.5 milliliter of test sample into each thalamic region of each hemisphere. The intraspinal injection shall consist of 0.5 milliliter of test sample into the lumbar spinal cord enlargement.

(iv) The monkeys shall be observed for 17–21 days and symptoms of paralysis as well as other neurologic disorders shall be recorded.

(v) At least 90 percent of the test animals must survive the test period without significant weight loss, except that, if at least 70 percent of the test animals survive the first 48 hours after injection, those animals which do not survive this 48-hour test period may be replaced by an equal number of qualified test animals which are tested pursuant to subdivisions (i) through (iv) of this subparagraph. At least 80 percent of the animals used must show gross or microscopic evidence of inoculation trauma in the thalamic area and microscopic evidence of inoculation trauma in the lumbar region of the spinal cord. If less than 70 percent of the test animals survive the first 48 hours, or if less than 80 percent of the animals meet the inoculation criteria prescribed in this paragraph, the test must be repeated.

(vi) At the end of the observation period, each surviving monkey shall (*a*) be bled and the serum tested for evidence of serum antibody conversion to measles virus and (*b*) be autopsied and samples of cerebral cortex and of cervical and lumbar spinal cord enlargements shall be taken for virus recovery and identification if needed pursuant to subdivision (vii) of this subparagraph. Histological sections shall be prepared from both spinal cord enlargements and appropriate sections of the brain and examined.

(vii) Doubtful histopathological findings necessitate (*a*) examination of a sample of sections from several regions of the brain in question, and (*b*) attempts at virus recovery from the nervous tissues previously removed from the animal.

(viii) The lot is satisfactory if the histological and other studies demonstrate no evidence of changes in the central nervous system attributable to unusual neurotropism of the seed virus or of the presence of extraneous neurotropic agents.

(2) *Wild virus controls.* As a check against the inadvertent introduction of wild measles virus, at least four uninoculated measles susceptible control monkeys shall be maintained as either cage mates to, or within the same immediate area of, the 20 inoculated test animals for each lot of vaccine for the entire period of observation (17–21 days) and an additional 10 days. Serum samples from these control contact monkeys drawn at the time of seed virus inoculation of the test animals, and again after completion of the test, shall be shown to be free of measles neutralizing antibodies.

(3) *Test results.* (i) For each lot of vaccine under test, at least 80 percent of the monkeys must show measles antibody serological conversion (1:4 or greater) and the control contact monkeys must demonstrate no immunological response indicative of measles virus infection.

(ii) The measles virus seed has acceptable neurovirulence properties for use in vaccine manufacture only if for each of the five lots (*a*) 90 percent of the monkeys survive the observation period, (*b*) the histological and other studies produce no evidence of changes in the central nervous system attributable to unusual neurotropism of the seed virus and (*c*) there is no evidence of the presence of extraneous neutropic agents.

(4) *Need for additional neurovirulence safety testing.* A neurovirulence safety test as prescribed in this paragraph shall be performed on vaccine from five consecutive lots whenever a new production seed lot is introduced or whenever the source of cell culture substrate must be reestablished and recertified as prescribed in § 73.1061 (a), (b), and (c).

§ 73.1062 [Amended]

2. Amend § 73.1062 by deleting paragraph (d).

3. Amend § 73.1100 by revising paragraph (c) to read as follows:

§ 73.1100 The product.

* * * * *

(c) *Neurovirulence safety test of the virus seed strain in monkeys*—(1) *The test.* A demonstration shall be made in monkeys of the lack of neurotropic properties of the seed strain of attenuated mumps virus used in the manufacture of mumps vaccine. For this purpose, vaccine from each of the five consecutive lots (§ 73.1105) used by the manufacturer to establish consistency of manufacture of the vaccine shall be tested separately in monkeys shown to be serologically negative for mumps virus antibodies in the following manner:

(i) A test sample of vaccine removed after clarification but before final dilution for standardization of virus content shall be used for the test.

(ii) Vaccine shall be injected by combined intracerebral, intraspinal, and intramuscular routes into not less than 20 Macaca or Cercopithecus monkeys or a species found by the Director, Division of Biologics Standards, to be equally suitable for the purpose. The animals shall be in overt good health and injected under deep barbiturate anesthesia. The intramuscular injection shall consist of 1.0 milliliter of test sample into the right leg muscles. At the same time, 200 milligrams of cortisone acetate shall be injected into the left leg muscles, and 1.0 milliliter of procaine penicillin (300,000 units) into the right arm muscles. The intracerebral injection shall consist of 0.5 milliliter of test sample into each thalamic region of each hemisphere. The intraspinal injection shall consist of 0.5 milliliter of test sample into the lumbar spinal cord enlargement.

(iii) The monkeys shall be observed for 17–21 days and symptoms of paralysis as well as other neurologic disorders shall be recorded.

(iv) At least 90 percent of the test animals must survive the test period without significant weight loss, except that, if at least 70 percent of the test animals survive the first 48 hours after injection, those animals which do not survive this 48-hour test period may be replaced by an equal number of qualified test animals which are tested pursuant to subdivisions (i) through (iii) of this subparagraph. At least 80 percent of the animals used must show gross or microscopic evidence of inoculation trauma in the thalamic area and microscopic evidence of inoculation trauma in the lumbar region of the spinal cord. If less than 70 percent of the test animals survive the first 48 hours, or if less than 80 percent of the animals fail to meet the inoculation criteria prescribed in this paragraph, the test must be repeated.

(v) At the end of the observation period, each surviving animal shall be autopsied and samples of cerebral cortex and of cervical and lumbar spinal cord enlargements shall be taken for virus recovery and identification if needed pursuant to subdivision (vi) of this subparagraph. Histological sections shall be prepared from both spinal cord enlargements and appropriate sections of the brain and examined.

(vi) Doubtful histopathological findings necessitate (*a*) examination of a sample of sections from several regions of the brain in question, and (*b*) attempts at virus recovery from the nervous tissues previously removed from the animals.

(vii) The lot is satisfactory if the histological and other studies demonstrate no evidence of changes in the central nervous system attributable to unusual neurotropism of the seed virus or of the presence of extraneous neurotropic agents.

(2) *Test results.* The mumps virus seed has acceptable neurovirulence properties for use in vaccine manufacture only if for each of the five lots (i) 90 percent of the monkeys survive the observation period, (ii) the histological and other studies produce no evidence of changes in the central nervous system attributable to unusual neurotropism or replication of the seed virus and (iii) there is no evidence of the presence of extraneous neurotropic agents.

(3) *Need for additional neurovirulence safety testing.* A neurovirulence safety test as prescribed in this paragraph shall be performed on vaccine from five consecutive lots whenever a new production seed lot is introduced or whenever the source of cell culture substrate must be reestablished and recertified as prescribed in § 73.1101(a).

§ 73.1102 [Amended]

4. Amend § 73.1102 by deleting paragraph (c).

5. Amend § 73.1120 by revising paragraph (e) to read as follows:

§ 73.1120 The product.

* * * * *

(e) *Neurovirulence safety test of the virus seed strain in monkeys*—(1) *The test.* A demonstration shall be made in monkeys of the lack of neurotropic properties of the seed strain of attenuated rubella virus used in the manufacture of rubella vaccine. For this purpose, vaccine from each of the five consecutive lots (§ 73.1125) used by the manufacturer to establish consistency of manufacture of the vaccine shall be tested separately in monkeys shown to be serologically negative for rubella virus antibodies in the following manner:

(i) A test sample of vaccine removed after clarification but before final dilution for standardization of virus content shall be used for the test.

(ii) Vaccine shall be injected by combined intracerebral, intraspinal, and intramuscular routes into not less than 20 Macaca or Cercopithecus monkeys or a species found by the Director, Division of Biologics Standards, to be equally suitable for the purpose. The animals shall be in overt good health and injected under deep barbiturate anesthesia. The intramuscular injection shall consist of 1.0 milliliter of test sample into the right leg muscles. At the same time, 200 milligrams of cortisone acetate shall be injected into the left leg muscles, and 1.0 milliliter of procaine penicillin (300,000 units) into the right arm muscles. The intracerebral injection shall consist of 0.5 milliliter of test sample into each thalamic region of each hemisphere. The intraspinal injection shall consist of 0.5 milliliter of test sample into the lumbar spinal cord enlargement.

(iii) The monkeys shall be observed for 17–21 days and symptoms of paralysis as well as other neurologic disorders shall be recorded.

(iv) At least 90 percent of the test animals must survive the test period without significant weight loss, except that, if at least 70 percent of the test animals survive the first 48 hours after injection, those animals which do not survive this 48-hour test period may be replaced by an equal number of qualified test animals which are tested pursuant to subdivisions (i) through (iii) of this subparagraph. At least 80 percent of the animals used must show gross or microscopic evidence of inoculation trauma in the thalamic area and microscopic evidence of inoculation trauma in the lumbar region of the spinal cord. If less than 70 percent of the test animals survive the first 48 hours, or if less than 80 percent of the animals fail to meet the inoculation criteria prescribed in this paragraph, the test must be repeated.

(v) At the end of the observation period, each surviving animal shall be autopsied and samples of cerebral cortex and of cervical and lumbar spinal cord enlargements shall be taken for virus recovery and identification if needed pursuant to subdivision (vi) of this subparagraph. Histological sections shall be prepared from both spinal cord enlargements and appropriate sections of the brain and examined.

(vi) Doubtful histopathological findings necessitate (*a*) examination of a sample of sections from several regions of the brain in question, and (*b*) attempts at virus recovery from the nervous tissues previously removed from the animal.

(vii) The lot is satisfactory if the histological and other studies demonstrate no evidence of changes in the central nervous system attributable to the presence of unusual neurotropism of the seed virus or of the presence of extraneous neurotropic agents.

(2) *Test results.* The rubella virus seed has acceptable neurovirulence properties for use in vaccine manufacture only if for each of the five lots: (i) 90 percent of the monkeys survive the observation period, (ii) the histological and other studies produce no evidence of changes in the central nervous system attributable to the presence of unusual neurotropism or replication of the seed virus and (iii) there is no evidence of the presence of extraneous neurotropic agents.

(3) *Need for additional neurovirulence safety testing.* A neurovirulence safety test as prescribed in this paragraph shall be performed on vaccine from five consecutive lots whenever a new production seed lot is introduced or whenever the source of cell culture

substrate must be reestablished and recertified as prescribed in § 73.1121 (a), (b), (c), and (c–1).

§ 73.1122 [Amended]

6. Amend § 73.1122 by deleting paragraph (d).

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Sec. 351, 58 Stat. 702, as amended; 42 U.S.C. 262)

[FR Doc.72–2712 Filed 2–23–72;8:48 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[14 CFR Part 1245]

PATENT WAIVER REGULATIONS

Proposed General Procedures

Notice is hereby given that all persons desiring to submit written comments or suggestions respecting the proposed revisions to NASA patent Waiver Regulations (Title 14, Chapter V, Part 1245, Subpart 1: 31 F.R. 7677–7679, May 28, 1966) hereinafter set forth may do so by filing them with the General Counsel, National Aeronautics and Space Administration, Washington, D.C. 20546, not later than the 30th day following date of publication of this notice in the FEDERAL REGISTER.

Subpart 1 is revised in its entirety as follows:

Sec.

AUTHORITY: The provisions of this Subpart 1 issued under 42 U.S.C. 2457.

§ 1245.100 Scope.

This Subpart 1 prescribes regulations for the waiver of rights of the United States to inventions made under NASA contract.

§ 1245.101 Applicability.

The provisions of this subpart apply to all inventions made or which may be made under conditions enabling the Administrator to determine the rights therein reside in the United States pursuant to section 305(a) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(a)).

§ 1245.102 Definitions and terms.

As used in this subpart:

(a) "Contract" means any actual or proposed contract, agreement, understanding, or other arrangement with the National Aeronautics and Space Administration (NASA) or another Government agency on NASA's behalf, including any assignment, substitution of parties or subcontract executed or entered into thereunder, and including NASA grants awarded under the authority of 42 U.S.C. 1891–1893.

(b) "Contractor" means any party who has undertaken to perform work under a contract.

(c) "Invention" is any new and useful process, machine, manufacture, design, composition of matter, any new and useful improvement thereof, or any variety of new plant, which is or may be patentable under the laws of the United States (35 U.S.C. 101, 161 and 171) or any foreign country, and which is made in the manner specified in paragraph (1) or (2) of section 305(a) of the National Aeronautics and Space Act of 1968, as amended (42 U.S.C. 2457(a)) in the performance of work under a contract.

(d) "Made," when used in relation to any invention, means the conception or first actual reduction to practice of each invention.

(e) "Board" means the NASA Inventions and Contributions Board established by the Administrator of NASA within the Adminstration under section 305(f) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(f)).

(f) "To bring to the point of practical or commercial application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine, and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(g) "Petitioner" means a party who requests that the Administrator waive rights in an invention or class of inventions made or which may be made, under a NASA contract. In the case of an identified invention, the petitioner may be the inventor(s).

(h) "Government agency" includes any executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(i) "States" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam and the Trust Territory of the Pacific Islands.

§ 1245.103 Policy.

(a) In implementing the provisions of section 305(f) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2457(f)) and in determining when the interests of the United States would be served by waiver of rights in inventions made in the performance of work under NASA contracts, the Administrator, NASA, will be guided by the objectives set forth in the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451–2477) and by the basic policy of the revised Presidential Memorandum and Statement of Government Patent Policy issued August 23, 1971 (36 F.R. 16887–16892). Among the most important goals thereof are to provide incentives to foster inventiveness and encourage reporting of inventions made under NASA contracts, to provide for the widest practicable dissemination of new technology resulting from NASA's programs, and to encourage the expeditious development and adoption of this new technology for commercial purposes.

(b) Several different situations when waiver of domestic rights may be requested are prescribed in §§ 1245.104–1245.106. Under § 1245.104, advance waiver of rights to any or all of the inventions which may be made under a contract may be requested prior to the execution of the contract, or within 30 days after execution of the contract. Waiver of rights to an identified invention made and reported under a contract may be requested under § 1245.105. Waiver of rights may be requested under any of these provisions even though a request under a different provision was not made, or if made, was not granted. Waiver of foreign rights under § 1245.106 may be requested concurrently with domestic rights or independently thereof.

§ 1245.104 Advance waivers.

(a) The provisions of this § 1245.104 apply to petitions for waiver of domestic rights to any or all of the inventions which may be made under a contract. Such petitions may be submitted by the contractor prior to his execution of the contract or within 30 days thereafter.

(b)(1) The Board shall recommend to the Administrator, NASA, that waiver of domestic rights to any or all of the inventions which may be made under the NASA contract involved be granted when the Board makes each of the findings of paragraphs (c) and (d) of this section.

(2) Where the Board is unable to make one or more of the findings of paragraph (c) of this section as to the contract, but nevertheless finds that exceptional circumstances exist so that the public interest would best be served by a waiver of rights to any or all of the inventions which may be made under the contract, the Board shall recommend to the Administrator, NASA, that waiver be granted (conditions of paragraph (d) of this section are not relevant to the Board's findings under this subparagraph). A finding of exceptional circumstances shall be accompanied by a discussion of the rationale therefor. Examples of exceptional circumstances would include: A contract where participation of the contractor may only be secured through the grant of waiver and

such contractor is deemed essential to a NASA program; a contract having as a principal objective the application of aerospace related technology to other uses in accordance with an established NASA technology application program and where the grant of waiver would materially advance this objective; or, a cooperative endeavor where the contract calls for a significant contribution of funds by the contractor to the work to be performed. In the case of an individual invention which is identified prior to execution of the contract, exceptional circumstances may also be found where the contractor has established substantial equities at his own expense in the development of the invention; or, where the grant of waiver will significantly advance the availability of the invention to the general public.

(c) (1) It is not a principal purpose of the contract to create, develop or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulations.

(2) It is not a principal purpose of the contract to explore into fields which directly concern the public health, public safety, or public welfare.

(3) The contract is not in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and with respect to which the acquisition of exclusive rights at the time of contracting might confer on the petitioner a preferred or dominant position.

(4) The contract is not for services of the petitioner for (i) the operation of a Government-owned research or production facility; or (ii) coordinating and directing the work of others.

(d) (1) The purpose of the contract is to build upon existing knowledge or technology, to develop information, products, processes, or methods for use by the Government.

(2) The work called for by the contract is in a field of technology in which the petitioner has acquired technical competence (demonstrated by factors such as know-how, experience, and patent position), and either (i) the work is directly related to an area in which the petitioner has an established nongovernmental commercial position; or (ii) the commercial position of the petitioner is not sufficiently established, but a special situation exists such that the public interest in the availability of inventions would best be served by a waiver of rights to the petitioner. Such special situations include, but are not limited to the following:

(*a*) A newly formed company having a definite program for establishing a nongovernmental commercial position in the field of the contract or in an area directly related thereto.

(*b*) An established company lacking an established nongovernmental commercial position in the field of the contract or a directly related field, but having established plans and programs for achieving such a position.

(c) An education or nonprofit institution having a promulgated policy and an effective program for acquiring rights to inventions and for acting by itself or through others to bring the results of such inventions to commercial application.

(e) When a petition for waiver is submitted pursuant to paragraph (a) of this section, prior to contract execution, it will be processed expeditiously so that a decision on the petition may be reached prior to execution of the contract. However, if there is insufficient time or insufficient information is presented to allow the Board to make its findings and recommendations to the Administrator, NASA, without unduly delaying execution of the contract, the Board will inform the contracting officer that such findings and recommendations have not been made. The contracting officer will then notify the petitioner of the Board's action.

(f) After notification by the contracting officer under paragraph (e) of this section, the petitioner may, upon his execution of the contract, or within 30 days thereof, request the Board to reconsider the matter under paragraph (b) of this section either on the record or with any additional statements submitted in support of the original petition.

(g) A waiver granted pursuant to a petition submitted under this § 1245.104 shall apply only to inventions reported during the term of the applicable contract and which are designated at the time of reporting as being an invention on which the petitioner intends to file or has filed a U.S. patent application.

(h) A waiver granted pursuant to a petition submitted under this § 1245.104 shall extend to any contract changes, modifications, or supplemental agreements, so long as the purpose of the contract or the scope of work to be performed is not substantially changed.

§ 1245.105 Waiver after reporting inventions.

(a) The provisions of this § 1245.105 apply to petitions for waiver of domestic rights to identified inventions which have been reported to NASA and to which a waiver of rights has not been granted pursuant to § 1245.104.

(b) The Board shall recommend to the Administrator, NASA, that waiver of domestic rights to an identified invention be granted where the Board makes all of the findings below:

(1) The invention is not directly related to a governmental program for creating, developing, or improving products, processes, or methods for use by the general public at home or abroad.

(2) The invention is not likely to be required by governmental regulations for use by the general public at home or abroad.

(3) The invention does not directly concern the public health, public safety, or public welfare.

(4) The invention is not in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and with respect to which the acquisition of exclusive rights in the invention would not likely confer on the petitioner a preferred or dominant position: *Provided*, That the Board also finds that in view of the petitioner's plans and intentions to bring the invention to the point of practical or commercial application and the known plans of others, the incentives provided by waiver will increase the likelihood that the benefits of the invention would be readily available to the public at an early date.

(c) If the Board is unable to make one of the findings set forth in paragraph (b) (1) through (4) of this section, the Board may nevertheless recommend a waiver of domestic rights be granted by the Administrator, NASA, if the Board finds that such waiver is a necessary incentive to call forth risk capital and expense to bring the invention to the point of practical or commercial application, or that the Government's contribution to the invention is small compared to that of the contractor.

§ 1245.106 Waiver of foreign rights.

(a) The Board will consider the waiver of domestic and foreign rights concurrently when so requested by the petitioner in accordance with § 1245.110 (d). Where the Board makes the findings necessary to support a waiver of domestic rights, the petitioner will normally be granted the right to secure patents in any country in which he elects to file. The Board may also recommend the grant of only foreign rights, in accordance with the guidelines of paragraph (b) of this section, when the interests of the United States will best be served thereby.

(b) The Board will also consider a separate request for the waiver of the right to secure a patent in any country in which the petitioner elects to file as to an identified invention when so requested by the petitioner in accordance with § 1245.110(b). Waiver of such foreign rights will normally be granted in countries in which the Administrator, NASA, does not desire to file an application for patent.

§ 1245.107 Reservations.

(a) With respect to any particular invention, each waiver of domestic or foreign rights granted shall be subject to the reservation of an irrevocable, nonexclusive, nontransferable, royalty-free license for the practice of the invention throughout the world by or on behalf of the U.S. Government or any agency thereof, any foreign government pursuant to any existing or future treaty or agreement with the United States, or any State, or domestic municipal government unless the Administrator, NASA, determines, based upon a recommendation of the Board, that it would not be in the public interest to acquire the license for the States and municipal governments.

(b) With respect to any particular invention, each waiver of domestic rights granted shall be subject to the reservation by the Administrator, NASA, of the right to require the granting of a nonexclusive or exclusive license for the practice of the invention to any responsible applicant upon terms that are reasonable under the circumstances, including the right to require the granting of such a license royalty-free:

(1) Unless the waiver recipient, his licensees, or assigns have taken effective steps within 3 years after a U.S. patent issues on the invention to bring the invention to the point of practical or commercial application and thereafter continue to work the invention and make its benefits reasonably accessible to the public; or

(2) Unless within 3 years after a U.S. patent issues on the invention, the waiver recipient, or his assigns have taken effective steps to make such patent available for licensing to responsible applicants, royalty-free or on terms that are reasonable in the circumstances; or

(3) As may be appropriate to satisfy the requirements which may be made by governmental regulations for public use of the invention or as may be necessary to fulfill health or safety needs, or for other public purposes stipulated in the contract.

(c) With respect to any particular invention, each waiver granted for domestic or foreign rights shall be subject to any other reservations called for by the Administrator of NASA upon the grant of the petition.

(d) The waiver recipient shall be given an opportunity to show cause before the Board why he should not be required to grant a license under paragraph (b) of this section or why he should otherwise retain the full benefits of waiver for a further period of time.

§ 1245.108 License to contractor.

Each contractor reporting an invention is granted a license upon the terms and conditions specified in § 1245.203(d) (36 F.R. 21069 and 21070).

§ 1245.109 Voidability of waivers.

(a) With respect to any particular invention, each waiver of domestic rights shall be voidable at the option of the Administrator, NASA, unless:

(1) Within 8 months from the date of reporting an invention under a contract, subject to a waiver granted pursuant to § 1245.104, or 8 months from the date of the granting by the Administrator of a waiver pursuant to § 1245.105, the waiver recipient causes an application for U.S. Letters Patent to be filed disclosing and claiming the invention and includes within the first paragraph of the specification following the abstract, the statement:

The invention described herein was made in the performance of work under a NASA contract and is subject to the provisions of section 305 of the National Aeronautics and Space Act of 1958 (72 Stat. 435; 42 U.S.C. 2457).

(2) The waiver recipient promptly furnishes to the Chairman of the Board a copy of the U.S. patent application filed on such invention, together with identifying serial number and filing date promptly upon receipt thereof; and, promptly furnishes to the Chairman of the Board properly executed instruments fully confirmatory of the rights herein reserved by the Government.

(3) The waiver recipient, in the event he elects not to continue prosecution of any application filed on such invention, notifies the Chairman of the Board and delivers to the Chairman the documents necessary to inspect said application in the U.S. Patent Office within sufficient time to allow assumption of prosecution by the Government, and delivers to the Chairman such duly executed instruments as are necessary to vest title in the Administrator, including an instrument of assignment to such patent application.

(4) The waiver recipient grants any license which the Administrator may require pursuant to § 1245.107.

(5) The waiver recipient files a utilization report with the Board by September 1 of the second year following the grant of the waiver and thereafter upon NASA's written request, which request shall not be made more often than annually. Such reports shall set forth in detail the progress, development, application, and commercial use being made and that is intended to be made of the waived invention.

(b) With respect to any particular invention, each waiver granted shall be voidable at the option of the Administrator, NASA, if a patent claiming such invention is held, in a final determination, to have been used in violation of the antitrust laws in any suit, action, or proceeding brought before a properly constituted authority authorized to hear such matters.

(c) With respect to any particular invention, waiver of foreign rights as to any foreign country shall be voidable at the option of the Administrator, NASA, unless:

(1) A patent application is filed in the country within nine months from the date a corresponding U.S. application is filed, or 6 months from the date permission is granted to file foreign applications where such filing has been prohibited for security reasons, or such longer periods as may be expressly approved by the Administrator;

(2) The waiver recipient furnishes to the Chairman of the Board the identifying serial number and filing date of each foreign patent application filed promptly upon receipt thereof; and, upon request, a copy of the foreign patents or applications;

(3) The waiver recipient executes and furnishes to the Chairman of the Board instruments fully confirmatory of the rights herein reserved by the Government; and

(4) The waiver recipient, in the event he elects not to continue prosecution of any foreign application filed on such invention or if he intends to abandon a foreign patent by the nonpayment of a maintenance tax, notifies the Chairman of the Board within sufficient time to allow assumption of prosecution by the Government, or payment of the maintenance tax, respectively, and delivers to the Chairman of the Board such duly executed instruments as are necessary to vest in the Administrator title thereto, including an instrument of assignment.

§ 1245.110 Content of petitions.

(a) *General contents and forms.* Forms which may be used in petitioning for waiver and for filing utilization reports are available from the NASA Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, D.C. 20546. Each request for waiver of foreign or domestic rights under § 1245.104, § 1245.105, or § 1245.106 shall be by petition to the Administrator, NASA, and shall include:

(1) An identification of the petitioner, his place of business and address, and if the petitioner is represented by counsel, his name and address;

(2) An identification by number and date of the pertinent NASA contract or proposed contract;

(3) A specification of the kind of waiver requested and a citation to section under which the petition is submitted; and

(4) The signature of the petitioner or his authorized representative, and date of signature.

(b) *Petitions for advance waiver under § 1245.104.* In addition to the information specified in paragraph (a) of this section, each petition for waiver under § 1245.104 shall include:

(1) A copy of the statement of work of the pertinent NASA contract or proposed contract;

(2) A full and detailed statement of facts sufficient to enable the Board to make the findings regarding the contract and the petitioner as specified in § 1245.104 or, if applicable, whether the exceptional circumstances of § 1245.104(b) are present; and

(3) The date of contractor's execution of the contract, if the petition is filed subsequent to contract execution.

(c) *Petitions for waiver for identified inventions under § 1245.105.* A separate petition shall be submitted for each identified invention. In addition to the information specified in paragraph (a) of this section, such petition shall include:

(1) The full names of all inventors;

(2) A statement whether a patent application has been filed on the invention, together with a copy of such application if filed; or, if not filed, a complete description of the invention;

(3) If a patent application has not been filed, any information which may indicate a potential statutory bar to the filing of a patent application under 35 U.S.C. 102 or a statement that no bar is known to petitioner to exist;

(4) A full and detailed statement of facts sufficient to enable the Board to

make the findings regarding the invention as specified in § 1245.105 (b) or (c); and

(5) Where the petitioner(s) is the inventor(s), a statement in writing from the contractor that the contractor has conveyed sufficient rights so that the petitioner(s) may carry out the obligations of the waiver.

(d) *Petitions for waiver of foreign rights under § 1245.106.* A petition for waiver of foreign rights may accompany and be a part of a petition for waiver of domestic rights under either § 1245.104 or § 1245.105, or a petition for foreign rights may be submitted independently of any request for domestic rights. In addition to the information specified in paragraph (a) of this section, petition for waiver of foreign rights shall include, where feasible, a denomination of the foreign countries in which petitioner elects to secure or intends to file patent applications.

§ 1245.111 Submission of petitions.

Petitions for advance waiver of domestic rights under § 1245.104 or advance waiver of foreign rights under § 1245.106 presented prior to contract execution must be submitted through the contracting officer to the Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, D.C. 20546. All other petitions shall be submitted directly to the Board.

§ 1245.112 Notice of proposed Board action and reconsideration.

(a) *Notice.* When sufficient time and complete information is presented with respect to petitions for the advanced waiver of rights under § 1245.104 or § 1245.106 or when complete information is presented as to all other petitions for waiver the Board will notify the petitioner:

(1) Whether it proposes to recommend to the Administrator, NASA, that the petition be:

(i) Granted in the extent requested;

(ii) Granted in an extent different from that requested; or,

(iii) Denied.

(2) Of the reasons for any recommended action adverse to or different from the waiver of rights requested by the petitioner.

(b) *Request for reconsideration and statements required.* (1) If, pursuant to paragraph (a) of this section, the Board notifies the petitioner that the Board proposes to recommend action adverse to or different from the waiver requested, the petitioner may, within such period as the Board may set, but not less than 15 days, request reconsideration by the Board.

(2) If reconsideration has been requested within the prescribed time limit, the petitioner shall, within 30 days from his request for reconsideration, or within such other time as the Board may set, file a statement setting forth the points, authorities, arguments, and any additional material on which he relies.

(3) Upon filing of the reconsideration statement by the petitioner, the petition will be assigned for reconsideration by the Board upon the contents of the petition, the record, and the reconsideration statement submitted by the petitioner.

(4) The Board, after reconsideration of the petition, will notify the petitioner of its proposed recommendations to the Administrator, NASA. If the Board's proposed action is adverse to, or different from, the waiver requested, the petitioner may request an oral hearing within such time as the Board has set.

§ 1245.113 Hearing procedure.

(a) If the petitioner requests an oral hearing within the time set, pursuant to § 1245.112(b)(4), the Board shall set the time and place for such hearing and shall so notify the petitioner.

(b) Oral hearings held by the Board shall be open to the public and shall be held in accordance with the following procedures:

(1) Oral hearings shall be conducted in an informal manner, with the objective of providing the petitioner with a full opportunity to present facts and arguments in support of the petition. Evidence may be presented through means of such witnesses, exhibits, visual aids as are arranged for by the petitioner. Petitioners may be represented by any authorized person including an attorney. While proceedings will be ex parte, members of the Board and its counsel may address questions to witnesses called by the petitioner, and the Board may, at its option, enlist the aid of technical advisors or expert witnesses. Any person present at the hearing may make a statement for the record.

(2) A transcript of the proceeding shall be arranged for by the Board. The petitioner shall submit for the record a copy of any exhibit or visual aid utilized during the hearing.

§ 1245.114 Findings and recommendations of the Board.

(a) *Findings of the Board.* The Board shall consider the petition, the NASA contract, if relevant, the goals cited in § 1245.103(a), the effect of the waiver on the objectives of the related NASA programs, and any other available facts and information presented to the Board by an interested party. The Board shall then determine and make, if applicable, each of the specific findings of fact required by § 1245.104, § 1245.105, or § 1245.106 under which the petition was submitted. The Board shall document all their findings.

(b) *Recommendation of Board.* (1) After making the findings of fact, the Board shall formulate its proposed recommendation to the Administrator, NASA, as to the grant of waiver as requested, the grant of waiver upon terms other than as requested, or denial of waiver.

(2) If the Board proposes to recommend, initially or upon reconsideration, that the petition be granted in the extent requested or, in other cases, if the petitioner does not request reconsideration or a hearing during the period set for such action, or informs the Board that such action will not be requested, or fails to file the required statements within the prescribed time limit, the Board shall transmit the petition, its findings of fact with respect thereto, and its recommendation to the Administrator, NASA.

(3) After a hearing, as provided in § 1245.113, the Board shall consider the entire record and shall transmit its recommendations and findings to the Administrator, NASA, along with the petition, and a summary record of the proceedings.

§ 1245.115 Action by the Administrator, NASA.

(a) After receiving the transmittal from the Board, the Administrator shall determine, in accordance with § 1245.103, whether or not to grant any waiver of rights to the petitioner. A waiver pursuant to § 1245.104(b)(2) will be granted only when the Board so recommends.

(b) In the event of denial of the petition by the Administrator, NASA, a written notice of such denial will be promptly transmitted by the Board to the petitioner. The written notice will be accompanied with a statement of the grounds for denial.

(c) If the Administrator, NASA, decides to grant the waiver, the petitioner shall be sent an instrument of waiver confirmatory of the conditions and reservations of the waiver grant for his execution and prompt return to the Board.

§ 1245.116 Filing of patent applications.

(a) In order to protect the interests of the Government and of petitioners in inventions, petitioners are encouraged to file patent applications prior to the final disposition of their petitions for waiver.

(b) If a petitioner files a U.S. patent application on an identified invention during the pendency of the petition, or within 60 days prior to the receipt thereof by NASA, NASA will reimburse the petitioner for the reasonable costs of filing said U.S. patent application and such patent prosecution as may have ensued, provided:

(1) Similar patent filing and prosecution costs are not normally reimbursed to the petitioner as direct or indirect costs chargeable to Government contracts;

(2) The petition is ultimately denied with respect to domestic rights, or with respect to foreign and domestic rights, if both are so requested; and

(3) Prior to reimbursement, the petitioner assigns the application to the United States as represented by the Administrator of the National Aeronautics and Space Administration.

§ 1245.117 Publication.

The findings and recommendations by the Board with respect to each petition for waiver shall be made available to the public by the Board. In addition, selected findings and recommendations of the Board shall be published annually.

JAMES C. FLETCHER,
Administrator.

[FR Doc. 72-2698 Filed 2-23-72;8:47 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

IMPRESSION FABRIC OF MANMADE FIBER FROM JAPAN

Antidumping Proceeding Notice

On January 5, 1972, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs regulations (19 CFR 153.26, 153.27), indicating a possibility that impression fabric of manmade fiber from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs regulations (19 CFR 153.30).

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

Approved: February 17, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-2845 Filed 2-23-72;10:00 am]

SULPHUR FROM CANADA

Antidumping Proceeding Notice

On January 21, 1972, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs regulations (19 CFR 153.26, 153.27), indicating a possibility that sulphur, including elemental sulphur and nonelemental sulphur, from Canada, is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.).

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the Bureau of Customs is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption or the cost of production.

This notice is published pursuant to § 153.30 of the Customs regulations (19 CFR 153.30).

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

Approved: February 17, 1972.

EUGENE T. ROSSIDES,
Assistant Secretary of the Treasury.

[FR Doc.72-2844 Filed 2-23-72;9:59 am]

Fiscal Service

[Dept. Circ. 570, 1971 Rev., Supp. 10]

ELAC INSURANCE COMPANY LIMITED, UNITED STATES BRANCH, AND EMPLOYERS COMMERCIAL UNION INSURANCE COMPANY

Surety Companies Acceptable on Federal Bonds

Termination as acceptable reinsuring company only on Federal bonds, domestication, and merger, change in underwriting limitation.

The United States Branch of ELAC Insurance Company Limited, London, England (U.S. Office, Boston, Massachusetts) which holds a Certificate of Authority as acceptable reinsuring company only on Federal bonds pursuant to Treasury Department Circular 297 (31 CFR Part 223), was domesticated and merged into Employers Commercial Union Insurance Company, Boston, Massachusetts, the surviving corporation, effective 12:00 midnight December 31, 1971. Confirmation of this action has been received and filed in the Treasury. Accordingly, the Certificate of Authority held by ELAC Insurance Company Limited (U.S. Office, Boston, Massachusetts) is hereby terminated effective December 31, 1971.

The surviving corporation, Employers Commercial Union Insurance Company, which holds a Certificate of Authority as an acceptable surety on Federal bonds under 6 U.S.C. 6–13, has assumed the assets and liabilities of the merged corporation (ELAC), which has ceased to exist. Accordingly, the Treasury underwriting limitation awarded to the surviving corporation, Employers Commercial Union Insurance Company under its Certificate of Authority (36 FR 12953, July 9, 1971) is hereby revised to $19,885,000 effective January 1, 1972.

In view of the foregoing, no action need be taken by bond-approving officers by reason of the domestication and merger of ELAC Insurance Company Limited (U.S. Office, Boston, Massachusetts) with respect to any bond or other obligation in favor of the United States, or in which the United States has an interest, direct or indirect, reinsured or issued prior to January 1, 1972 by ELAC Insurance Company Limited (U.S. Office, Boston, Massachusetts) pursuant to its Certificate of Authority issued by the Secretary of the Treasury.

Certificates of Authority expire on June 30 each year, unless sooner revoked, and new Certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact fidelity and surety business and other information. Copies of the Circular, when issued, may be obtained from the Treasury Department, Bureau of Accounts, Audit Staff, Washington, D.C. 20226.

Dated: February 17, 1972.

[SEAL] JOHN K. CARLOCK,
Fiscal Assistant Secretary.

[FR Doc.72-2696 Filed 2-23-72;8:46 am]

Internal Revenue Service

[Cost of Living Council Ruling 1972-17]

STATE FEES FOR TRACTOR-TRAILER OPERATING PERMITS

Cost of Living Council Ruling

Facts. Under State law, operators of tractor-trailers are required to obtain permits to operate them on State roads. The law requires a specified sum to be paid at the time the application for the permit is submitted. The amount specified is unrelated to and well in excess of the administrative costs of filing and processing applications, and the proceeds are earmarked for the construction and repair of highways. The State legislature is seeking to increase the amount of the payment.

Issue. Is an increase in the statutory payment subject to the Economic Stabilization Regulations?

Ruling. Economic transactions which are not prices, rents, wages, or salaries are not subject to the Economic Stabilization Act of 1970, as amended, nor to the regulations promulgated thereunder. Economic Stabilization Regulations 6 CFR 101.1(c), 36 F.R. 21788 (November 13, 1971), republished as 6 CFR 101.1 (c), 37 F.R. 1237 (January 27, 1972).

The amount and mandatory character of the charge, and the use to which the resulting revenues are put, clearly indicate that the required payment is in the nature of a tax. As such, it is exempt from the provisions of the Economic Stabilization Regulations under § 101.1 (c).

Effective January 26, 1972, price adjustments by State and local governments for services, permits and licenses generally are exempt from price controls pursuant to Economic Stabilization Regulations 6 CFR 101.34(a)(2), 37 F.R. 1237 (January 27, 1972).

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: February 16, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: February 16, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-2822 Filed 2-23-72;8:49 am]

[Cost of Living Council Ruling 1972-18]

GREEN SALTED CATTLE HIDES

Cost of Living Council Ruling

Facts. A is a meat packer who slaughters cattle. Among the items derived from his operations are cattle hides, which A preserves in salts for sale to a domestic tannery.

Issue. Are salted cattle hides exempt from the Regulations as a "raw agricutural product"?

Ruling. Salted cattle hides are not a "raw agricultural product" and are therefore not exempt from the Economic Stabilization Regulations.

Section 101.32(a) of the regulations, which exempts "raw agricultural products", defines such products as "agricultural products which retain their original physical form and have not been processed. Processed agricultural products are products which have been canned, frozen, slaughtered, milled, or otherwise changed in their physical form." Economic Stabilization Regulations 6 CFR 101.32(a), 37 F.R. 1237 (January 27, 1972).

Since the above facts indicate clearly that cattle hides are derived from the slaughter of cattle, which is specifically listed as a "process" under § 101.32(a), cattle hides are not within the definition of a "raw agricultural product," and are therefore not exempt.

This ruling has been approved by the General Counsel of the Cost of Living Council.

Dated: February 16, 1972.

LEE H. HENKEL, Jr.,
Acting Chief Counsel,
Internal Revenue Service.

Approved: February 16, 1972.

SAMUEL R. PIERCE, Jr.,
General Counsel,
Department of the Treasury.

[FR Doc.72-2823 Filed 2-23-72;8:49 am]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Int; Des 72-35]

AUTHORIZED CASCADE IRRIGATION DISTRICT REHABILITATION AND BETTERMENT PROGRAM, YAKIMA PROJECT, WASH.

Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on a proposed rehabilitation and betterment project for the purpose of ensuring an adequate supply of irrigation water to the Cascade Irrigation District in central Washington.

Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone: (202) 343-4991.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225, Telephone: (303) 234-3007.

Office of the Regional Director, Bureau of Reclamation, Post Office Box 8008, Boise, ID 83702, Telephone: (208) 342-2711, Extension 2109.

Yakima Project Office, Bureau of Reclamation, Post Office Box 1377, Yakima, WA 98901, Telephone: (509) 248-4810, Extension 316.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151. Please refer to the statement number above.

Dated: February 15, 1972.

WILLIAM W. LYONS,
Deputy Assistant Secretary
of the Interior.

[FR Doc.72-2713 Filed 2-23-72;8:48 am]

E. E. WALL

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) September 1, 1971, American Housing Partners, 30 shares purchased. January 25, 1972, Eastman Kodak, 200 share sold. January 28, 1972, Johns Manville, 300 shares sold.

(3) None.

(4) None.

This statement is made as of February 7, 1972.

Dated: February 8, 1972.

E. E. WALL.

[FR Doc.72-2714 Filed 2-23-72;8:48 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. A-588]

JOSEPH HOTCH

Notice of Loan Application

FEBRUARY 16, 1972.

Joseph Hotch, Box 525, Haines, AK 99827, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 33 feet in length, to engage in the fishery for salmon and halibut.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above-entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc.72-2679 Filed 2-23-72;8:45 am]

[Docket No. A-584]

NORVAL H. NELSON

Notice of Loan Application

FEBRUARY 16, 1972.

Norval H. Nelson, Box 1385, Juneau, AK 99801, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 50 feet in length, to engage in the fishery for halibut, sablefish, rockfishes, crabs, and shrimp.

Notice is hereby given, pursuant to the provisions of 16 U.S.C. 742c, Fisheries Loan Fund Procedures (50 CFR Part 250, as revised), and Reorganization Plan No. 4 of 1970, that the above entitled application is being considered by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, Interior Building, Washington, D.C. 20235. Any person desiring to submit evidence that the contemplated operation of such vessel will cause economic hardship or injury to efficient vessel operators already operating in that fishery must submit such evidence in writing to the Director, National Marine Fisheries Service, within 30 days from the date of publication of this notice. If such evidence is received it will be evaluated along with such other evidence as may be available before making a determination that the contemplated operation of the vessel will or will not cause such economic hardship or injury.

PHILIP M. ROEDEL,
Director.

[FR Doc. 72-2680 Filed 2-23-72;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

SOCIAL AND REHABILITATION SERVICE

Statement of Organization, Functions, and Delegations of Authority

Part 5 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare, Social and Rehabilitation Service (34 F.R. 1279, January 25, 1969, as amended), is hereby further amended to reflect the transfer of legislation functions to the Office of the Associate Administrator for Planning, Research, and Training. For such purposes section 5-B is amended as follows:

1. Delete the heading "Office of Legislative Affairs" and all that follows thereunder.

2. Delete the paragraph under the heading "Associate Administrator for Planning, Research, and Training" and insert in lieu therof the following:

ASSOCIATE ADMINISTRATOR FOR PLANNING, RESEARCH, AND TRAINING

Provides leadership and coordination for legislation, program planning and evaluation, research and demonstration, and external manpower development and training activities of the Social and Rehabilitation Service. Serves as the advisor to the Administrator in these areas. Directs and coordinates the activities of the Assistant Administrators in the Office of Legislation, the Office of Program Planning and Evaluation, the Office of Research and Demonstrations, and the Office of Manpower Development and Training.

3. After the paragraph headed "Associate Administrator for Planning, Research, and Training" add the following:

OFFICE OF LEGISLATION

Coordinates, plans, and participates in the development of new legislation; coordinates the development of testimony, cost estimates and other materials related to legislative proposals; coordinates the preparation of Congressional and other reports on all bills. Reviews and obtains approvals on correspondence with members of Congress and the public on legislative proposals. Keeps the Associate Administrator and affected organizations informed regarding legislation and coordinates all recommendations for new legislation. Coordinates all Congressional relations and functions of the various SRS components. Furnishes technical assistance to Congressional committees, committee staffs, individual members of Congress, and public and private organizations in relation to proposals or bills. Serves as the SRS contact point with the Office of the Assistant Secretary for Legislation and the Assistant General Counsel, Legislation Division. Maintains liaison with legislative offices of other agencies of the Department and of other Departments of the Executive Branch. Develops legislative histories of significant laws and prepares other summaries of the status of legislation and reports of hearings.

Effective date. This amendment shall be effective upon publication in the FEDERAL REGISTER (2-24-72).

Dated: February 17, 1972.

STEVEN D. KOHLERT,
Acting Deputy Assistant Secretary for Management.

[FR Doc.72-2708 Filed 2-23-72;8:47 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-72-149]

ACTING REGIONAL ADMINISTRATOR, REGION IX (SAN FRANCISCO)

Designation

The officers appointed to the positions and the named person listed below in the San Francisco Regional Office are hereby designated to serve as Acting Regional Administrator during the absence of the Regional Administrator with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: *Provided,* That no officer is authorized to serve as Acting Regional Administrator unless all other officers who precede him in this designation are unable to act by reason of absence or a vacancy in the position:

1. Deputy Regional Administrator.
2. Andrew J. Bell, III.
3. Assistant Regional Administrator for Renewal Assistance.
4. Assistant Regional Administrator for Federal Housing Administration.
5. Regional Counsel.
6. Assistant Regional Administrator for Administration.

(Delegation effective May 4, 1962, 27 F.R. 4319; Interim Order II, 31 F.R. 815, January 21, 1966)

This designation supersedes the designation effective as of November 1, 1969 (34 F.R. 19151, December 3, 1969).

Effective as of the 21st day of July, 1970.

ROBERT H. BAIDA,
Regional Administrator.

[FR Doc.72-2730 Filed 2-24-72;8:48 am]

[Docket No. D-72-150]

ACTING REGIONAL ADMINISTRATOR, REGION IX (SAN FRANCISCO)

Designation

The officers appointed to the following listed positions in Region IX (San Francisco) are hereby designated to serve as Acting Regional Administrator, Region IX (San Francisco), during the absence of the Regional Administrator with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: *Provided,* That no officer is authorized to serve as Acting Regional Administrator unless all other officers whose titles precede his in this designation are unable to act by reason of absence:

1. Deputy Regional Administrator.
2. Assistant Regional Administrator for Administration.
3. Assistant Regional Administrator for Community Planning and Management.
4. Regional Counsel.
5. Assistant Regional Administrator for Community Development.
6. Assistant Regional Administrator for Housing Production and Mortgage Credit.

This designation supersedes the designation effective July 21, 1970 (published concurrently).

(Delegation effective May 4, 1962, 27 F.R. 4319; Interim Order II, 31 F.R. 815, January 21, 1966)

Effective as of the 8th day of August 1971.

ROBERT H. BAIDA,
Regional Administrator.

[FR Doc.72-2731 Filed 2-24-72;8:48 am]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

ADVISORY COMMITTEE FOR PROMOTION OF COMPLIANCE WITH MOTOR CARRIER SAFETY AND HAZARDOUS MATERIALS REGULATIONS

Termination

On June 14, 1967, the Federal Highway Administrator created the Advisory Committee for Promotion of Compliance with Motor Carrier Safety Regulations and Hazardous Materials regulations (32 F.R.

8777). The purpose of the Committee was to cooperate with and advise the Bureau of Motor Carrier Safety and the Office of Hazardous Materials on matters relating to motor carrier safety of transportation of hazardous materials by motor vehicle and to make recommendations with a view towards achieving greater compliance with the two sets of regulations by the industry in general and the private carrier segment of the industry in particular.

The Committee met on a number of occasions during the early days of Department of Transportation responsibility for motor carrier safety. Its work was helpful in building initial momentum for the Department's programs. In recent years, however, the Committee has become dormant. There appears to be no reason for continuing its existence, inasmuch as the operating personnel in the Bureau of Motor Carrier Safety and the Office of Hazardous Materials have developed alternative means of achieving the objectives for which the Committee was established.

In consideration of the foregoing, the Advisory Committee for Promotion of Compliance with Motor Carrier Safety and Hazardous Materials regulations is terminated, effective on the date this notice is issued.

Issued on February 14, 1972.

F. C. TURNER,
Federal Highway Administrator.

[FR Doc.72-2681 Filed 2-23-72;8:46 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24114]

CHINA AIRLINES, LTD.

Notice of Postponement of Prehearing Conference and Hearing

Renewal and amendment of foreign air carrier permit authorizing service between points in China, intermediate points, and Honolulu, Hawaii; Los Angeles and San Francisco, Calif.

Notice is hereby given that the prehearing conference in the above-entitled matter is hereby postponed from February 29, 1972 (37 F.R. 2466, Feb. 1, 1972), to March 23, 1972, at 10 a.m., local time, in Room 805, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

The postponement of the prehearing conference and hearing in this matter was requested by China Airlines.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before March 9, 1972.

Dated at Washington, D.C., February 16, 1972.

[SEAL] EDWARD T. STODOLA,
Hearing Examiner.

[FR Doc.72-2715 Filed 2-23-72;8:48 am]

[Docket No. 23652]

GOLDEN WEST AIRLINES AND LOS ANGELES AIRWAYS, INC.

Notice of Postponement of Hearing Regarding Acquisition Agreement

The hearing in this proceeding currently scheduled for March 7, 1972 (37 F.R. 892) is hereby postponed until further notice (1) by reason of the voluminous requests and replies filed on February 10, 15, and 16, 1972, with regard to information and evidence requests, the attendance of witnesses at hearing, and related matters; (2) because of the fact that the Examiner has been advised by the representative of three of the parties that their rebuttal exhibits due to be received February 22, 1972, cannot be mailed in time to reach out of town counsel until after that date; and (3) to afford reasonable opportunity for reply to and decision on the petition for reconsideration received by the Examiner from Bureau Counsel on February 17, 1972.

[SEAL] HARRY H. SCHNEIDER,
Hearing Examiner.

FEBRUARY 18, 1972.

[FR Doc.72-2716 Filed 2-23-72;8:48 am]

[Docket No. 24200; Order 72-2-72]

CONTINENTAL AIR LINES, INC.

Order Dismissing Complaint Regarding Consolidation Type GIT Fares to Hawaii

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of February 1972.

By tariff revisions [1] marked to become effective February 20, 1972, Continental Air Lines, Inc. (Continental) proposes to establish all-year round-trip group tour basing fares to Hawaii from 10 southern and southwestern points [2] and Chicago. Application of these fares would permit consolidation into the minimum group size of 154 passengers at the west coast gateways of Los Angeles, Portland, or Seattle by passengers who originate at the 11 interior points. The group must travel together between the west coast consolidation points and Hawaii on the return trip as well as the outbound trip. Conditions of travel include a minimum ground package price of $75 and stay requirements of 6 to 12 days. The fares would apply at all times and tickets must be purchased at least 21 days prior to scheduled departure date.

Braniff Airways, Inc. (Braniff) has complained against the proposed fares, requesting suspension and investigation. Braniff alleges that because of the density of the California-Hawaii local market the fundamental requirement that there shall be a group of 154 passengers moving beyond the consolidation point will not be difficult to meet; that by reason of the multiple ticketing, multiple reservations, and individual handling requirements for consolidation fares there is no economic justification for such fares at the same level as fares for single originating groups; that the present Chicago-Hawaii consolidation fare is an aberration in that unlike other consolidation type fares, it is priced at the same level as fares for single originating groups; that Continental has not submitted economic justification in compliance with the Board's economic regulations since the fares are not being filed to meet competition as alleged; that Continental is underselling its own present joint fares; and that Braniff would be forced either to lose all its traffic, or reduce its individual tour fares by approximately 20 percent.

Continental has answered Braniff's complaint noting that there is nothing new about the concept of consolidation fares and alleges that Braniff itself is presently utilizing the concept in many of its Hawaiian markets. Continental asserts that contrary to Braniff's allegations, traffic to interior points cannot be consolidated with local West Coast-Hawaii traffic since Continental has no such fares available off the west coast; that except at Chicago, its proposed consolidation fares are not priced at the same level as fares for single originating groups; that while Braniff may consider the present Chicago consolidation fare to be an aberration, it has been in effect for many months and Continental is entitled to charge that same price out of Chicago as well as out of other points affected by intermediate application of the Chicago fare; and that its fares match present fares or are intermediate points priced at the same level.

Upon consideration of all relevant matters, the Board finds that the complaint does not set forth sufficient facts to warrant investigation of the proposal and the request therefor, and consequently the request for suspension will be denied and the complaint dismissed.

The fares appear to be reasonably related to present fares in the respective markets. Except at Chicago, where Continental is meeting the present fare of other carriers, the fares are $21 to $35 higher than present fares for single originating groups, which should more than cover any extra costs attributable to multiple ticketing and reservations. Moreover, the complainants' fear of massive diversion appears to be based to a great extent on an incorrect interpretation that the tariff permits consolidation of traffic from the 11 interior points with local West Coast-Hawaii traffic. While some diversion may occur, we have no basis on which to conclude that the potential for diversion is such as to warrant action upon the complaint in the circumstances before us.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. The complaint of Braniff Airways, Inc., in Docket 24200 is hereby dismissed; and

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariffs CAB Nos. 136 and 142.

[2] Amarillo, Austin, Dallas, Houston, Lubbock, New Orleans, Oklahoma City, San Antonio, Tulsa, and Wichita.

2. A copy of this order be served upon Braniff Airways, Inc., and Continental Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-2717 Filed 2-23-72;8:48 am]

[Docket No. 24203; Order 72-2-70]

CONTINENTAL AIR LINES, INC.

Order Dismissing Complaint Regarding Establishment of Expiration Date on West Coast-Hawaii GIT Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of February 1972.

By tariff revisions marked to become effective February 20, 1972,[1] Continental Air Lines, Inc. (Continental) proposes to place an expiration date of December 10, 1972 on its existing GIT fares for groups of 40 or more passengers applicable between Los Angeles, Portland, Seattle, and Hawaii.

Western Air Lines, Inc. (Western) has filed a complaint requesting suspension and investigation of the December 10 expiration date and an investigation of the fares to which the expiration date applies. Western alleges that Continental's proposal is but the latest phase in the fare war that began in the West Coast-Hawaii markets in October 1971, and that the step-by-step escalation that has taken place has had catastrophic results on all carriers. It alleges that the group fares established last year resulted in large-scale diversion of full-fare passengers, and a concomitant lower yield. Western believes that the instant filing may well precipitate counter-filings by other carriers to extend the present expiration date of September 30, 1972.

In answer to the complaint Continental alleges that it selected a December expiration date rather than an end of summer date solely because the fares are being used for package tour promotions which are normally established, and run, on a calendar-year basis. It further alleges that if Western is successful in its quest to eliminate the fares before September 30, then the December 10 date becomes meaningless as the fares will already have been ordered canceled. Moreover, if Western is successful in preventing addition of the December 10 date to Continental's tariff, but is not able to obtain cancellation of the fares through investigation, its effort here would be directly contrary to its expressed interest.

Western has provided no data or other information to substantiate the general allegations it has made concerning adverse economic results of the GIT fares in question. Moreover, the fare levels are consistent with the minimums established in the GIT Fares to Hawaii Case, Docket 20580, and the GIT group of 40 tariffs of all carriers in this market are marked to expire this year. The fact that other carriers may elect to match Continental and extend their GIT fares an additional 2⅓ months does not warrant the institution of an investigation. Having found no basis to warrant investigation, there are no grounds for suspension, nor would such action terminate the effectiveness of the present fares, as apparently Western desires.

Under these circumstances, the Board finds that the complaint does not set forth facts sufficient to warrant investigation. The request therefor, and consequently the request for suspension, will be denied, and the complaint dismissed.

Accordingly, pursuant to the Federal Aviation Act of 1958 and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That:

1. The complaint of Western Air Lines, Inc., in Docket 24203 is dismissed; and

2. A copy of this order be served upon Continental Air Lines, Inc., and Western Air Lines, Inc.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-2718 Filed 2-24-72;8:48 am]

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff CAB No. 136.

FEDERAL COMMUNICATIONS COMMISSION

[TIAS-2594; Supp. 1]

CANADIAN TELEVISION CHANNEL ALLOCATIONS

Amendment of Table A of Canada-U.S.A. TV Agreement

FEBRUARY 11, 1972.

Amendment of Table A of the Canada-U.S.A. TV agreement of 1952 (TIAS-2594), Supplement No. 1 (to the table of Canadian Television Channel Allocations within 250 miles of the Canada-U.S.A. border, dated August 25, 1971, as revised to August 15, 1971).

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canadian-U.S.A. Television Agreement has been amended as follows:

City	Channel No.	
	Delete	Add
Belleville, Ontario	6-L[2]	6-
Elliot Lake, Ontario		7-[4]
Toronto, Ontario	6+	5[7]
Normandin, Quebec		10-

[5] Limitation to protect CFCL-TV-6 Chapleau, Ontario; CBFST Sturgeon Falls, Ontario, and a co-channel limited allocation at Timmins, Ontario.

[7] Limitation to protect WHEN-TV, Syracuse, N.Y.

Further amendments to Table A will be issued as public notices in the form of numbered supplements or recapitulated lists.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] WALLACE E. JOHNSON, *Chief, Broadcast Bureau.*

[FR Doc.72-2693 Filed 2-23-72;8:47 am]

[Dockets Nos. 19420-19421]

MELVIN PULLEY AND WASECA-OWATONNA BROADCASTING CO.

Order Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Melvin Pulley, Waseca, Minn., requests: Channel 221; 3 kw.(H); 3 kw.(V); 289 feet, Docket No. 19420, File No. BPH-7538; Edwin B. Darby and Richard H. Darby, doing business as the Waseca-Owatonna Broadcasting Co., Waseca, Minn., requests: Channel 221; 3 kw.(H); 3 kw.(V); 300 feet, Docket No. 19421, File No. BPH-7604; for construction permits.

1. The Commission, by the Chief of the Broadcast Bureau, acting under delegated authority, has under consideration the captioned applications which are mutually exclusive in that operation by the applicants as proposed would result in mutually destructive interference. Therefore, a comparative hearing must be held.

2. Data submitted by the applicants indicate that there would be a significant disparity in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive FM service of 1 mv/m or greater intensity, together with the availability of other primary aural services in such areas will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to either of the applicants.

3. Melvin Pulley proposes independent programing, while the Waseca-Owatonna Broadcasting Co. proposes to duplicate the programing of AM station KOWO, which is also owned by Edwin B. and Richard H. Darby, during the daytime hours. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programing is proposed, the showing permitted under the standard comparative issue will be limited to evidence concerning the benefits to be derived from the proposed duplication, and a full comparison of the applicants' program proposals will not be permitted in the absence of a specific programing inquiry, "Jones T. Sudbury," 8 FCC 2d 360, 10 RR 2d 114 (1967).

4. The applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below:

5. *Accordingly, it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the

applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, better serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications for a construction permit should be granted:

6. *It is further ordered,* That 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 the rules.

7. *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 the rules, and shall seasonably file the statement required by § 1.594(g).

Adopted: February 10, 1972.

Released: February 14, 1972.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.72-2694 Filed 2-23-72;8:46 am]

FEDERAL MARITIME COMMISSION

PIERCE AND BYRON ET AL.

Independent Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Pierce and Byron, 371 Bourse Building, 21 South Fifth Street, Philadelphia, PA 19106.
Partnership:
Howard J. Byron.
Dennis R. Pierce.

All Americas Forwarding Co., Post Office Box 913, Miami, FL 33148.
Officers:
Jorge A. Soberon, President.
Rolando Napoles, Secretary/Treasurer.

Dated: February 16, 1972.

By the Commission.

JOSEPH C. POLKING,
Assistant to the Secretary.

[FR Doc.72-2676 Filed 2-23-72;8:45 am]

[Independent Ocean Freight Forwarder License 540]

J. R. WILLEVER, INC. AND BARNETT/FREESLATE INTERNATIONAL CORP.

Order of Revocation

By order dated November 1, 1971, the Federal Maritime Commission approved FMC Agreement No. FF 71-8 concerning a merger between J. R. Willever, Inc. (Independent Ocean Freight Forwarder License No. 540) and Barnett/Freeslate International Corp. (Independent Ocean Freight Forwarder License No. 865). The surviving corporation is Barnett/Freeslate International Corp.

Pursuant to a request by the Commission that License No. 540 issued to J. R. Willever, Inc., be returned to the Commission for cancellation, Charles E. Glanzer, Secretary of J. R. Willever, Inc., submitted an affidavit in lieu of FMC License No. 540 which cannot be located.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised), section 7.04(f) (dated September 29, 1970);

It is ordered, That the Independent Ocean Freight Forwarder License No. 540 of J. R. Willever, Inc., be and is hereby revoked effective November 1, 1971.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon J. R. Willever, Inc.

AARON W. REESE,
Managing Director.

[FR Doc.72-2677 Filed 2-23-72;8:45 am]

ATOMIC ENERGY COMMISSION

[Docket No. 50-13]

BABCOCK & WILCOX CO.

License Termination Order

The Atomic Energy Commission (the Commission) has found that the Babcock & Wilcox Co.'s (BAW) Split Table Critical Experiments (STCE) Facility located at Lynchburg, Va., has been dismantled and decontaminated, and that satisfactory disposition has been made of the component parts, fuel and other special nuclear material (pursuant to the Commission's order dated May 25, 1971), in accordance with the Commission's regulations in 10 CFR Chapter I, and in a manner not inimical to the common defense and security or to the health and safety of the public. Therefore, pursuant to the application by BAW dated April 2, 1971, as supplemented April 20, 1971, and Commission regulations, Facility License No. CX-12 is hereby terminated as of the date of this order.

Dated at Bethesda, Md., this 14th day of February 1972.

For the Atomic Energy Commission.

FRANK SCHROEDER,
Acting Director,
Division of Reactor Licensing.

[FR Doc.72-2692 Filed 2-23-72;8:46 am]

FEDERAL POWER COMMISSION

[Project No. 2628—Alabama]

ALABAMA POWER CO.

Notice of Availability of Environmental Statement for Inspection

FEBRUARY 22, 1972.

Notice is hereby given that on February 9, 1972, as required by § 2.81(b) of Commission regulations under Order 415-B (36 F.R. 22738, November 30, 1971) a draft environmental statement containing information comparable to an agency draft statement pursuant to section 7 of the guidelines of the Council on Environmental Quality (36 F.R. 7724, April 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application for license filed by Alabama Power Co. for the proposed Crooked Creek Project, pursuant to the Federal Power Act.

This statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, DC. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The project would be located in the counties of Clay and Randolph in Alabama on the Tallapoosa River.

The project would consist of: (1) A concrete dam about 140 feet high and 956 feet long, including a gated spillway section and a nonoverflow section containing the headworks for the powerhouse; (2) an earth and rock fill dike section extending from each abutment of the concrete dam; (3) a 10,661-acre, 24-mile long reservoir having a normal operating range between elevations 793 feet and 785 feet (USC&GS datum); (4) a powerhouse, integral with the dam, containing two generators each rated at 67,500 kw.; (5) recreational development; and (6) appurtenant facilities.

Any person desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission a petition to intervene, and also file an explanation of their environmental position, specifying any difference with the environmental statement upon which the intervenor wishes to be heard, including therein a discussion of the factors enumerated in § 2.80 of Order 415-B.

Written statements by persons not wishing to intervene may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before April 9, 1972. The Commission will consider all responses to the statement.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-2733 Filed 2-23-72;8:48 am]

[Project No. 553—Washington (Skagit River)]

CITY OF SEATTLE, WASH.

Notice of Availability of Environmental Statement for Inspection

FEBRUARY 22, 1972.

Notice is hereby given that on February 12, 1971, as required by § 2.81(b) of Commission regulations under Order 415–B (36 F.R. 22738, November 30, 1971) a draft environmental statement containing information comparable to an agency draft statement pursuant to section 7 of the guidelines of the Council on Environmental Quality (36 F.R. 7724, April 23, 1971) was placed in the public files of the Federal Power Commission. This statement deals with an application for amendment of license which would permit the applicant to raise the height of Ross Dam by about 121 feet and to raise the normal full pool elevation of Ross Reservoir to elevation 1,725 feet m.s.l., which would increase the reservoir area from 11,680 acres to 20,000 acres.

This statement is available for public inspection in the Commission's Office of Public Information, Room 2523, General Accounting Office, 441 G Street NW., Washington, DC. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Va. 22151.

The raising of Ross Reservoir to an elevation of 1,725 feet m.s.l. represents the final stage in development of this dam as part of the Skagit River Project as contemplated when the original license was issued in 1927, and would provide the applicant an additional 33 megawatts of firm capacity and 272 megawatts of peaking power.

At the new reservoir level, approximately 5,200 acres of Canadian lands within the Province of British Columbia would be flooded. The 1,725 feet m.s.l. elevation on Ross Reservoir as authorized by the International Joint Commission on January 27, 1942, subject to a compensatory indemnification agreement between the city of Seattle and the Province of British Columbia. Said agreement was reached in January of 1967 for a term of 99 years. Applicant now seeks Commission approval as required by License Article No. 6.

Any person desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission a petition to intervene, and also file an explanation of their environmental position, specifying any difference with the Environmental statement upon which the intervenor wishes to be heard, including therein a discussion of the factors enumerated in § 2.80 of Order 415–B. Written statement by persons not wishing to intervene may be filed for the Commission's consideration. The petitions to intervene or comments should be filed with the Commission on or before 60 days from February 29, 1972. The Commission will consider all responses to the statement.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-2734 Filed 2-23-72;8:48 am]

[Docket No. CI72-510]

AMOCO PRODUCTION CO.

Notice of Application

FEBRUARY 22, 1972.

Take notice that on February 14, 1972, Amoco Production Co. (applicant), Post Office Box 591, Tulsa, OK 74102, filed in Docket No. CI72–510 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Trunkline Gas Co. from the Ramsey Field, Colorado County, Tex., and the New Taiton Field, Wharton County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell an estimated daily quantity of 12,500 Mcf of gas at 35 cents per Mcf at 14.65 p.s.i.a. for 1 year from the date of initial delivery within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before March 2, 1972, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-2792 Filed 2-23-72;8:49 am]

[Docket No. CS71-179]

HERMAN GEO. KAISER ET AL.

Notice of Petition for Waiver of Regulations

FEBRUARY 15, 1972.

Take notice that on January 27, 1972, Herman Geo. Kaiser (Operator) et al. (petitioner), 4120 East 51st Street, Tulsa, OK 74135, filed in Docket No. CS71–179 a petition for waiver in part of § 157.40(c) of the regulations under the Natural Gas Act (18 CFR 157.40(c)) so as to permit the sale of natural gas under the small producer certificate issued in Docket No. CS71–179 from properties acquired from Amerada-Hess Corp. (Amerada), all as more fully set forth in the petition for waiver which is on file with the Commission and open to public inspection.

Petitioner states that effective November 1, 1971, Amerada assigned to Kaiser-Francis Special Account A [1] of Tulsa, Okla., its interest in the following producing properties from which sales are authorized to be made in interstate commerce:

Amerada-Hess Corp. FPC gas rate schedule No.	Location	Purchaser
23	Light B Gas Unit, Greenwood Field, Morton County, Kans.	Colorado Interstate Gas Co.
23	Santa Fe B Gas Unit, Greenwood Field, Morton County, Kans.	Do.
23	Smith P Gas Unit, Greenwood Field, Morton County, Kans.	Do.
42	Mohler Unit, Greenwood Field, Morton County, Kans.	Do.
42	USA Boice Unit, Greenwood Field, Morton County, Kans.	Do.
42	USA Brown Unit, Greenwood Field, Morton County, Kans.	Do.
42	Addington A Unit, Greenwood Field, Morton County, Kans.	Do.
42	Allen B Unit, Greenwood Field, Morton County, Kans.	Do.

[1] A joint venture composed of Herman Geo. Kaiser, Rose Schlanger, Mildred Sanditen, Renee Neuwald, individuals; Francis Oil & Gas, Inc., a corporation; and Fell and Wolf Oil Co., a partnership.

Amerada-Hess Corp. FPC gas rate schedule No.	Location	Purchaser
42	Hayward E Gas Unit, Greenwood Field, Morton County, Kans.	Colorado Interstate Gas Co.
42	Santa Fe D Gas Unit, Greenwood Field, Morton County, Kans.	Do.
42	Williams 28 Gas Unit, Greenwood Field, Morton County, Kans.	Do.
42	Schweizer-Newman Unit, Greenwood Field, Baca County, Colo.	Do.
42	Watkins-Frink-Homsher Unit, Greenwood Field, Baca County, Colo.	Do.
42	Shanline-Henderson-Treon Unit, Greenwood Field, Baca County, Colo.	Do.
92	Newlin Unit, South Dacoma Field, Alfalfa County, Okla.	Michigan-Wisconsin Pipeline Co.
92	L. W. Lamm Unit A, Mutual Field, Woodward County, Wyo.	Do.
93	Ferguson F Unit, Southwest Camp Creek Field, Beaver County, Okla.	Colorado Interstate Gas Co.
102	Houts Unit, Southwest Hardtner Field, Woods County, Okla.	Cities Service Gas Co.
103	Thomas Unit, East Kremlin Field, Garfield County, Okla.	Arkansas-Louisiana Gas Co.
103	F. W. Zaloudek Unit, East Kremlin Field, Garfield County, Kans.	Do.
107	Whipple Gas Unit, Northeast Waynoka Field, Woods County, Okla.	Cities Service Gas Co.
108	McClung Unit, Laverne Field, Ellis County, Okla.	Michigan-Wisconsin Pipeline Co.
111	Catesby Unit No. 2, Wells Nos. 2, 3, and 4, Northeast Catesby Field, Ellis County, Okla.	Transwestern Pipeline Co.
112	Goodwin Area Unit, Goodwin Field (W. A. Meier and Anna Ruf Units), Ellis County, Okla.	Do.
113	White B Unit, Northeast Catesby Field, Ellis County, Okla.	Do.
114	Owens Unit, Northeast Catesby Field, Ellis County, Okla.	Do.
116	Clarence E. Fox Unit, Northeast Ivanhoe Field, Beaver County, Okla.	Do.
119	Ehrlich Unit B, Northeast Catesby Field, Ellis County, Okla.	Northern Natural Gas Co.
119	Shattuck Unit—Tract 1, Well 2, Shattuck Unit—Tract 1, Well 3, North Linscott Field, Ellis County, Okla.	Do.
130	R.H. Pride Unit, Midway Field, Baca County, Colo.	Baca Gas Gathering System.
130	Cogburn Unit, Midway Field, Baca County, Colo.	Do.
130	Nicodemus Unit, Midway Field, Baca County, Colo.	Do.
134	Mace Unit, Northeast Catesby Field, Ellis County, Okla.	Northern Natural Gas Co.
130	Beard Estate Northeast, Waynoka Field, Woods County, Okla.	Panhandle Eastern Pipe Line Co.
159	Elsie Varnum A North, Avard Field, Woods County, Okla.	Do.
43	Rush Springs Unit 1, Rush Springs Area, Grady County, Okla.	Lone Star Gas Co.

Petitioner states further that effective November 1, 1971, Amerada assigned to Herman Geo. Kaiser, Francis Oil & Gas, Inc., and Fell and Wolfe Oil Co. its interest in the following property from which sales are authorized to be made in interstate commerce:

Amerada-Hess Corp. FPC gas rate schedule No.	Location	Purchaser
97	Cash Unit	Lone Star Gas Co.
	Daily Unit	Do.
	Devine Unit	Do.
	Hallett Unit, Stage Stand Field, Stephens County, Okla.	Do.

Section 157.40(c) provides in part that sales may not be made pursuant to a small producer certificate from reserves acquired by a small producer by purchase of developed reserves in place from a large producer. Petitioner states that due to the number of leases involved where the majority are non-operated with interests down to less than two percent, including some salvage properties, one cannot justify the time, paper work, and expense required to make separate certificate succession filings and any required subsequent filings with the Commission. Petitioner states further that should the waiver be denied, he and the other interest holders would sustain economic hardship. Petitioner states that the other parties have consented to have sales from their interests in the subject properties made under his small producer certificate and that he is willing to accept authorization conditioned to the applicable area ceiling rates.

Any interested person may submit to the Federal Power Commission, Washington, D.C. 20426, not later than March 9, 1972, views and comments in writing concerning the petition for waiver. An original and 14 conformed copies should be filed with the Secretary of the Commission. The Commission will consider all such written submittals before acting on the petition.

KENNETH F. PLUMB,
Secretary.

[FR Doc.72-2616 Filed 2-23-72;8:45 am]

[Docket No. CS72-650 etc.]

NANCIE A. MARACHE ET AL.

Notice of Applications for "Small Producer" Certificates [1]

FEBRUARY 14, 1972.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before March 6, 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 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.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Name of applicant
CS72-650	1-28-72	Nancie A. Marache, Deer Park, Greenwich, Conn. 06830.
CS72-651	1-28-72	Martha K. Scholp, 726 South Ruton Ave., Wichita, KS 67218.
CS72-652	1-28-72	The Peoples National Bank and Sol Edelman, trustees for Shelley A. Brown and Carey H. Marks, Post Office Box 2001, Tyler, TX 75701.
CS72-653	1-28-72	U.S Trust Co. of N.Y. and John T. Connor, cotrustees for Kathleen O'Boyle, Trust No. 2, 45 Wall St., New York, NY 10005.
CS72-654	1-28-72	Marjorie Hall Lyons, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-655	1-28-72	Mrs. Herma Pate Watson, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-656	1-28-72	Timothy Edward Abendroth, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-657	1-28-72	Eugene L. Hilliard III, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-658	1-28-72	Martha Sibley Hilliard, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-659	1-28-72	Blythe Ann Lyons Trust, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-660	1-28-72	The C. H. and Marjorie Lyons Trust for Troy Dominic Lyons, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-661	1-28-72	The C. H. and Marjorie Lyons Trust for Cheryl Sue Lyons, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-662	1-28-72	The C. H. and Marjorie Lyons Trust for Culver Hall, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-663	1-28-72	The C. H. and Marjorie Lyons Trust for Marian Lyons, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-664	1-28-72	The C. H. and Marjorie Lyons Trust for Laurie Wilkinson Lyons, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-665	1-28-72	The C. H. and Marjorie Lyons Trust for Marjorie Scott Lyons Yarbrough, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-666	1-28-72	The C. H. and Marjorie Lyons Trust for Sally Scott Lyons Wood, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-667	1-28-72	The C. H. and Marjorie Lyons Trust for Charlton Havard Lyons III, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-668	1-28-72	The C. H. and Marjorie Lyons Trust for Stafford Lyons Foss, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-669	1-28-72	The C. H. and Marjorie Lyons Trust for Susybelle Lyons Gossiee, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-670	1-28-72	The C. H. and Marjorie Lyons Trust for Michael Glen Lyons, 1500 Beck Bldg., Shreveport, La. 71101.
CS72-671	1-31-72	Whitestone Corp., 2100 First City National Bank Bldg., Houston, TX 77002.
CS72-672	1-31-72	Lucie L. Ray, Post Office Box 519, Shreveport, LA 71101.
CS72-673	1-31-72	Mrs. Thais Ray Soes, Post Office Box 519, Shreveport, LA 71101.
CS72-674	1-31-72	North American Production Co., 1124 Guaranty Bank Plaza, Corpus Christi, TX 78401.
CS72-675	1-31-72	Sag Ventures Corp., Campbell Pl., Camden, N.J. 08101.
CS72-676	1-31-72	Sag Ventures Penna. Co., Campbell Pl., Camden, N.J. 08101.
CS72-677	1-31-72	Midwest Drilling Venture, 1100 Hamilton Bldg., Wichita Falls, Tex. 76301.
CS72-678	1-31-72	McNeil Street Drilling Venture, 1100 Hamilton Bldg., Wichita Falls, Tex. 76301.
CS72-679	1-31-72	Norma S. Gould, 740 Vandyke Ave., Detroit, MI 48214.
CS72-680	1-31-72	F. E. Gould, 740 Vandyke Ave., Detroit, MI 48214.
CS72-681	1-31-72	Carl Oil & Gas, Inc., 1700 Guaranty Bank Plaza, Corpus Christi, Tex. 78401.
CS72-682	1-31-72	T. W. McGuire & Associates, Inc., 1608 Beck Bldg., Shreveport, La. 71101.
CS72-683	2-1-72	The Stone Oil Co., 3100 Fountain Square Plaza, Cincinnati, OH 45202.
CS72-684	2-1-72	Worldwide Energy Corp., 505 8th Ave. SW., Suite 406, Calgary 2, AB, Canada.
CS72-685	2-1-72	J & J Oilfield Service, d.b.a. Mesa Oil Co., Drawer R, Jal, NM 88252.

[FR Doc.72-2615 Filed 2-23-72;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST STATE BANKING CORP.

Formation of Bank Holding Company

First State Banking Corp., Miami, Fla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of The First State Bank of Miami, Miami; Hialeah-Miami Springs First State Bank, Hialeah; Airport First State Bank, Miami; North Hialeah First State Bank, Hialeah; and Miami Lakes First State Bank, Miami, all in the State of Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than March 17, 1972.

Board of Governors of the Federal Reserve System, February 17, 1972.

[SEAL] TYNAN SMITH,
Secretary of the Board.

[FR Doc.72-2711 Filed 2-23-72;8:48 am]

GENERAL SERVICES ADMINISTRATION

FEDERAL SUPPLY SERVICE

Notice Concerning Solicitation for Offers

In the interest of cost reduction, interim procedures have been adopted by the Federal Supply Service to (1) eliminate nonessential material from solicitations, and (2) mail only one copy of solicitation to addressees on our mailing lists except that complete bidding sets will continue to be mailed to known active bidders.

(A copy of the referenced interim procedures may be obtained from General Services Administration (FPP), Washington, D.C. 20406.)

Dated: February 14, 1972.

M. S. MEEKER,
Commissioner,
Federal Supply Service.

[FR Doc.72-2697 Filed 2-23-72;8:46 am]

SMALL BUSINESS ADMINISTRATION

[License 06/10-5156]

AMERICAN INDIAN INVESTMENT OPPORTUNITIES, INC.

Notice of Issuance of License to Operate as a Minority Enterprise Small Business Investment Company

On March 20, 1971, a notice was published in the FEDERAL REGISTER (36 F.R. 5388) stating that American Indian Investment Opportunities, Inc., had filed an application 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)) for a license to operate as a minority enterprise small business investment company (MESBIC).

Interested parties were given to the close of business March 30, 1971, to submit their written comments to SBA.

Notice is hereby given that, having considered the application and all other pertinent information, SBA has issued License No. 06/10-5156 to American Indian Investment Opportunities, Inc., pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended.

Dated: February 15, 1972.

A. H. SINGER,
Associate Administrator
for Investment.

[FR Doc.72-2701 Filed 2-23-72;8:47 am]

[License 04/05-0101]

ASSOCIATED BUSINESS INVESTMENT CORP.

Notice of Application for a License as a Small Business Investment Company

Notice is hereby given concerning the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1971)), under the name of Associated Business Investment Corp., Suite 735, Bank for Savings Building, Birmingham, Ala. 35203, for a license to operate in the State of Alabama as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.).

The applicant's officers and directors are as follows:

George Little, 3532 Belle Meade Way, Birmingham, AL 35233, President and Director,
Bobby Gene Purvis, 2404 Sceptor Lane, Birmingham, AL 35226, Vice President and Director (General Manager).
Macon Gravlee, Box 310, Fayette, AL 35555, Director, Secretary-Treasurer.
Donald Davis, Post Office Box 5866, Birmingham, AL 35209, Director.
Mark Fred Ferlisi, 2110 Eighth Avenue North, Birmingham, AL 35203, Director.
Inos Allen Heard, 3165 Cahaba Heights Plaza, Birmingham, AL 35243, Director.
Dewey Hershel Thorton, Post Office Box 9570, Birmingham, AL 35215, Director.
Luther Thurman Henninger III, Post Office Box 11044, Birmingham, AL 35202, Director.

The applicant's stock is beneficially owned by 79 holders. No person or corporation owns as much as 10 percent of the stock. All of the officers, directors, and stockholders of the applicant are affiliated with Associated Grocers of Alabama, Inc., which is in the business of cooperative purchasing for its shareholders who are all owners of retail grocery stores.

The applicant plans to begin operations with capitalization of $272,949.40. It will not concentrate its investments in any particular industry.

The company intends to offer management consulting services to borrowers and other small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the management and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and regulations.

Notice is further given that any interested person may, not later than 10 days from the date of publication of this notice, submit to SBA, in writing, relevant comments on the proposed company. Any such communication should be addressed to the Associate Administrator for 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 Birmingham, Ala.

Dated: February 14, 1972.

A. H. SINGER,
Associate Administrator for Investment.

[FR Doc.72-2703 Filed 2-23-72;8:47 am]

GOODWIN SMALL BUSINESS INVESTMENT CO.

Notice of Filing of an Application for Exemption With Respect to Conflict-of-Interest Transaction

Notice is hereby given that Goodwin Small Business Investment Co. (Goodwin), 1200 First National Bank Building, Fifth and B Streets, San Diego, CA 92101, a Federal licensee under the Small Business Investment Act of 1958, as amended (the Act), License No. 09/14-0012, has filed an application pursuant to § 107.1004 of the Small Business Administration rules and regulations (13 CFR 107.1004 (1971)) for an exemption with respect to a conflict-of-interest transaction covered by section 312 of the Act.

Goodwin, on July 7, 1971, loaned Little Ol' Cobbler (LOC) $25,000 due June 1, 1978, with an option to purchase 2,500 shares of its common stock at $10 per share. The conflict-of-interest arises from the fact that Mr. Michael Ehrenfeld is both an employee of the Percy H. Goodwin Co. (which is a major stockholder of Goodwin) and a director of LOC.

The application represents the following:

1. Mr. Ehrenfeld was not instrumental in arranging the negotiations.

2. Mr. Ehrenfeld receives no remuneration from LOC for his director duties and has no stock or stock options or other contemplated monetary benefits from LOC.

3. Mr. Ehrenfeld does not serve the Percy H. Goodwin Co. in a management capacity, possesses no stock or stock options in the Percy H. Goodwin Co. or any subsidiary, and holds the sole position of insurance salesman for the Percy H. Goodwin Co.

4. Mr. Ehrenfeld abstained from voting as an LOC director on the question of whether LOC should accept Goodwin's loan commitment to it.

5. Goodwin has supplied only a minor portion of funds required by LOC.

6. There is no pattern of transactions existing between Goodwin, Mr. Ehrenfeld, and small business concerns.

7. The terms of the transactions between Goodwin and LOC were fair and reasonable with respect to the shareholders of Goodwin, the shareholders of LOC, and the SBA creditors interest.

8. LOC in no way controls Goodwin.

9. Mr. Ehrenfeld, in his role as director of LOC, can continue to render valuable assistance to LOC.

Notice is further given that any interested person may, not later than 15 days from the publication of this notice submit to SBA, in writing, relevant comments on this transaction. Any such comments should be addressed to the Associate Administrator for investment, 1441 L Street NW., Washington, DC 20416. After the aforementioned 15-day period, SBA may, under the Regulations, dispose of the application on the basis of the information stated in said application and other relevant data.

Dated: February 11, 1972.

A. H. SINGER,
Associate Administrator for Investment.

[FR Doc.72-2704 Filed 2-23-72;8:47 am]

MERCHANTS CAPITAL CORP.

Notice of Surrender of License of Small Business Investment Company

Notice is hereby given that Merchants Capital Corp. (Merchants), 1515 North Senate Avenue, Indianapolis, IN 46202, has, pursuant to § 107.105 of the regulations governing Small Business Investment Companies (13 CFR 107.105 (1971)), surrendered its license to operate as a small business investment company.

Merchants was incorporated July 16, 1962, under the laws of the State of Indiana and issued License No. 07-0056 by the Small Business Administration on October 5, 1962.

Merchants was licensed to operate solely under the Small Business Investment Act of 1958, as amended (15 U.S.C. section 661 et seq.).

Under the authority vested by the Small Business Investment Act of 1958, as amended, and the regulations promulgated thereunder, the surrender of the license was accepted on February 10, 1972. Accordingly, Merchants is no longer licensed to operate as a small business investment company.

Dated: February 14, 1972.

A. H. SINGER,
Associate Administrator for Investment.

[FR Doc.72-2702 Filed 2-23-72;8:47 am]

WASHINGTON CAPITAL CORP.

Notice of Approval of Application for Transfer of Control of a Licensed Small Business Investment Company

Pursuant to the provisions of § 107.701 of the Small Business Administration rules and regulations (13 CFR 107.701 (1971)), a notice of filing of an application for transfer of control of Washington Capital Corp., 1417 Fourth Avenue, Seattle, WA 98111, was published in the FEDERAL REGISTER on January 15, 1972 (37 F.R. 689).

Interested persons were invited to send their written comments to SBA on the proposed transfer of control. No comments were received.

Upon consideration of the application and other relevant information, SBA hereby approves the transfer of control of Washington Capital Corp.

Dated: February 15, 1972.

A. H. SINGER,
Associate Administrator for Investment.

[FR Doc.72-2699 Filed 2-23-72;8:47 am]

[Declaration of Disaster Loan Area 876; Class B]

MASSACHUSETTS

Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of February 1972, because of the effects of a certain disaster, damage resulted to business property located in Wakefield, Mass.;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitutes 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 Wakefield, Mass., suffered damage or destruction resulting from a fire occurring on February 5, 1972.

OFFICE

Small Business Administration Regional Office, John Fitzgerald Kennedy Federal Building, Government Center, Boston, Mass. 02203.

2. A temporary office will be established in the Chamber of Commerce Building, 6 Foster Street, Wakefield, MA.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to August 31, 1972.

Dated: February 8, 1972.

ANTHONY G. CHASE,
Deputy Administrator.

[FR Doc.72-2700 Filed 2-23-72;8:47 am]

TARIFF COMMISSION

[AA1921-84]

DIAMOND TIPS FROM THE UNITED KINGDOM

Determination of Injury

The Treasury Department advised the Tariff Commission on November 18, 1971, that diamond tips for phonograph needles from the United Kingdom are being, and are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted investigation No. AA1921-84 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on January 11, 1972. Notice of the investigation and hearing was published in the FEDERAL REGISTER of November 25, 1971 (36 F.R. 22653).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission determined unanimously that an industry in the United States is being injured by reason of the importation of diamond tips for phonograph needles from the United Kingdom sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS

In the Commission's judgment, an industry in the United States is being injured by reason of the importation from the United Kingdom of diamond tips for phonograph needles, which are being sold at less than fair value (LTFV) within the meaning of the Antidumping Act, 1921, as amended.

The diamond tips for phonograph needles being imported from the United Kingdom consist individually of an almost microscopic chip of diamond bonded to steel and shaped to fit into the grooves of a phonograph record. These tips, sometimes referred to as welded diamond tips, are used in the manufacture of phonograph needles, principally for the crystal and ceramic cartridges in mass marketed phonographs.

The industry. In making our determination, we have considered the injured industry to consist of those facilities in the United States involved in the production of welded diamond tips for phonograph needles of the type being imported from the United Kingdom. Currently such diamond tips are being produced by three domestic firms.

Market penetration and lost sales. Information obtained by the Commission in the course of its investigation indicates that by utilizing the price advantage afforded by sales of welded diamond tips at LTFV, the United Kingdom exporters achieved a substantial penetration of the U.S. Market. During the period covered by the Treasury Department's investigation (July 1970 through August 1971), nearly all imports from the United Kingdom were sold at LTFV. Total United Kingdom imports of diamond tips from the United Kingdom increased from about 20 percent of U.S. apparent consumption in 1970 to about 30 percent in 1971.

The Commission's investigation revealed that the LTFV imports were sold in the United States, for the most part, at prices below those of the comparable domestic product, and that price cutting was initiated in a number of instances by suppliers of the LTFV imports. These practices aggravated an already declining price structure for welded diamond tips in the United States.

Price depression. The dumping margin (amount by which the price of the tips sold for export to the United States was less than the price of tips sold in the United Kingdom), as calculated by the Treasury Department, was considerably greater than the differential by which the LTFV imported tips undersold comparable domestic tips. Thus, because of the LTFV sales, it was possible for United Kingdom exports to undersell U.S. produced tips in the U.S. market. In the market for welded diamond tips, where the product is so rigidly specified as to be virtually interchangeable as to source, and where competition is largely on the basis of price (quoted prices frequently differ by less than one percent), the underselling and offers to undersell by the LTFV suppliers were used by the buyers as a means of inducing others to lower their prices. The overall effect of such pricing was either to take away sales from domestic producers or to cause the domestic producers to lower their prices.

Conclusion. In our judgment, imports of welded diamond tips from the United Kingdom sold at less than fair value have contributed substantially to both a decline in prices of such tips in the U.S. market, and a loss of sales by the U.S. producers. Accordingly, we have unanimously determined that an industry in the United States is being injured by reason of LTFV imports.

By order of the Commission.

[SEAL] KENNETH R. MASON,
Secretary.

[FR Doc.72-2688 Filed 2-23-72;8:46 am]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 274; Sub-No. 1]

ABANDONMENT OF RAILROAD LINES

FEBRUARY 18, 1972.

A court action, entitled as shown below, was instituted on February 10, 1972, involving the above-entitled proceeding. On February 16, 1972, the Honorable Michael H. Sheridan, entered a temporary restraining order which ordered that "The operation of the order of the Interstate Commerce Commission in its Ex Parte No. 274 (Sub-No. 1), dated January 14, 1972 (served January 18, 1972), insofar as such order becomes effective upon publication in the FEDERAL REGISTER, be and it is hereby restrained pending hearing and determination of plaintiffs' application for an interlocutory injunction or until the proceedings contemplated in the notice of the Interstate Commerce Commission, served February 4, 1972, are concluded, whichever sooner occurs."

[Civil Action No. 72-63]

COMMONWEALTH OF PENNSYLVANIA, PENNSYLVANIA PUBLIC UTILITY COMMISSION, and CONGRESS OF RAILWAY UNIONS

v.

UNITED STATES OF AMERICA and INTERSTATE COMMERCE COMMISSION

before the U.S. District Court for the Middle District of Pennsylvania.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-2837 Filed 2-22-72;4:15 pm]

ASSIGNMENT OF HEARINGS

FEBRUARY 18, 1972.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation

of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 106644 Sub 134, Superior Trucking, now being assigned hearing March 13, 1972, in Room 8212, Federal Building, 515 Rusk Street, Houston, TX.

MC 107576 Sub 20, Silver Wheel Freightlines, Inc., assigned for continued hearing March 21, 1972, at the Davenport Hotel, Hall of Doges, Spokane, Wash., and March 27, 1972, at the Airtel Motel, Conference Room A, 6221 Northeast 82d Avenue, Portland, OR.

FD 26764, Gulf Mobile and Ohio Railroad Co. Abandonment Between Dwight, Livingston County, and Washington, Tazewell County, Ill., assigned for hearing March 20, 1972, at the Village Hall, 102 North Davenport on the Square, Metamore, IL.

MC 107515 Sub-784, Refrigerated Transport Co., now being assigned hearing April 24, 1972, at Tallahassee, Fla., in a hearing room to be designated later.

MC 106451 Sub 9, Cook Motor Lines, now being assigned hearing April 24, 1972, at Columbus, Ohio, in a hearing room to be designated later.

FD 26893, Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Abandonment Between Beulah and Elkader, in Clayton County, Iowa, assigned for hearing May 3, 1972, at Elkader, Iowa, in a hearing room to be later designated.

MC 107496 Sub 824, Ruan Transport Corp., assigned for hearing May 1, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 110616 Sub 4, Charter Coaches, Inc., assigned for hearing May 8, 1972, at Cedar Rapids, Iowa, in a hearing room to be later designated.

FD 26767, Atchison, Topeka and Santa Fe Railway Co. Abandonment Between Crews and Palmer Lake, El Paso County, Colo., and FD 26768, Denver and Rio Grande Western Railroad Co. Abandonment Between Kelker and Skinners, El Paso County, Colo., assigned for hearing April 17, 1972, at Colorado Springs, Colo., in a hearing room to be later designated.

FD 26924, Great Western Railway Co. Abandonment Between Officer and Eaton, in Weld and Larimer Counties, Colo., assigned for hearing April 24, 1972, at Fort Collins, Colo., in a hearing room to be later designated.

MC 95540 Sub 825, Watkins Motor Lines, Inc., assigned for hearing April 20, 1972, at Denver, Colo., in a hearing room to be later designated.

MC 115826 Sub 228, W. J. Digby, Inc., assigned for hearing April 19, 1972, at Denver, Colo., in a hearing room to be later designated.

MC-F-10788, Eastern Freight Ways, Inc.—Control—E. J. Scannell, Inc., and Central States Transportation, FD 26128, Eastern Freight Ways, Assumption of Obligation and Liability, now being assigned hearing April 25, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 60014 Sub 29, Aero Trucking, MC 110583 Sub 72, Coldway Express, now being assigned hearing April 24, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 114211 Sub 162, Warren Transport, MC 117574 Sub 209, Daily Express, now being assigned hearing April 27, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 126373 Sub 3, James A. Bonham, doing business as Bonham's Special Delivery, now being assigned hearing April 26, 1972, at the Offices of Interstate Commerce Commission, Washignton, D.C.

MC-F-11247, T.I.M.E.-DC, Inc.—Purchase—Ascot Trucking Corp., and MC 35320 Sub 126, T.I.M.E.-DC, Inc., assigned March 15, 1972, MC-F-11249, Roadway Express, Inc.—Purchase (Portion)—Chippewa Motor Freight, Inc., assigned March 8, 1972, MC-F-11312, Montgomery Tank Lines, Inc.—Purchase (portion)—Milk Transport, Inc., assigned March 13, 1972, MC 51146 Sub 227, Schneider Transport and Storage, assigned March 7, 1972, and MC 60014 Sub 28, Aero Trucking, Inc., assigned March 6, 1972, at Chicago, Ill., will be held in Room 1086A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 119619 Sub 59, Distributors Service, now assigned February 28, 1972, at Chicago, Ill., is postponed indefinitely.

MC 107299 Sub 8, Roberts Cartage Co., assigned for hearing May 15, 1972, at Chicago, Ill., in a hearing room to be later designated.

MC 129350 Sub 16, Charles E. Wolfe, doing business as Evergreen Express, assigned for hearing May 1, 1972, at Billings, Mont., in a hearing room to be later designated.

MC 135206 Sub 1, Norman Kruckenberg, doing business as N. K. Trucking, assigned for hearing May 3, 1972, at Billings, Mont., in a hearing room to be later designated.

MC 135248 Sub 3, William H. Dees, doing business as Dees Transportation, assigned for hearing May 8, 1972, at Billings, Mont., in a hearing room to be later designated.

FD 26725, Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Abandonment Between Grass Range and Winnett, Fergus, and Petroleum Counties, Mont., assigned for hearing May 10, 1972, at Roundup, Mont., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-2728 Filed 2-23-72;8:48 am]

FOURTH SECTION APPLICATION FOR RELIEF

FEBRUARY 18, 1972.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 42356—*Clay, kaolin or pyrophyllite to Willmar, Minn.* Filed by M. B. Hart, Jr., agent (No. A6298), for interested rail carriers. Rates on clay, kaolin or pyrophyllite, in carloads, as described in the application, from specified points in Florida and Georgia, also Langley, S.C., to Willmar, Minn.

Grounds for relief—Rate relationship.

Tariff—Supplement 144 to Southern Freight Association, agent, tariff ICC S-751. Rates are published to become effective on March 23, 1972.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-2729 Filed 2-23-72;8:48 am]

[Notice 6]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

FEBRUARY 18, 1972.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 607) (Cancels Deviation No. 435), GREYHOUND LINES, INC. (Western Division), 371 Market Street, San Francisco, CA 94106, filed February 7, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From junction U.S. Highway 50 and Interstate Highway 580 (Altamont Speedway Junction), over Interstate Highway 580 to junction Interstate Highway 5, thence over Interstate Highway 5 to junction California Highway 99 (Maricopa Junction); and (2) from junction U.S. Highway 50 and Interstate Highway 580 (Altamont Speedway Junction), over Interstate Highway 580 to junction California Highway 132 (West Vernalis Junction), thence over California Highway 132 to junction California Highway 33 (Vernalis Junction), and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From San Francisco, Calif., over the San Francisco-Oakland Bay Bridge to Oakland, thence over unnumbered highway via San Leandro and Hayward to junction Interstate Highway 580, northeast of Hayward (Hayward Junction), thence over Interstate Highway 580 to junction U.S. Highway 50 (Chrisman Road Junction), thence over U.S. Highway 50 via Tracy to junction California Highway 120 (San Joaquin Bridge), thence over California Highway 120 to Manteca, thence over unnumbered highway to junction California Highway 99 south of Manteca (South Manteca), thence over California Highway 99 to junction unnumbered highway (north Modesta Junction), thence over unnumbered highway to junction California Highway 99 (South Modesto Junction), thence over California Highway 99 to junction unnumbered highway (North Merced Junction), thence over unnumbered highway to junction California Highway 99 (South Merced Junction),

thence over California Highway 99 to Fresno, thence over unnumbered highway to junction California Highway 99 (South Kingsburg Junction), thence over California Highway 99 to junction unnumbered highway (North Bakersfield Junction), thence over unnumbered highway to junction California Highway 99 (South Bakersfield Junction), thence over California Highway 99 to junction Interstate Highway 5 (Maricopa Junction), thence over Interstate Highway 5 to junction unnumbered highway (San Fernando Junction), thence over unnumbered highway to junction unnumbered highway (Colorado Boulevard Junction), thence over unnumbered highway to Los Angeles, Calif.; and (2) from junction U.S. Highway 50 and California Highway 33 east of Tracy (Westside Junction), over California Highway 33 to junction California Highway 132 (Vernalis Junction), thence over California Highway 132 to Modesto, Calif., and return over the same routes.

No. MC–1515 (Deviation No. 608), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, OH 44113, filed February 10, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over a deviation route as follows: From Bland, Va., over U.S. Highway 21 (access road) to junction Interstate Highway 77, thence over Interstate Highway 77 to junction Virginia Highway 610 (access road), thence over Virginia Highway 610 to Wytheville, Va., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: Between Bland, Va., and Wytheville, Va., over U.S. Highway 21.

By the Commission.

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

[FR Doc.72-2721 Filed 2-23-72;8:48 am]

[Notice 6]

MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

FEBRUARY 18, 1972.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(d)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(d)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(d)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC–59583 (Deviation No. 42), THE MASON & DIXON LINES, INCORPORATED, Post Office Box 969, Kingsport, TN 37662, filed February 10, 1972. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Atlanta, Ga., U.S. Highway 78 (also Interstate Highway 20) to junction Alabama Highway 21, thence over Alabama Highway 21 to junction U.S. Highway 431, thence over U.S. Highway 431 to junction U.S. Highway 278, thence over U.S. Highway 278 to junction U.S. Highway 31, thence over U.S. Highway 31 to junction Alternate U.S. Highway 72, thence over Alternate U.S. Highway 72 to junction U.S. Highway 72, thence over U.S. Highway 72 to junction U.S. Highway 45, thence over U.S. Highway 45 to Jackson, Tenn., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Atlanta, Ga., over U.S. Highway 41 to junction Georgia Highway 293, thence over Georgia Highway 293 to junction unnumbered highway near Emerson, Ga., thence over unnumbered highway to Cartersville, Ga., thence over U.S. Highway 41 to Nashville, Tenn., thence over Tennessee Highway 100 via Linden, Tenn., to junction Tennessee Highway 20, thence over Tennessee Highway 20 via Lexington, Tenn., to junction U.S. Highway 70, thence over U.S. Highway 70 to Jackson, Tenn., and return over the same route.

By the Commission.

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

[FR Doc.72-2722 Filed 2-23-72;8:48 am]

[Notice 13]

MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

FEBRUARY 18, 1972.

The following publications are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable to the Commission.

APPLICATIONS ASSIGNED FOR ORAL HEARING

MOTOR CARRIERS OF PROPERTY

No. MC 56679 (Sub-No. 63), filed January 21, 1972. Applicant: BROWN TRANSPORT CORP., 125 Milton Avenue SE., Atlanta, GA 30315. Applicant's representative: R. J. Reynolds III, 604–09 Healey Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); (1) between Athens, and Elberton, Ga., from Athens, Ga., to Elberton, Ga., over Georgia Highway 72, and return over the same route, serving all intermediate points; and (2) between Elberton, Ga., and Greenville, S.C., from Elberton, Ga., over Georgia Highway 77 to Hartwell, Ga., thence over U.S. Highway 29 via Anderson, S.C., to Greenville, S.C. (also over Interstate Highway 85 between junction of U.S. Highway 29 with Interstate Highway 85 and Greenville, S.C.), and return over the same route, serving all intermediate points on the routes described above between Anderson and Greenville, S.C., including Anderson, and serving the termini, of Elberton, Ga., and Greenville, S.C. NOTE (A) At each point which applicant proposes to serve as either a terminal or intermediate point applicant requests authority to provide full and complete regular route service without any restriction as to applicant's ability (1) to pick up, deliver, or interchange shipments at such points or (2) to tack or join the authority requested at such points with other authority held by applicant to serve such points.

NOTE (B) At points located on the proposed route between Athens and Elberton, Ga., including those two points, applicant proposes to join and tack the proposed route to other regular and irregular route authority held by applicant. Through such joinder and tacking, Brown proposes to provide service (as such service may be limited by existing authority according to the type of commodities authorized or the character of service permitted—regular or irregular), between all proposed points, on the one hand, and, on the other, all points otherwise served by Brown. NOTE (C) The service which applicant proposes to provide by this application is the same as that proposed in applicant's MC–56679 (Sub-No. 48). The difference between this application and Sub 48 involves the highways to be used in crossing the Savannah River between Georgia and South Carolina. After Sub 48 was filed and corresponding temporary operations were commenced, pursuant to authority granted in Docket MC–56679 Sub 45TA, applicant discovered that the bridge across the Savannah River on Georgia

Highway 368 (formerly Georgia Highway 82) and South Carolina Highway 184 would not accommodate applicant's loaded tractor-trailer units Accordingly, it is now necessary to seek a new route across the Savannah River. The routes specified in the new application are those which most nearly parallel the routes requested by Sub 48 via the nearest available and sufficient bridge over the river. By framing the request for intermediate point authority as specified above applicant has confined the instant application to points sought by Sub 48. Applicant does not seek any duplicating authority and desires to proceed to hearing on the basis of this revised and substituted application instead of Sub 48. Sub 48 has not yet been assigned for hearing. Applicant requests that further action on Sub 48 be held in suspense or abeyance pending final action on this revised and substituted application. When this revised and substituted application is finally determined, applicant requests that Sub 48 be dismissed. Hearing: March 20, 1972 in Room 305, 1252 West Peachtree Street NW., Atlanta, GA, before Joint Board No. 131, and if the Joint Board fails to participate, before an examiner to be later designated.

No. MC 116763 (Sub-No. 190) (Amendment), filed March 3, 1971, published in the FEDERAL REGISTER issue of April 8, 1971, and republished as amended, this issue. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 43580. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Food and foodstuffs; citrus products; fruits, juices, drinks, drink bases, beverages, beverage preparations, and concentrates;* (2) *citrus byproducts; animal feeds; turpine; and d'limonene;* (3) *bottles; containers and cartons and parts thereof;* and (4) *commodities*, in mixed shipments, the transportation of which is partially exempt from economic regulations under section 203(b)(6) of the Act when transported in mixed shipment with the commodities described in (1), (2), and (3) above, from Bradenton, Fla., to points in the United States in and east of Minnesota, Iowa, Missouri, Kansas, Oklahoma, and Texas (except Florida). Restriction: Restricted to traffic originating at the facilities of Tropicana Products Sales, Inc., and its subsidiaries, at Bradenton, Fla. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is sought. Hearing: Remains assigned for continued hearing March 20, 1972, Washington, D.C.

No. MC 94201 (Sub-No. 56) (Republication), filed July 12, 1965, published in the FEDERAL REGISTER issue of August 19, 1965, and republished this issue. Applicant: BOWMAN TRANSPORTATION, INC., Post Office Box 2188, East Gadsden, AL. Applicant's representative: Maurice F. Bishop, 325–29 Frank Nelson Building, Birmingham, Ala. A report and order of the Commission, Division 1, decided December 30, 1971, and served January 24, 1972, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier, by motor vehicle, of general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment); (1) between Mobile, Ala., and Houston, Tex.: From Mobile over U.S. Highway 90 to New Orleans, La., thence over U.S. Highway 61 to Baton Rouge, La., thence over U.S. Highway 190 to Kinder, La., thence over U.S. Highway 165 to junction U.S. Highway 90 (also Interstate Highway 10), thence over U.S. Highway 90 (also over Interstate Highway 10) to Houston, and return over the same route, serving the intermediate points of Pascagoula, Miss.; New Orleans, Baton Rouge, and Lake Charles, La.; and Orange and Beaumont, Tex.; and the off-route points of Grand Isle, Lockport, and Golden Meadow, La.; and Port Arthur, Baytown, and Texas City, Tex.; (2) between Tuscaloosa, Ala., and New Orleans, La.: From Tuscaloosa over U.S. Highway 11 (also over Interstate Highway 59) to New Orleans, and return over the same route, serving the intermediate points of Meridian, Laurel, and Hattiesburg, Miss., and serving the junction of U.S. Highways 11 and 80 and Interstate Highway 59 at or near Toomsuba, Miss., for the purposes of joinder only;

(3) Between Poplarville, Miss., and Baton Rouge, La.: From Poplarville over Mississippi Highway 26 to the Mississippi-Louisiana State Line, thence over Louisiana Highway 10 to Bogalusa, La., thence over Louisiana Highway 21 to Covington, La., thence over U.S. Highway 190 to Baton Rouge and return over the same route, serving no intermediate points, serving Poplarville for the purposes of joinder only, as an alternate route for operating convenience only; (4) between Montgomery, Ala., and the junction of U.S. Highways 11 and 80 and Interstate Highway 59: From Montgomery over U.S. Highway 80 to junction U.S. 11 and Interstate Highway 59, and return over the same route, serving all intermediate points in Alabama; (5) between Meridian, Miss., and Fort Worth, Tex.: From Meridian over U.S. Highway 80 (also over Interstate Highway 20) to Fort Worth, and return over the same route, serving the intermediate points of Jackson and Vicksburg, Miss.; Monroe, Ruston, and Shreveport, La.; and Marshall, Gladewater, Longview, and Dallas, Tex.; (6) between Tuscaloosa, Ala., and Fort Worth, Tex.: From Tuscaloosa over U.S. Highway 82 to Texarkana, Tex.-Texarkana, Ark., thence over U.S. Highway 67 (also over Interstate Highway 30) to Dallas, Tex., thence over U.S. Highway 80 to Fort Worth, and return over the same route, serving the intermediate points of Columbus, Greenwood, and Greenville, Miss.; El Dorado and Crosset, Ark.; Texarkana, Tex.-Texarkana, Ark.; and Greenville and Dallas, Tex.; and the off-route points of Plano and Garland, Tex., and Camden, Ark.;

(7) Between Memphis, Tenn., and Topeka, Kans.: From Memphis over U.S. Highway 70 to junction U.S. Highway 63 (also Interstate Highway 55), thence over U.S. Highway 63 to junction U.S. Highway 60 at Cabool, Mo., thence over U.S. Highway 60 to Springfield, Mo., thence over U.S. Highway 66 to Carthage, Mo., thence over U.S. Highway 71 to Kansas City, Mo., thence over Interstate Highway 70 to Topeka, and return over the same route, serving the intermediate points of Jonesboro and West Memphis, Ark.; Springfield and Carthage, Mo.; and Kansas City, Mo.-Kansas City, Kans.; (8) between Memphis, Tenn., and Little Rock, Ark.: From Memphis over U.S. Highway 70 to West Memphis, Ark., thence over Interstate Highway 40 to Little Rock, and return over the same route, serving no intermediate points; (9) between West Memphis, Ark., and Little Rock, Ark.: From West Memphis over U.S. Highway 70 (also over Interstate Highway 40) to Little Rock, Ark., and return over the same route, serving no intermediate points; (10) between Little Rock, Ark., and Greenville, Miss.: From Little Rock over U.S. Highway 65 to junction U.S. Highway 82 near Lake Village, Ark., thence over U.S. Highway 82 to Greenville, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only; (11) between Houston, Tex., and Dallas, Tex.: From Houston over U.S. Highway 75 (also over Interstate Highway 45) to Dallas, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only; (12) between Little Rock, Ark., and Texarkana, Tex.: From Little Rock over Interstate Highway 30 (also over U.S. Highway 67) to Texarkana, and return over the same route, serving no intermediate points, as an alternate route for operating convenience only;

Restrictions: (1) Restricted to the transportation of traffic moving from, to, or through Birmingham, Montgomery, and Mobile, Ala., Pensacola, Fla., or Memphis, Tenn.; (2) with service at New Orleans restricted to traffic originating at or destined to points in Tennessee and those points in Alabama on and north of U.S. Highway 78; and (3) restricted against the transportation of (a) traffic originating at or received from connecting carriers at Memphis, Tenn., and points in its commercial zone and destined to points west of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the international boundary line between the United States and Canada; or (b) traffic originating at points west of the line described in (3)(a) above and destined to or delivered to connecting carriers at Memphis, Tenn., and points in its commercial zone. Because it is possible that other persons who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described in the

findings in this order, a notice of the authority actually granted to applicant will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file a petition to reopen or for other appropriate relief setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 115162 (Sub-No. 230) (Republication), filed May 24, 1971, published in the FEDERAL REGISTER issues of June 17, 1971, and January 5, 1972, republished this issue. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen AL 36401. Applicant's representative: Robert E. Tate (same address as applicant). A corrected order of the Commission, Operating Rights Board, dated November 29, 1971, and served February 9, 1972, finds; that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a comular routes of urethane, urethane products, roofing, and roofing materials, insulating materials, composition board, and gypsum products and materials used in the installation thereof except (a) chemicals and (b) commodities, in bulk, from the plantsite and storage facilities of The Celotex Corp., at Charleston, Ill., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, restricted to the transportation of traffic originating at the plantsite and storage facilities of the Celotex Corp. at Charleston, Ill. Since it is possible that other parties who have relied upon the notices in the FEDERAL REGISTER of the application as previously published may have an interest in and would be prejudiced by the lack of proper notice of the grant of authority the findings herein, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of the certificate in this proceeding will be withheld for a period of 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition for leave to intervene in the proceeding setting forth in detail the precise manner in which it has been prejudiced.

No. MC 116077 (Sub-No. 303) (Partial Republication), filed August 17, 1970, published in the FEDERAL REGISTER issue of September 24, 1970, and republished in part, this issue. Applicant: ROBERTSON TANK LINES, INC., 5700 Polk Avenue, Post Office Box 1505, Houston TX 77001. Applicant's representative: Pat H. Robertson, Suite 401, First National Life Building, Austin, Tex. 78701. A decision and order of the Commission, Review Board No. 2, dated January 10, 1972, and served January 19, 1972; upon consideration of the application, as amended, and the record in the proceeding, including the report and recommended order of the examiner, finds, that in addition to the service authorized applicant in parts (1) through (5) of the application, as amended, that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier by motor vehicles, over irregular routes, of (6) aluminum powder, in bulk, in tank vehicles, from points in Milam County, Tex., to points in the United States except Alaska and Hawaii, restricted to the transportation of traffic originating at and destined to the origin and destination points specified, and subject to the further condition that any authority granted herein to the extent that it duplicates any other authority held by applicant, shall be construed as conferring no more than a single operating right. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of part (6) described in the order, a notice of that part will be published in the FEDERAL REGISTER and issuance of a certificate in this proceeding will be withheld for 30 days from the date of such publication, during which period any proper party in interest may file an appropriate petition seeking leave to intervene in this proceeding showing in specific detail the manner in which it has been materially adversely affected by the grant of this portion of the authority.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC–F–11438. (Correction) (NEEDHAM'S MOTOR SERVICE, INC.—Control—ELKTON TRUCKING COMPANY), published in the January 26, 1972, issue of the FEDERAL REGISTER on pages 1199–1200. Prior notice should be modified to show authority to transport general commodities between Baltimore, Md., and Washington, D.C., including intermediate and off-route points.

No. MC–F–11459. Authority sought for consolidation into DAVIS BROS. DIST., INC., Post Office Box 962, Missoula, MT 59801, of the operating rights and property of (1) A & M HAULING, INC., 245 Davis Street, Missoula, MT 59801, (2) GLENN DAVIS AND DON R. DAVIS, doing business as DAVIS BROS., Post Office Box 962, Missoula, MT 59801, and for acquisition by GLENN DAVIS AND DON R. DAVIS, both of Missoula, Mont., of control of such rights through the transaction. Applicants' attorney: J. F. Meglen, Post Office Box 1581, Billings, MT 59103. Operating rights sought to be consolidated: (1) *Lumber*, as a *common carrier* over irregular routes, between points in Montana, on the one hand, and, on the other, points in Oregon and Washington; (2) *animal and poultry feed and supplements thereof* (except meats and meat products), from Denver, Colo., to Helena, Mont., and points in that part of Montana west of the Continental Divide, with restriction; and as a *contract carrier, lumber*, from points in Montana to points in Colorado and a described area of eastern Wyoming, with restrictions, from points in Idaho, Oregon, Utah, Washington, Wyoming, and points in a defined area of northern California to points in Colorado and a described area of eastern Wyoming; *stone, refractories, brick and tile, and related masonry supplies* when moving in mixed loads with brick and tile, from points in Colorado, to points in Montana; *stone, brick tile* (except clay sewer tile and fittings therefor), *lime, and manufactured concrete building products*, from points in Utah, to points in Montana; stone and sand, from points in Idaho, to points in Montana; wood products, from points in Montana, to points in Colorado and a described area of eastern Wyoming, with restriction. DAVIS BROS. DIST., INC., is a noncarrier. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11460. Authority sought for purchase by STEVENS VAN LINES, INC., 121 South Niagara Street, Saginaw, MI 48602, of the operating rights of HAMMEL MOVING & STORAGE, INC., 5415 Conner Avenue, Detroit, MI 48213, and for acquisition by ARCHIBALD H. STEVENS, SR., also of Sagninaw, Mich., of control of such rights through the purchase. Applicants' attorneys: Ramon S. Regan, 2255 Penobscot Building, Detroit, Mich. 48226, and Norman Hyman, 2290 First National Building, Detroit, Mich. 48226. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, as a *common carrier* over irregular routes, between points in Michigan, on the one hand, and, on the other, points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, between Detroit, Mich., and points within two miles of Detroit, on the one hand, and, on the other, points in Ohio, Indiana, Illinois, Pennsylvania, and New York. Vendee is authorized to operate as a *common carrier* in Colorado, Connecticut, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Tennessee, Virginia, Wisconsin, West Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11461. Authority sought for purchase by CENTRAL & SOUTHERN TRUCK LINES, INC., 312 West Morris Street, Caseyville, IL 62232, of a portion of the operating rights of McDOWELL TRUCK LINE, INC., Post Office Box 89, Hamilton, OH 45012, and for acquisition by KATHRYN ANDERSON, individually

and as Executrix of the Estate of OLIVER C. ANDERSON, also of Caseyville, Ill., of control of such rights through the purchase. Applicants' attorney: Dale Woodall, 900 Memphis Bank Building, Memphis, Tenn. 38103. Operating rights sought to be transferred: *Paper and paper products*, as a *common carrier* over irregular routes, from Hamilton, Ohio, to points in that part of Illinois on and north of U.S. Highway 40, east of U.S. Highway 67 and south of U.S. Highway 36, and St. Louis, Mo.; *steel strapping, paper and paper products, and materials and supplies* used in the manufacture and shipping of paper and paper products, from points in that part of Illinois on and north of U.S. Highway 40, east of U.S. Highway 67 and south of U.S. Highway 36, and St. Louis, Mo., to Hamilton, Ohio. Vendee is authorized to operate as a *common carrier* in all of the States in the United States. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11462. Authority sought for control by DISTRIBUTION SYSTEMS, INC., a noncarrier, 1918 Park Street, Alameda, CA 94501, of IDA-CAL FREIGHT LINES, INC., Post Office Box 422, Twin Falls, ID 83301, and for acquisition by DEL MONTE CORPORATION, 215 Fremont Street, San Francisco, CA 94119, of control of IDA-CAL FREIGHT LINES, INC., through the acquisition by DISTRIBUTION SYSTEMS, INC. Applicants' attorneys: R. Frederic Fisher and Thomas E. Kimball, both of 311 California Street, San Francisco, CA 94104. Operating rights sought to be controlled: *General commodities*, excepting among others, classes A and B explosives and household goods, as a *common carrier* over regular routes, between Butte, Mont., and Idaho Falls, Idaho, serving all intermediate points; *general commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and commodities which by reason of size and weight require special equipment and special handling over irregular routes, between points in Idaho within a 50-mile radius of Twin Falls, Idaho, and between points in Idaho within a 50-mile radius of Twin Falls, Idaho, on the one hand, and, on the other, points in Idaho on and south of the southern boundaries of Adams, Valley, and Lemhi Counties, Idaho; *agricultural products*, from points in Twin Falls, Jerome, and Cassia Counties, Idaho, to Los Angeles, Calif.; *soap and soap products*, from Long Beach and Berkeley, Calif., to Twin Falls and Pocatello, Idaho; *dairy products*, from Jerome and Twin Falls, Idaho, to Los Angeles, Calif.; *burlap bags*, from Los Angeles, Calif., to Twin Falls, American Falls, Pocatello, and Idaho Falls, Idaho; *such merchandise as dealt in by wholesale, retail and chain grocery and food business houses*, and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business, when moving to, from, or between such establishments, from certain specified points in California to Twin Falls and Pocatello, Idaho;

Fresh meat, from Caldwell, Idaho, to San Francisco, San Jose, and Santa Clara, Calif.; *meat, meat products, etc.*, from Caldwell, Idaho, and Great Falls, Mont., to Reno, Nev., and a defined area of California, from the plantsite of Salmon Valley Packing Co., approximately 3.5 miles south of Salmon, Idaho, to points in Nevada and California, from the plantsite of Magic Valley Packing Co., approximately 5 miles east of Gooding, Idaho, to points in Nevada; and *hides*, from Gooding and Roberts, Idaho, to points in a defined area of California; *frozen fruits and frozen vegetables*, from Caldwell, Idaho, Salt Lake City and Ogden, Utah, and points in California, Washington, and Oregon, to points in Montana, also holds temporary authority under section 210a(a). DISTRIBUTION SYSTEM, INC., holds no authority from this Commission. However, it is affiliated with (1) SHIPERS-ENCINAL EXPRESS, INC., Post Office Box 5790, San Jose, CA 95150 (MC–99127); (2) WILLIS SHAW FROZEN EXPRESS, INC., Post Office Box 188, Elm Springs, AR 72728 (MC–117119); (3) FAIRCHILD GENERAL FREIGHT, INC., 19 West Washington Avenue, Yakima, WA 98901 (MC–33919 and MC–127361); and (4) FRITZ-WAY MESSENGER SERVICE, INC., 9561 Berwyn, Rosemont, IL 60018 (MC–134433 TA), which are authorized to operate as a *common carrier* in (1) California; (2) all of the States in the United States except Alaska and Hawaii; (3) Washington, Oregon, Idaho, and California, and as a *contract carrier* in (3) Oregon and Washington; (4) Indiana, Michigan, and Ohio. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11463. Authority sought for purchase by DuBOIS TRUCKING, INC., Post Office Box 502, Montpelier, VT 05602, of a portion of the operating rights of NORTHERN MOTOR CARRIERS, INC., Route 9, Saratoga Road, Fort Edward, NY 12828, and for acquisition by WARREN SHANGRAW, also of Montpelier, Vt. 05602, of control of such rights through the purchase. Applicants' attorney: John P. Monte, 61 Summer Street, Barre, VT 05641. Operating rights sought to be transferred: *Talc*, in bulk, in tank vehicles, as a *common carrier* over irregular routes, from Johnson, Vt., to Groveton, N.H. Vendee is authorized to operate as a *common carrier* in Vermont, Maine, New Hampshire, Virginia, Massachusetts, Connecticut, Rhode Island, and New York, and as a *contract carrier* in Maine and Vermont. Application has been filed for temporary authority under section 210a(b).

By the Commission.

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

[FR Doc.72–2723 Filed 2–23–72;8:48 am]

[Notice 25]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 16, 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 107064 (Sub-No. 86 TA), filed February 3, 1972. Applicant: STEERE TANK LINES, INC., Post Office Box 2998, 2808 Fairmount Street, Dallas, TX 75221. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar syrups*, from New Orleans, La., to Farmington, N. Mex., for 180 days. NOTE: Applicant states it does not intend to tack authority. Supporting shipper: Y & S Candies, Inc., Bridge and John Streets, Brooklyn, NY 11201. Send protests to: District Supervisor E. K. Willis, Jr., Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, TX 75202.

No. MC 119110 (Sub-No. 4 TA), filed February 2, 1972. Applicant: KELLY TRUCK LINES, INC., 905 South Gladstone, Columbus, IN 47201. Applicant's representative: David L. Kelly (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coil steel*, from Allenport, Pa., and North Steubenville, Ohio, to Columbus, Ind., for 180 days. Supporting shipper: Cosco Household Products, Inc., Columbus, Ind. 47201. Send protests to: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 123905 (Sub-No. 12 TA) (Correction), filed January 24, 1972, published in the FEDERAL REGISTER issue of

February 10, 1972, corrected and republished in part as corrected this issue. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22–A, Philadelphia, MS 39350. Applicant's representative: Donald B. Morrison, Post Office Box 22628, Jackson, MS 39205. NOTE: The purpose of this partial republication is to redescribe the commodity description involved, a portion of which was inadvertently omitted in the previous publication. Said commodity description should read as follows: *"Animal and poultry feed and animal and poultry health products* in containers, and *feeders and advertising matter and premiums,* when moving in the same vehicle with the previous commodities." The rest of the application remains the same.

No. MC 124078 (Sub-No. 508 TA), filed February 2, 1972. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Applicant's representative: Richard Prevette (same address as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Cement,* from the plantsite of Marquette Cement Manufacturing Co. at or near Catskill, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont, for 180 days. Supporting shipper: Marquette Cement Manufacturing Co., 20 North Wacker Drive, Chicago, IL 60606 (Herman A. Sommerfield, General Traffic Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 124711 (Sub-No. 14 TA) (Amendment), filed January 21, 1972, published in the FEDERAL REGISTER issue of February 8, 1972, amended and republished in part as amended this issue. Applicant: BECKER AND SONS, INC., 2643 West Central, Post Office Box 1050, El Dorado, KS 67042. Applicant's representative: Erle W. Francis, Suite 719, Capitol Federal Building, Topeka, Kans. 66603. NOTE: The purpose of this partial republication is to include an additional shipper, Olin, Post Office Box 991, Little Rock, Ark. The rest of the notice remains the same.

No. MC 127418 (Sub-No. 4 TA), filed February 4, 1972. Applicant: TROP-ARCTIC REFRIGERATED SERVICE, INC., Post Office Box 1272, Gainesville, GA 30501. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 Peachtree Street NW., Atlanta, GA 30309. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Carpets, carpeting, rugs, tufted textile products, and yarn,* from points in Bartown County, Ga., to points in Arizona, California, Colorado, Idaho, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, Kansas, and Wyoming; and (2) *jute or burlap,* from Los Angeles, Oakland, San Diego, and San Francisco, Calif.; Portland, Oreg.; and Seattle, Wash.; to points in Bartown County, Ga., for 180 days. Supporting shippers: Philadelphia Carpet Co., Sabre Carpet, Star Finishing Co., Division of Shaw Industries, Inc., Cartersville, Ga.; Eagle Carpet Mills, Inc., Cartersville, Ga.; Esquire Carpet Mills, Cartersville, Ga.; Majestic Carpet Mills, Cartersville, Ga.; Imperial Carpet Mills, Cartersville, Ga.; Flamingo Carpet, Inc., Cartersville, Ga.; D & M Carpets, Inc., Cartersville, Ga. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 128273 (Sub-No. 11 TA) (Correction), filed December 7, 1971, published in the FEDERAL REGISTER issue of December 21, 1971, corrected and republished in part as corrected this issue. Applicant: MIDWESTERN EXPRESS, INC., Post Office Box 189, 121 Humboldt Street, Fort Scott, KS 66701. Applicant's representative: Harry Ross, 848 Warner Building, Washington, D.C. 20004. NOTE: The purpose of this partial republication is to add the State of Michigan as a destination point, which was inadvertently omitted in previous publication. The rest of the application remains the same.

No. MC 134262 (Sub-No. 1 TA), filed February 4, 1972. Applicant: FARMERS FEED & SUPPLY TRANSPORTATION, INC., Boyden, Iowa 51234. Applicant's representative: J. Max Harding, 300 NSEA Building, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: (1) *Honey bee feed ingredients,* from Chalmette, La., to Hopkins, Minn.; (2) *honey bee feed,* from Chalmette, La., and Hopkins, Minn., to Paris, Mavasota, and Hutto, Tex.; Vicksburg, Miss.; Stafford, Theodore, and Birmingham, Ala.; Summerfield, Umatilla, and Tampa, Fla.; Hahira, Waycross, and Jesup, Ga.; Watertown, Wis.; Grand Rapids, Mich.; Sioux City, Iowa; and Hamilton, Ill.; and (3) *honey bee feed,* from Hopkins, Minn., to Bunkile, Donaldsonville, Maringouin, Breaux Bridge, Baton Rouge, and New Orleans, La., all for the account of Farmers Feed & Supply, Inc., of Boyden, Iowa, for 180 days. Supporting shipper: Farmers Feed & Supply, Inc., Boyden, Iowa 51234. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 134954 (Sub-No. 4 TA), filed February 1, 1972. Applicant: INTERNATIONAL PRODUCTS CORP., 427 Michigan Avenue, Chickasha, OK 73018. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23rd Street, Oklahoma City, OK 73107. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials,* in bulk or in packages, from points on the Arkansas and Verdigris Rivers in Oklahoma to points in Oklahoma, Kansas, Missouri, and Arkansas, for 180 days. Supporting shipper: Olin, Post Office Box 991, Little Rock, AR 72208. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 135702 (Sub-No. 1 TA), filed February 1, 1972. Applicant: CHARLES R. ELLSWORTH TRUCKING INC., Post Office Box 385, Stroud, OK 74079. Applicant's representative: Charles R. Ellsworth (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 shipper: Willchemco, Inc., J. J. Stefanec, Traffic Manager, National Bank of Tulsa Building, Tulsa, Okla. 74103. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 135903 (Sub-No. 1 TA), filed February 7, 1972. Applicant: MID NEBRASKA TRUCKING, INC., Cornlea, Nebr. 68630. Applicant's representative: Charles J. Kimball, Post Office Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Agricultural implements and machinery and related parts, equipment, materials and supplies,* from facilities of Mark's Implement, Inc., at Cornlea, Nebr., to points in Idaho, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Ohio, and Alabama, and from points in Texas, New Mexico, Missouri, Iowa, South Dakota, Kansas, Illinois, Wisconsin, Florida, Oklahoma, Idaho, and Louisiana to the facilities of Marks Implement, Inc., at Cornlea, Nebr., for 180 days. Supporting shipper: Mark Noonan, Mark's Implement, Inc., Cornlea, Nebr. 68630. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Courthouse, Lincoln, Nebr. 68508.

No. MC 136196 (Sub-No. 2 TA), filed January 31, 1972. Applicant: T. E. QUINN TRUCK LINES LIMITED, Post Office Box 401, Niagara Falls, ON Canada. Applicant's representative: Raymond A. Richards, 23 West Main Street, Webster, NY 14580. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Bananas,* from Albany, N.Y., to Port of entry on the international boundary line between Canada and the United States, at points in New York State, for 180 days. Supporting shipper: Chiquita Brands, Inc., 1250 Broadway, New York, NY 10001. Send protests to: George M. Parker, District Supervisor, Interstate

Commerce Commission, Bureau of Operations, 612 Federal Building, 111 West Huron Street, Buffalo, NY 14202.

No. MC 136269 (Sub-No. 1 TA) (Correction), filed January 6, 1971, published in the FEDERAL REGISTER issue of February 1, 1972, corrected and republished in part as corrected this issue. Applicant: ELECTRONIC MOVING AND STORAGE COMPANY, 2095 General Truman Street NW., Atlanta, GA 30318. Applicant's representative: Virgil H. Smith, Suite 431, Title Building, Atlanta, Ga. 30303. NOTE: The purpose of this partial republication is to show the correct origin point as Charlotte, N.C., in lieu of Charleston, N.C., shown erroneously in previous publication. The rest of the application remains the same.

No. MC 136272 (Sub-No. 1 TA), filed January 31, 1972. Applicant: WILLIAM WALSH AND WILLIAM ANSON, doing business as B & B TRUCK LEASING & STORAGE CO., 190 16th Avenue, Paterson, NJ 07501. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Textiles*, between Paterson, N.J., and New York, N.Y., for 180 days. Supporting shipper: Coral Dyeing & Finishing Corp., 555 East 31st Street, Post Office Box 2067, Paterson, NJ 07513. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 136335 (Sub-No. 1 TA), filed January 31, 1972. Applicant: RAYMOND R. HAWLEY, doing business as ASSOCIATES DELIVERY SERVICE, 69 Taft Avenue, Poughkeepsie, NY 12603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Computation and development work*, including machine record cards, magnetic recording tapes, engineering records, blueprints, and informational material, between East Fishkill, N.Y., on the one hand, and, on the other, New York, N.Y.; Stewart Airport, Orange County, N.Y.; Newark Airport, N.J.; Port Newark, N.J.; Port Elizabeth, N.J.; and between points within Dutchess County, N.Y., for 180 days. Supporting shipper: IBM World Trade Corp., East Fishkill Facility, Route 52, Hopewell Junction, N.Y. 12533. Send protests to: Robert A. Radler, Officer-in-Charge, Interstate Commerce Commission, Bureau of Operations, 518 Federal Building, Albany, N.Y.

No. MC 136337 (Sub-No. 1 TA), filed February 1, 1972. Applicant: RICHARD D. PEASE, doing business as R. P. TRUCKING, Box 16, Mather, WI 54641. Applicant's representative: Gerald W. Laabs, 1 North Second Street, Black River Falls, WI 54615. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Treated utility poles and cross arms*, from points in Florida, Alabama, Kentucky, and Tennessee, to points in Wisconsin, for 180 days. Supporting shipper: Wisconsin Electric Cooperative, 1810 South Park Street, Madison, WI 53713. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 206, Madison, WI 53703.

No. MC 136370 (Sub-No. 1 TA), filed January 31, 1972. Applicant: SHORE FRUIT, INC., 6 Eggers Street, East Brunswick, NJ 08816. Applicant's representative: George Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, pineapples, and melons*, from the facilities of the United Fruit Co., at Albany, N.Y., and Baltimore, Md., to Hunts Point (Bronx), N.Y., under contract with Striks & Schwartz, Inc., for 150 days. Supporting shipper: Striks & Schwartz, Inc., N.Y.C. Terminal Market, Hunts Point East Bay Avenues, Row D 415–416, Bronx, N.Y. 10474. Send protests to: S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

No. MC 136394 TA, filed February 7, 1972. Applicant: FOREST TRUCKING, INC., 1055 West Fifth, Azusa, CA 91702. Applicant's representative: John Paul Fischer, 140 Montgomery Street, San Francisco, CA 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and forest products* (except wood chips), such as *plywood and plywood mill products, boards and sheets, particle board, hardboard, prefinished and hardboard paneling*, from mills and storage areas in Jackson, Josephine, Douglas, Coos, Lane, Linn, Marion, Clackamas, Washington, Multnomah, Hood River, Wasco, Sherman, Gilliam, Morrow, Umatilla, Union, and Benton Counties, Oreg., and Clark, Cowlitz, and Lewis Counties, Wash., to points in California, south of a line formed by the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, for 180 days. Supporting shipper: West Coast Plywood Manufacturing, Ltd., doing business as Forest Fabricators, 10055 West Fifth Street, Azusa, CA 91702. 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.

By the Commission.

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

[FR Doc.72-2726 Filed 2-23-72;8:48 am]

[Notice 26]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

FEBRUARY 17, 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 48441 (Sub-No. 10 TA), filed February 2, 1972. Applicant: CITY EXPRESS, INC., Post Office Box 418, 2006 North Bloomington Street, Streator, IL 61364. Applicant's representative: Robert H. Levy, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, sheet iron or steel*, liquid capacity not exceeding 1 gallon, from Danville, Ill., to Franklin, Ky., for 150 days. Supporting shipper: Norman R. Meyers, Central Region Traffic Manager, Continental Can Co., Inc., 150 South Wacker Drive, Chicago, IL 60606. Send protests to: William J. Gray, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, Room 1086, 219 South Dearborn Street, Chicago, IL 60604.

No. MC 61979 (Sub-No. 14 TA), filed January 31, 1972. Applicant: Y. & T. TRUCKING, INC., 48 Pollock Avenue, Jersey City, NJ 07305. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry chemicals*, in bulk, from the plantsite of Philadelphia Quartz Co., at Butler, N.J., to points in Michigan, Illinois, and Ohio, for 180 days. Supporting shipper: Philadelphia Quartz Co., Public Ledger Building, Independence Square, Philadelphia, Pa. 19106. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, NJ 07102.

No. MC 104896 (Sub-No. 38 TA), filed February 7, 1972. Applicant: WOMELDORF, INC., Post Office Box 232, Lewistown, PA 17044. Jefferson Avenue Extension, Wash, Pa. 15301. Applicant's representative: V. Baker Smith, 123 South Broad Street, Philadelphia, PA 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass and glass products* (except glass containers) from the plantsite of PPG Industries,

Inc., at or near Mount Holly Springs, Pa., to points in New York, New Jersey, Maryland, West Virginia, Virginia, Delaware, Kentucky, North Carolina, Michigan, New Hampshire, Maine, Vermont, Connecticut, Massachusetts, Rhode Island, Ohio, Indiana, Pennsylvania, and the District of Columbia, for 180 days. Supporting shipper: PPG Industries, Inc., 1 Gateway Center, Pittsburgh, PA 15222. Send protests to: Robert W. Ritenour, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, Post Office Box 869, Harrisburg, PA 17108.

No. MC 109821 (Sub-No. 30 TA), filed February 4, 1972. Applicant: H. W. TAYNTON COMPANY, INC., 40 Main Street, Wellesboro, PA 16901. Applicant's representative: Dewey Whitford (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tin cans*, from Newark, N.Y., to Allentown, Pa., for 180 days. Supporting shipper: Borden Foods, Division of Borden Inc., Cole Road, Lyons, N.Y. 14489. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 111170 (Sub-No. 183 TA), filed February 4, 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 Kansas City, Kans., 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 111401 (Sub-No. 361 TA), filed February 7, 1972. Applicant: GROENDYKE TRANSPORT, INC., Post Office Box 632, 2510 Rock Island Boulevard, Enid, OK 73701. Applicant's representative: Victor R. Constock (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer materials*, in bulk, and in bags, from the Midwest Terminal Warehouse, Kansas City, Mo., to points in Iowa, Kansas, Nebraska, and Oklahoma, for 180 days. Supporting shipper: J. J. Stefanec, Traffic Manager, Willchemco, Inc., National Bank of Tulsa Building, Tulsa, Okla. 74103. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 114106 (Sub-No. 93 TA), filed February 7, 1972. Applicant: MAYBELLE TRANSPORT COMPANY, Box 849, 1820 South Main Street, Lexington, NC 27292. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, dry, in bulk, in tank or dump vehicles, from Lexington, N.C., to Chattanooga, Tenn., for 150 days. Supporting shipper: Diamond Crystal Salt Co., St. Clair, Mich. Send protests to: Frank H. Wait, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, 316 East Morehead, Suite 417, Charlotte, NC 28202.

No. MC 114897 (Sub-No. 94 TA), filed February 7, 1972. Applicant: WHITFIELD TANK LINES, INC., 300–316 North Clark Road, Post Office Drawer 9897, El Paso, TX 79989. Applicant's representative: J. P. Rose (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats*, in bulk, in tank vehicles, from Booker, Tex., to Tucumcari, N. Mex., for 150 days. Supporting shipper: 7A Land & Feed, Inc., Post Office Box 699, Tucumcari, NM. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H–4395 Herring Plaza, Amarillo, TX 79101.

No. MC 115162 (Sub-No. 243 TA), filed February 4, 1972. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, AL 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sawdust, wood chips, and wood shavings*, from points in Stone County, Miss., to Mobile, Ala., for 180 days. Supporting shipper: International Paper Co., Post Office Box 2328, Mobile, AL 36601. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, AL 35203.

No. MC 115491 (Sub-No. 123 TA), filed February 7, 1972. Applicant: COMMERCIAL CARRIER CORPORATION, 502 East Bridgers Avenue, Auburndale, FL 33823. Applicant's representative: Tony G. Russell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared animal and poultry feed or animal and poultry feed supplements*, from Plant City, Fla., to Jacksonville, Fla. (restricted to shipments having a subsequent movement by water), for 180 days. Supporting shipper: Agricultural Products Group, Chemical Division, Borden, Inc., 50 West Broad Street, Columbus, OH 43215. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, FL 33155.

No. MC 123508 (Sub-No. 3 TA), filed February 2, 1972. Applicant: M. AND W. CORPORATION, Post Office Box 86, 522 West Commercial, Lowell, IN 46356. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon*, from Schneider, Ind., to points in Illinois, for 180 days. Supporting shipper: Carb-Rite Co., Lake County, Ind. (Edward Barnhart, District Manager). Send protests to: Acting District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 124344 (Sub-No. 4 TA), filed February 7, 1972. Applicant: HINER TRANSPORT, INC., 1317 South Jefferson Street, Huntington, IN 46750. Applicant's representative: Robert W. Loser II, 1001 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter and materials, supplies, and equipment* used or useful in the maintenance and operation of printing houses (except commodities in bulk, in tank vehicles), between the plantsite and printing facilities of Our Sunday Visitor, Inc., Huntington, Ind., on the one hand, and, on the other, points in Illinois, Kentucky, Ohio, Michigan, New York, Pennsylvania, Louisiana, and Texas. Restriction: The operations proposed to be performed herein are limited to a transportation service to be performed under a continuing contract or contracts with Our Sunday Visitor, Inc., for 180 days. Supporting shipper: Our Sunday Visitor, Inc., Noll Plaza, Post Office Box 920, Huntington, IN 46750. Send protests to: Acting District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Fort Wayne, IN 46802.

No. MC 124711 (Sub-No. 15 TA), filed February 3, 1972. Applicant: BECKER AND SONS, INC., 2643 West Central, Post Office Box 1050, El Dorado, KS 67042. Applicant's representative: Erle W. Francis, 719 Capitol Federal Building, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer materials*, from the plantsite of Mid-West Terminal Warehouse, Kansas City, Mo., to points in Iowa, Kansas, Nebraska, and Oklahoma, for 180 days. Supporting shippers: Olin Agricultural Division, Post Office Box 991, Little Rock, AR 72203.; Willchemco, Inc., National Bank of Tulsa Building, Tulsa, Okla. 74103. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 133221 (Sub-No. 8 TA), filed February 4, 1972. Applicant: OVERLAND CO., INC., Route 1, Box 406A, Lawrenceville, GA 30245. Applicant's representative: Allan E. Serby, Suite 1600, First Federal Building, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polystyrene products*, from Rico Rivera, Calif., to points in Arizona, Idaho, Nevada, New Mexico, Oregon, Utah, Washington, and Texas, for 150 days. Supporting shipper: Dolco Packaging

Corp., 10850 Riverside Drive, North Hollywood, CA 91602. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 133760 (Sub-No. 1 TA), filed February 7, 1972. Applicant: LANE TRANSFER CO. INC., Brandy Station, Va. 22714. Applicant's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, VA 22314. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Custom designed and constructed concrete products*, from the plantsite of Smith Cattleguard Co. in Midland, Va., to points in Maryland, and North Carolina and the District of Columbia, under a continuing contract with Smith Cattleguard Co., for 150 days. Supporting shipper: Smith Cattleguard Co., Midland, Va. 22728. Send protests to: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th and Constitution Avenue NW., Washington, DC 20423.

No. MC 134068 (Sub-No. 11 TA), filed February 4, 1972. Applicant: KODIAK REFRIGERATED LINES, INC., 4510 Seville Avenue, Vernon, CA 90058. Applicant's representative: Z. W. Hastings (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, other than frozen, in boxes, in straight shipment and/or mixed shipment of foodstuffs and canned goods, from the facilities of Hunt-Wesson Foods, Inc., at Davis, Fullerton, Hayward, and Oakdale, Calif., to points in Colorado, Georgia, Kansas, Louisiana, Minnesota, Missouri, Nebraska, Oklahoma, South Dakota, Tennessee, and Wyoming, for 180 days. Supporting shipper: Hunt-Wesson Foods, Inc., 1645 West Valencia Drive, Fullerton, CA 92634. 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 135118 (Sub-No. 3 TA), filed February 7, 1972. Applicant: MACKLIN MOVING & STORAGE, INC., 844 Champion Street, Lempore, CA 93245. Applicant's representative: Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, subject to the "Kingpak" restrictions, between points in Fresno, Kings, and Tulare Counties, Calif. Supporting shipper: Karevan, Inc., Post Office Box 9240, Queen Anne Station, Seattle, WA 98109. 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 136234 (Sub-No. 2 TA), filed December 27, 1971. Applicant: BURKHART ENTERPRISES, INC., Post Office Box 6131, Route 8, Asbury Road, Knoxville, TN 37914. Applicant's representative: Blaine Buchanan, 1024 James Building, Chattanooga, Tenn. 37402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ores and concentrates and agricultural lime and limestone*, from New Market, Mascot, and Jefferson City, Tenn., to river barge loading dock on French Broad River, Knoxville, Tenn., in bulk, in opentop dump truck and trailers, having subsequent movement by river barge, for 180 days. Supporting shippers: American Smelting & Refining Co., New York, N.Y.; United States Steel Corporation, Jefferson City, Tenn. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803—1808 West End Building, Nashville, Tenn. 37203.

No. MC 136350 (Sub-No. 1 TA), filed January 31, 1972. Applicant: ASC TRANSPORT, INC., North 800 Fancher Way, Spokane, WA 99211. Applicant's representative: Joseph O. Earp, 411 Lyon Building, Seattle, Wash. 98101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pipe and tubing, together with irrigation pumps, movers, wheels, fittings, and coupiers with related accessories;* (a) between ASC Tubing, Inc., plant locations at Spokane, Wash.; Visalia, Calif.; and Grand Island, Nebr.; (b) from Spokane, Wash., to points in Washington, Oregon, California, Nevada, Arizona, Idaho, Utah., New Mexico, Montana, North Dakota, South Dakota, Wyoming, Colorado, Nebraska, Minnesota, and Wisconsin; and (c) from Visalia, Calif., to points in Washington, Oregon, California, Nevada, Arizona, Idaho, New Mexico, Utah, Nebraska, Montana, Wyoming, Colorado, and Texas, restricted to service under a continuing contract with ASC Tubing, Inc.; (2) *aluminum coil*; (a) between ASC Tubing, Inc., plant locations at Spokane, Wash.; Visalia, Calif.; and Grand Island, Nebr.; (b) from points in California to Spokane, Wash., and Grand Island, Nebr., restricted to service under a continuing contract with ASC Tubing, Inc.; (3) *pipe, tubing and hose, plastic, together with irrigation couplers, gaskets, cements, solvents, primers, and fittings with related accessories; pipe, steel, plastic coated, and resins, waxes, and chemicals used in the manufacture of the pipe, tubing, or hose;* (a) between ASC Plastics, Inc., plant locations at Spokane, Wash.; Visalia, Calif.; and Grand Island, Nebr.; (b) from Spokane, Wash., to points in Washington, Oregon, California, Nevada, Arizona, Idaho, Utah, New Mexico, Montana, North Dakota, South Dakota, Wyoming, Colorado, Nebraska, Minnesota, and Wisconsin; and (c) from Visalia, Calif., to points in Washington, Oregon, Colorado, Nevada. Arizona, Idaho, New Mexico, Utah, Nebraska, Montana, Wyoming, California, and Texas, restricted to service under a continuing contract with ASC Plastics, Inc.; (4) *Resins, waxes, chemicals, and steel pipe;* (a) between ASC Tubing, Inc., plant locations at Spokane, Wash.; Visalia, Calif.; and Grand Island, Nebr.; and (b) from points in California to Spokane, Wash., and Grand Island, Nebr., restricted to service under a continuing contract with ASC Plastics, Inc.; (5) *building materials consisting of decking, roofing, siding, panels, ridges, gables, corners, nails, mastic, flashing, and trim together with related accessories*, from Spokane and Tacoma, Wash., to points in Washington, Oregon, California, Nevada, Utah, Arizona, Idaho, Montana, New Mexico, Wyoming, Colorado, North Dakota, South Dakota, and Minnesota, restricted to service under continuing contracts with ASC Building Products, Inc., and ASC-Pacific, Inc.; (6) *aluminum and steel coil*, from Seattle and Tacoma, Wash.; Portland, Oreg.; Fontana and Pittsburg, Calif.; and Provo, Utah; to Spokane and Tacoma, Wash., restricted to service under continuing contracts with ASC Building Products, Inc., and ASC-Pacific, Inc.; (7) *machinery and machines, roll forming and metal working, and equipment for roll forming or coil handling, together with related parts and accessories*, from Spokane, Wash., to points in Washington, Oregon, California, Nevada, Arizona, Idaho, New Mexico, Utah, Montana, Wyoming, Colorado, and Texas, restricted to service under a continuing contract with ASC Machine Tools, Inc.; and (8) *machine components for metal working machinery, consisting of electric motors and switchboards, panels, castings, and related parts*, from points in California, Oregon, and Washington to Spokane, Wash., restricted to service under a continuing contract with ASC Machine Tools, Inc., for 180 days. Supporting shippers: ASC Industries, Inc., and its subsidiaries; ASC Tubing, Inc.; ASC Building Products, Inc.; ASC Machine Tools, Inc.; ASC-Pacific, Inc.; and ASC Plastics, Inc. Send protests to: E. J. Casey, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 136389 TA, filed February 3, 1972. Applicant: WRIGHT'S MOVING AND STORAGE, INC., 1115 Vincennes Street, New Albany, IN 47150. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods, unaccompanied baggage and personal effects*, from New Albany, Ind., to points in the counties of Brown, Bartholomew, Jackson, and Jennings, Ohio; Switzerland, Jefferson, Washington, Scott, Crawford, Harrison, Floyd, and Clark Counties, Ind., and return, for 180 days. Supporting shipper: Curtis L. Wagner, Jr., Chief, Regulatory Law Office, Department of the Army, Office of the Judge Advocate General, Washington, D.C. 20310. Send protests to: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Building, 36 South Pennsylvania Street, Indianapolis, IN 46204.

No. MC 136390 TA, filed February 4, 1972. Applicant: JOHN B. RUSLING, Box 225, Stephen, MN 56757. Applicant's representative: Arthur A. Drenckhahn, Box 159, Warren, MN 56762. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel bins, steel building, commercial building, and motors, augers, aeration equipment, and other equipment* related to and a part of these buildings, from Columbus, Nebr., to points in Minnesota on and west of Minnesota Highway No. 89 and on and north of U.S. No. 2, for 180 days. Supporting shipper: N. W. Steel, Inc., Donaldson, Minn. 56720. Send protests to: J. H. Ambs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

MOTOR CARRIER OF PASSENGERS

No. MC 110373 (Sub-No. 14 TA), filed February 1, 1972. Applicant: NORTHEAST COACH LINES, 419 Anderson Avenue, Fairview, NJ 07022. Applicant's representatives: Bowes & Millner, 744 Broad Street, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage and newspapers and express* in the same vehicle with passengers, (1) Between Denville, N.J., and New York, N.Y., from Denville, N.J., over Interstate Highway 80 to junction Interstate Highway 95 at the Teaneck, N.J., and Ridgefield Park, N.J., boundary line, then over Interstate Highway 95 to Secaucus, N.J., Interstate Highway 95 being known as the New Jersey Turnpike between Ridgefield Park, N.J., and Secaucus, N.J., then over Interstate Highway 95 exit road to junction Interstate 495, in North Bergen, N.J., then over Interstate Highway 495, to New York, N.Y., through the Lincoln Tunnel, and return over the same routes using Interstate Highway 95 (New Jersey Turnpike) access road in North Bergen, N.J., for operating convenience only, serving no intermediate points. NOTE: The applicant has existing authority in MC 110373 (Sub-No. 9) to operate over Interstate Highway 80 to Denville, N.J., in connection with an existing route between Sparta and Wayne, N.J., serving no intermediate points. Applicant requests that such existing restriction be amended to permit joinder of the proposed route to applicant's existing route in MC 110373 (Sub-No. 9), for purpose of joinder only, (2) between Wayne Township, N.J., and New York, N.Y., from junction of New Jersey Highway 23 and Interstate Highway 80 in Wayne, N.J., over Interstate Highway 80 to junction Interstate Highway 95, at the Teaneck, N.J., and Ridgefield Park, N.J., boundary line, then over Interstate Highway 95 to Secaucus, N.J., Interstate Highway 95 being known as the New Jersey Turnpike between Ridgefield Park, N.J., and Secaucus, N.J., then over Interstate Highway 95 exit road to junction Interstate Highway 495 in North Bergen, N.J., and return over the same routes using Interstate Highway 95 (New Jersey Turnpike) access road in North Bergen, N.J., for operating convenience only, serving no intermediate points. The applicant proposes to join the above-described proposed route to all of its existing routes in Docket MC 110373 and sub numbers thereunder in order to provide service between all points on its existing routes in New Jersey and New York, N.Y., via such existing routes and the proposed routes, for 180 days. Supporting shippers: R. C. Giordano, 72 Main Street, Sparta, NJ, and 43 other passengers whose names are on file at the Newark, N.J., field office. Send protests to: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad Street, Newark, NJ 07102.

By the Commission.

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

[FR Doc.72-2727 Filed 2-23-72;8:48 am]

[Notice 19]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 18, 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-73347. By order of February 15, 1972, the Motor Carrier Board approved the transfer to Okey Clayton Sheets and Jerry Wayne Sheets, a partnership, doing business as Sheets Transfer and Storage, Mount Airy, N.C., of certificate No. MC-104684, issued December 28, 1966, to John Leon Worth, doing business as Haynes Transfer, Mount Airy, N.C., authorizing the transportation of: Household goods as defined by the Commission, between Mount Airy, N.C., and points within 10 miles thereof, on the one hand, and, on the other, points in Virginia and South Carolina. John Leon Worth, 600 West Pine Street, Mount Airy, NC 27030, representative for applicants.

No. MC-FC-73449. By order of February 15, 1972, the Motor Carrier Board approved the transfer to Salka & Sons, Inc., Meriden, Conn., of the operating rights set forth in certificate No. MC-104664, issued March 3, 1970, to Kenneth C. Salka, doing business as Salka & Sons, Meriden, Conn., authorizing the transportation of household goods, as defined by the Commission, between Meriden, Conn., and points within 10 miles of Meriden, on the one hand, and, on the other, points in Massachusetts, Maine, New Hampshire, New Jersey, New York, Rhode Island, and Vermont. Sidney L. Goldstein, 109 Church Street, New Haven, CT 06510, attorney for applicants.

No. MC-FC-73465. By order of February 15, 1972, the Motor Carrier Board approved the transfer to Best-Way Motor Express, Inc., Rockford, Ill., of certificate No. MC-4575, issued March 3, 1971, to John E. Bruner and John P. Bruner, doing business as Bruner Transfer, Beloit, Wis., and acquired by transferor herein, Bruner Transfer, Inc., pursuant to approval and consummation of No. MC-FC-73201 on November 25, 1971, covering the transportation of: General commodities, usual exceptions, from specified points in Wisconsin to designated points in Illinois, namely, from Beloit, Wis., to points in Illinois within 25 miles thereof, and from three named points in Illinois to Beloit, Wis. Robert M. Kaske, Practitioner, 2017 Wisteria Road, Rockford, IL 61107.

No. MC-FC-73470. By order of February 15, 1972, the Motor Carrier Board approved the transfer to Porter Truck Lines, Inc., La Fayette, Oreg., of certificates Nos. MC-34167 and MC-34167 (Sub-No. 2), issued October 7, 1943, and February 27, 1958, to Laurance Porter, doing business as Porter Truck Line, La Fayette, Oreg., authorizing the transportation of: General commodities, usual exceptions, between specified points and areas in Oregon. Lawrence V. Smart, Jr., attorney, 419 Northwest 23d Avenue, Portland, OR 97222.

No. MC-FC-73476. By order of February 15, 1972, the Motor Carrier Board approved the transfer to Cargo Contract Carrier Corp., Sioux City, Iowa, of the operating rights in permits Nos. MC-59694 (Sub-No. 1), MC-59694 (Sub-No. 2), MC-59694 (Sub-No. 3), MC-59694 (Sub-No. 4), and MC-59694 (Sub-No. 5) issued December 23, 1969, December 23, 1969, March 6, 1968, April 30, 1969, and March 14, 1969, respectively to Missouri Valley Express, Inc., Omaha, Nebr., authorizing the transportation of various commodities from specified points in Iowa, Minnesota, and Nebraska to specified points in Illinois and New York. William J. Hanlon, 4423 South 67th Street, Omaha, NE 68117, attorney for applicants.

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

[FR Doc.72-2724 Filed 2-23-72;8:48 am]

NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

FEBRUARY 18, 1972.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by

Special Rule 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Montana docket number unknown, filed October 15, 1971. Applicant: CLARK FORK VALLEY EXPRESS CO., INC., 655 Helena Avenue, Helena, MT 59601. Applicant's representative: David L. Jackson, 20 East Sixth Avenue, Helena, MT 59601. Certificate of public convenience and necessity sought to operate as a common carrier as follows: Transportation of *persons, baggage and express,* between Missoula, Mont., and Helena, Mont., via U.S. Highway 10 (I–90) and U.S. Highway No. 12, serving the intermediate points of Drummond, Garrison, Elliston, and Avon. Both intrastate and interstate authority sought.

HEARING: Date, time, and place unknown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Board of Railroad Commissioners, State of Montana, Helena, Mont. 59601 and should not be directed to the Interstate Commerce Commission.

Texas Docket No. 2395, filed February 11, 1972. Applicant: CURRY MOTOR FREIGHT LINES, INC., 700 Northeast Third Street, Amarillo, TX. Applicant's representative: Grady L. Fox, 222 Amarillo Building, Amarillo, Tex. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *General commodities,* from Shamrock, Tex., via U.S. Highway 66 (Interstate 40), approximately 6 miles east to the intersection of Texas FM 1802, and then approximately 1 mile south to the plantsite at Norrick, Tex., and return over the same route. Both intrastate and interstate authority sought.

HEARING: Date, time, and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Railroad Commission of Texas, Capitol Station, Post Office Drawer 12967, Austin, TX 78711 and should not be directed to the Interstate Commerce Commission.

Texas Docket No. 4354, filed January 5, 1972. Applicant: ALLISON-LOGAN FREIGHT LINE, INC., 106 West High Street, Post Office Box 724, Terrell, TX 75160. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities,* except those in bulk, excluding explosives, automobiles, livestock, frozen products and produce; (1) between Dallas, Tex., and Sulphur Springs, Tex., as follows: From Dallas to Sulphur Springs, over Interstate Highway 30 and return over the same route, serving the termini and all intermediate points; (2) between the junction of Interstate Highway 30 and Texas Highway 19, near Sulphur Springs, Tex., to the junction of U.S. Highway 80 and Texas Highway 19, connecting with existing operations, via U.S. Highway 80 to Mineola, Tex., thence U.S. Highway 69 to Tyler, Tex., serving the termini and all intermediate points, returning over the same route; (3) between Sulphur Springs, Tex., and Tyler, Tex., as follows: From the junction of Interstate Highway 30 and Texas Highway 154, near Sulphur Springs, Tex., over Texas Highway 154 to the junction of Texas Highway 154 and Texas Highway 37 at Quitman, Tex., to connect with existing operating authority over Texas Highway 37 to Mineola, Tex., thence U.S. Highway 69, to Tyler, Tex., and return over the same route, serving the termini and all intermediate points; (4) between the junction of Interstate Highway 30 and Texas Highway 11, near Sulphur Springs, Tex., to Winnsboro, Tex., via Texas Highway 11, thence from the junction of Texas Highway 11 and Texas Highway 37, thence Texas Highway 37 to Quitman, Tex., to connect with existing authorized service, for continuation via Texas Highway 37, thence U.S. Highway 69 to Tyler, Tex., and return over the same route, serving the termini and all intermediate points not served at the present time; (5) from Dallas, Tex., to Tyler, Tex., as follows: Interstate Highway 20, to the junction of U.S. Highway 69, thence U.S. Highway 69, to Tyler, Tex., returning over the same route, serving the termini and all intermediate points;

(6) Between the junction of Interstate Highway 30 and Texas Highway 19, near Sulphur Springs, Tex., to the junction of Interstate 20 and Texas Highway 19, thence Interstate Highway 20, to the junction of Interstate Highway 20 and U.S. Highway 69, thence U.S. Highway 69, to Tyler, Tex., returning over the same route, serving the termini and all intermediate points; (7) between the junction of Texas Highway 19 and Interstate Highway 30, near Sulphur Springs, Tex., to the junction of U.S. Highway 19 and U.S. Highway 80, to connect with existing operating authority over U.S. Highway 80 to Tyler, Tex., via U.S. Highway 80 to Mineola, Tex., thence U.S. Highway 69 to Tyler, Tex., on the one hand, and, via U.S. Highway 80 to Terrell, Tex., on the other, returning over the same route and serving all intermediate points not now being served; (8) between the junction of U.S. Highway 80 and Texas Highway 64, to the junction of Interstate Highway 20 and Texas Highway 64, thence to the junction of Interstate Highway 20 and U.S. Highway 69, thence U.S. Highway 69 to Tyler, Tex., returning over the same route, serving the termini and all intermediate points; (9) to connect existing service from the junction of Farm/Ranch Road 47 and U.S. Highway 80, near Wills Point, Tex., to the junction of Farms/Ranch Road 47 and Interstate 20, thence on Interstate 20, to the junction of U.S. Highway 69 and Interstate 20, thence U.S. Highway 69, to Tyler, Tex., serving the termini and all intermediate points, returning over the same route; (10) between existing authorized point at Grand Saline, Tex., on U.S. Highway 80, to Tyler, Tex., via Texas Highway 110, and return over the same route, serving the termini and all intermediate points; (11) between Terrell, Tex., on Texas Highway 34, to the junction of Interstate Highway 30 and U.S. Highway 69, near Greenville, Tex., thence on U.S. Highway 39 to Lone Oak, Tex., to connect with existing authorized operating rights on U.S. Highway 69, returning over the same route, serving all intermediate points;

(12) Between Loan Oak, Tex., and Sulphur Springs, Tex., as follows: From Loan Oak, Tex., on U.S. Highway 69, to the junction of U.S. Highway 69 and Interstate Highway 30, near Greenville, Tex., thence on Interstate Highway 30, to the junction of Interstate Highway 30 and Texas Highway 19, near Sulphur Springs, Tex., returning over the same route, serving the termini and all intermediate points; (13) between Loan Oak, Tex., and Sulphur Springs, Tex., as follows: From the junction of U.S. Highway 69 and Farm/Ranch Road 513, to the junction of Interstate Highway 30 and Farm/Ranch Road 513, at Campbell, Tex., thence Interstate Highway 30, to the junction of Interstate Highway 30 and Texas Highway 19, near Sulphur Springs, Tex., returning over the same route, serving all intermediate points, including the off-route point of Cumby; (14) between Point, Tex., and Winnsboro, Tex., as follows: From the junction of U.S. Highway 69 and Farm/Ranch Road 514, to the junction of Texas Highway 154 and Farm/Ranch Road 514, thence Texas Highway 154, to the junction of Texas Highway 154 and Farm/Ranch Road 515, thence Farm/Ranch Road 515 to the junction of Farm/Ranch Road 515 and U.S. Highway 11, near Winnsboro, Tex., returning over the same route, serving the termini and all intermediate points; (15) from the junction of U.S. Highway 69 and Farm/Ranch Road 514, near Point, Tex., to the junction of Farm/Ranch Road 514 and Farm/Ranch Road 275, thence to the junction of Farm/Ranch Road 2653 and Farm/Ranch Road 275, to the junction of Interstate Highway 30 and Farm/Ranch Road 2653 on the one hand, and, on the other, from the junction of Farm/Ranch Road 514 and 275, to the junction of Farm/Ranch Road 275 and Interstate Highway 30, thence Interstate Highway 30 and Texas Highway 19, near Sulphur Springs, Tex., serving the termini and all intermediate points returning over the same route;

(16) Between Alba, Tex., at the junction of U.S. Highway 69 and Texas Highway 182, to Quitman, Tex., near the junction of Texas Highway 182 and Texas Highway 152, thence Texas Highway 37 to Mineola, Tex., to connect to existing authorized route, returning over the same route, serving all intermediate points; (17) between Dallas, Tex., on Texas Highway 66 to Greenville, Tex.,

thence to Texas Highway 24, from Greenville, Tex., to the junction of Texas Highway 24 and Texas Highway 19, then to Paris, Tex., on Texas Highways 24 and 19, then returning over the same route, serving the termini and all intermediate points; (18) between Dallas, Tex., on Interstate Highway 30, to the junction of Texas Highway 19 and Interstate Highway 30, then Texas Highway 19, to the junction where Texas Highways 19 and 24 combine, thence to Paris, Tex., returning over the same route, serving the termini, and all intermediate points; (19) between Sulphur Springs, Tex., over Interstate Highway 30, to the junction of Interstate Highway 30 and Texas Highway 37, thence Texas Highway 37 to Winnsboro, Tex., thence continuing on Texas Highway 37 to connect with existing authorized operating rights at Mineola, Tex., returning over the same route, serving all intermediate points; (20) between junction of U.S. Highway 80 and Texas Highway 205, near Terrell, Tex., to the junction of Interstate Highway 30 and Texas Highway 205, returning over the same route, serving all intermediate points and (21) between the junction of Interstate Highway 30 and Texas Highway 276, to Quinlan, Tex., on Texas Highway 276, thence Farm/Ranch Road 35, near Quinlan, Tex., to the junction of Farm/Ranch Roads 35 and 47, to connect with existing authority to Point, Tex., and Lone Oak, Tex., returning over the same route, serving all intermediate points. Both intrastate and interstate authority sought.

HEARING: Approximately 30 days after being published in the FEDERAL REGISTER, time and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Railroad Commission of Texas, Capitol Station, Post Office Drawer 12967, Austin, TX 78711, and should not be directed to the Interstate Commerce Commission.

Oklahoma Docket No. MC 24953 (Sub-No. 2), filed October 29, 1971. Applicant: BRUCE BROWN, doing business as BROWN FREIGHT LINES, 2119 Dublin Road, Oklahoma City, OK. Applicant's representative: William L. Anderson, 4700 North Thompson, Oklahoma City, OK. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *Freight*, from Oklahoma City, via State Highway 74, to its intersection of State Highway 15 and U.S. Highway 64, thence to Enid, thence via U.S. Highway 81 to Waukomis, serving the off-route points of Cashion, Lovell, Douglas, and Fairmont. This authority to be in both directions, serving all points and places along the routes described, and to include the right to serve any customers near the towns or the routes described, where they are within the normal and reasonable delivery limits, and which can be served by the carrier without going through any town to which he does not have authority, and is to be linked with all presently held authority and authority that might be granted in pending applications. Both intrastate and interstate authority sought.

HEARING: March 20, 1972, at 9 a.m., at the Oklahoma Corporation Commission, 340 Jim Thorpe Building, Oklahoma City, Okla. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Corporation Commission of Oklahoma, 340 Jim Thorpe Office Building, Oklahoma City, Okla. 73105, and should not be directed to the Interstate Commerce Commission.

Florida Docket No. 72056–CCB, filed February 1, 1972. Applicant: CITIES TRANSIT INC. OF FLORIDA, 415 South Ingraham Avenue, Post Office Box 1553, Lakeland, FL 33802. Applicant's representative: M. Craig Massey, 202 East Walnut Street, Post Office Drawer J, Lakeland, FL 33802. Certificate of public convenience and necessity sought to operate as a common carrier of *Passengers and baggage* over the following routes: Route 12 from Lakeland via Florida Highway 37 to Mulberry, thence Florida Highway 60 to Bartow, thence U.S. Highway 98 to Lakeland and return, serving all intermediate points. Route 13 from Lakeland via U.S. Highway 92 to Auburndale, thence Florida Highway 544 to Winter Haven, thence Florida Highway 540 through Cypress Gardens to its intersection with U.S. Highway 27, thence U.S. Highway 27 to Haines City, thence U.S. Highway 17–92 to Davenport, thence Florida Highway 547 to U.S. Highway 27, thence on U.S. Highway 27 to Interstate Highway No. 4, thence to U.S. Highway 192 and/or Florida Highway 535 to Disney World and return, serving all intermediate points. Route 14 from Sarasota to Bradenton and Palmetto using U.S. Highway 41, thence U.S. Highway 301 to Florida Highway 674, thence Florida Highway 674 to Florida Highway 37, thence Florida Highway 37 to Lakeland, thence Florida Highway 33 to Interstate Highway 4, thence Interstate Highway 4 to U.S. Highway 192 and/or Florida Highway 535 to Disney World and return, serving all intermediate points. Route 15 between Sarasota and Venice via Siesta and Casey Keys. Leave Sarasota from First Street and Central Avenue via First Street to Orange Avenue to Main Street to U.S. 41 to Siesta Drive to Florida 789 to Florida 789A to 789 to Florida 72 to U.S. 41 to Florida 789 (Blackburn Road) to Casey Key, thence Florida 789 (Albee Road) to U.S. 41 to Ridgewood Avenue to Venetian Parkway to Venice Avenue to Esplanade Avenue to Tarpon Center Drive to the Venice Yacht Club and return the same route. NOTE: Charter authority is also being sought from points on the foregoing routes to points within the State of Florida. Both intrastate and interstate authority sought.

HEARING: Date, time, and place not shown. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Florida Public Service Commission, 700 South Adams Street, Tallahassee, FL 32304, and should not be directed to the Interstate Commerce Commission.

By the Commission.

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

[FR Doc.72-2720 Filed 2-23-72;8:48 am]

[Notice 18]

MOTOR CARRIER TRANSFER PROCEEDINGS

FEBRUARY 15, 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–73296. By order of February 11, 1972, the Motor Carrier Board approved the transfer to Willamette Valley Transfer Co., a corporation, Portland, Oreg., of a portion of the operating rights in certificate No. MC–258 issued November 27, 1964, to Blue Bird Transfer, Inc., Vancouver, Wash., authorizing the transportation of general commodities, with exceptions, between Vancouver, Wash., and Portland, Oreg. Earle V. White, 2400 Southwest Fourth Avenue, Portland, OR 97201, attorney for applicants.

No. MC–FC–73385. By order of February 14, 1972, the Motor Carrier Board approved the transfer to California Delivery Service, Los Angeles, Calif., of the operating rights set forth in certificate No. MC–31689, issued July 25, 1967, to LTL Delivery, Joel Mithers, Trustee in Bankruptcy, Los Angeles, Calif., authorizing the transportation of general commodities between Los Angeles, Calif., on the one hand, and, on the other, Los Angeles Harbor and Long Beach, Calif., and chemicals, chemical byproducts, antifreeze liquids, and alcohol, between Anaheim, Calif., on the one hand, and, on the other, Long Beach and Los Angeles Harbor, Calif., and the operating rights set forth in certificate of registration No. MC–31689 (Sub-No. 2), issued July 25, 1967, as corrected, evidencing a right to engage in transportation in interstate commerce corresponding in scope to certificate of public convenience and necessity granted by Decision No. 61235, dated December 20, 1960, as amended by Decision No. 63060 and transferred pursuant to Decision No. 71274, dated September 13, 1966, issued by the Public Utilities Commission of the State of California. Milton W. Flack,

1813 Wilshire Boulevard, Los Angeles, CA 90057, attorney for applicants.

No. MC–FC–73386. By order of February 14, 1972, the Motor Carrier Board approved the transfer to Robert Reeder Trucking, a corporation, Los Angeles, Calif., of certificate of registration No. MC–99578 (Sub-No. 1), issued August 25, 1971, to California Delivery Service, a corporation, Los Angeles, Calif., evidencing a right to engage in transportation in interstate commerce corresponding in scope to certificate of public convenience and necessity granted by Decision No. 51718, dated July 18, 1955, as amended, and transferred by Decisions Nos. 70673 and 78443, dated May 10, 1966, and March 23, 1971, respectively, issued by the Public Utilities Commission of the State of California. Ernest D. Salm, 3846 Evans Street, Los Angeles, CA 90027, representative for transferee, and Milton W. Flack, Suite 400, 1813 Wilshire Boulevard, Los Angeles, CA 90057, attorney for transferor.

No. MC–FC–73410. By order of February 14, 1972, the Motor Carrier Board approved the transfer to V. Van Dyke, doing business as Van Dyke Truck Lines, Seattle, Wash., of the operating rights in certificate No. MC–114730 issued November 15, 1956 to Hall Heavy Hauling Co., a corporation, Eugene, Oreg., authorizing the transportation of various commodities between points in Douglass and Lane Counties, Oreg., on the one hand, and, on the other, specified areas in California. John Ranquet, 817 Arctic Building, Seattle, Wash. 98104, attorney for applicants.

No. MC–73432. By order of February 14, 1972, the Motor Carrier Board approved the transfer to Werlin Corp., Cincinnati, Ohio, of permits Nos. MC–123540 and MC–123540 (Sub-No. 2), issued November 22, 1961, and April 6, 1965, respectively, to Elgin Church, Bethel, Ky., authorizing the transportation of dry fertilizer, in bulk and in bags, from the plantsite of the Armour Agricultural Chemical Co., of St. Bernard, Ohio, to points in 16 specified Kentucky counties, and fertilizer, from St. Bernard and Cincinnati, Ohio, to points in Indiana, Kentucky, and 12 specified counties in West Virginia. Roland C. Lindsey, 3415 Southside Avenue, Cincinnati, OH 45204, representative for applicants.

No. MC–FC–73473. By order of February 11, 1972, the Motor Carrier Board approved the transfer to Elliott, Inc., Bluefield, W. Va., of the operating rights in certificates Nos. MC–119798 and MC–119798 (Sub-No. 1) issued July 25, 1960, and April 5, 1968, respectively to City Warehouse, Inc., Bluefield, W. Va., authorizing the transportation of various commodities from, to, and between specified points and areas in Virginia and West Virginia. LeRoy Katz, Post Office Box 727, Bluefield, WV 24701, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–2533 Filed 2–17–72;8:51 am]

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federal register

THURSDAY, FEBRUARY 24, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 37

PART II

SMALL BUSINESS ADMINISTRATION

■

SMALL BUSINESS INVESTMENT COMPANIES

Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 8, Rev. 4]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Miscellaneous Amendments

On December 14, 1971, notice of proposed rule making regarding amendments to the regulations governing small business investment companies (13 CFR Part 107) was published in the FEDERAL REGISTER (36 F.R. 23772) which would amend Appendices 1 and 2 and make certain conforming amendments. After consideration of all such relevant matter as was presented by interested persons, the amendments as so proposed are hereby adopted, subject to the following changes:

A. Paragraph (f)(1) of § 107.1102 *Records and reports* is changed by inserting at the beginning of the paragraph the words "Except as hereinafter otherwise provided" and by inserting after the last sentence of the paragraph the words "SBA may require a program evaluation report in such form as prescribed by SBA from selected Licensees. These selected Licensees will be notified by SBA of their selection and upon filing such special program evaluation reports shall be exempt from filing SBA Form 684 for that period."

INFORMATION: The changes to paragraph (f)(1) of § 107.1102 are made for clarification of the reporting requirement in the event a program evaluation report other than SBA Form 684 is prescribed.

B. Changes in Appendix 1—*Audit and Examination Guide for Small Business Investment Companies* under the main heading *Report of Audit (Financial Examination)*:

1. In the first paragraph of the section headed *General* after the word "operations" add the words "and changes in financial position."

2. In the first paragraph of the section headed *Accountant's Report (Certificate)* after the word "operations" add the words "and changes in financial position."

INFORMATION: Changes 1 and 2 are necessary because of the addition of a "Statement of Changes in Financial Position" to the "Financial Report" SBA Form 468.

3. In the second paragraph of the section headed *Accountant's Report (Certificate)* change the word "Procedure" to the word "Procedural."

INFORMATION: Correction of a typographical error.

4. The first paragraph of the section headed *Internal Control* is changed to read as set forth below.

INFORMATION: Change 4 removes the implication that the auditor is required to express an opinion on the overall effectiveness of the internal control.

5. Delete the last sentence of the section headed *Organization Costs* and in its place add the following sentence "At the first audit, the components of this asset should be disclosed in SBA Form 468 or the footnotes thereto."

INFORMATION: Change 5 places the requirement upon the Licensee to disclose the components of organization expense in SBA Form 468 or the footnotes thereto at the first audit only.

C. Changes in Appendix 2—*Instructions for Preparation of the Financial Report, SBA Form 468.*

1. Item 7 in the section headed *Statement of Changes in Financial Position* delete the words "Explain such transaction in detail" and in its place add the words "Attach explanation sheet."

2. Item 29 in the section headed *Statement of Changes in Financial Position* after the last word add the words "Attach explanation sheet."

INFORMATION: Changes 1 and 2 are self explanatory.

The text of the finalized amendments set forth below, reflects the above changes to the proposed amendments published December 14, 1971.

Effective date. In view of the determination made that it is in the public interest that these amendments be applied promptly to the Small Business Investment Program, they shall become effective on the date of their publication in the FEDERAL REGISTER (2-24-72).

Dated: February 14, 1972.

THOMAS S. KLEPPE,
Administrator.

1. Paragraphs (d) (1) and (2) and (f) (1) of § 107.1102 are amended to read as follows:

§ 107.1102 Records and reports.

* * * * *

(d) Financial reports to SBA:

(1) Each Licensee shall submit to SBA, at the end of each fiscal year a report containing financial statements for the fiscal year; and, when requested by SBA, interim financial reports.

(2) The report as of the end of each fiscal year shall contain, or be accompanied by an independent public accountant's opinion on the financial statements for the fiscal year included therein. Such opinion shall be based on an audit of the accounts of the Licensee conducted in accordance with generally accepted auditing standards, and in accordance with the Audit and Examination Guide for Small Business Investment Companies prescribed by SBA, by an independent certified public accountant or an independent licensed public accountant, certified or licensed by a regulatory authority of a State or other political subdivision of the United States who has been approved by SBA. Effective December 31, 1975, only a certified public accountant may be considered qualified to render an opinion as an independent public accountant on behalf of an SBIC except that those licensed public accountants who have received their licenses on or before December 31, 1971, will also be considered similarly qualified.

* * * * *

(f) Program evaluation reports:

(1) Except as hereinafter otherwise provided the Program Evaluation Report, SBA Form 684, shall be prepared by each Licensee as of March 31 of every calendar year and filed in triplicate with SBA not later than June 30 of such year, to reflect all transactions involving Licensee's debt or equity financing of small business concerns which were outstanding at any time during the preceding 12-month period ending March 31, The report shall be prepared in accordance with Instructions for Preparation of the Program Evaluation Report, SBA Form 684, which are printed in Appendix 3 as part of the regulations of this part. Copies of SBA Form 684 and of the Instructions may be obtained from SBA. SBA may require a program evaluation report in such form as prescribed by SBA from selected Licensees. These selected Licensees will be notified by SBA of their selection and upon filing such special program evaluation reports shall be exempt from filing SBA Form 684 for that period.

* * * * *

2. Paragraphs (a) and (b) of § 107.1104 are amended to read as follows, and paragraph (c) is deleted.

§ 107.1104 Fidelity insurance.

(a) Each Licensee shall maintain a fidelity bond in the form and amount set forth in Addendum I (Fidelity Bond) to SBA's Audit and Examination Guide for Small Business Investment Companies.

(b) The Audit and Examination Guide for Small Business Investment Companies is printed in Appendix 1 as part of the regulations of this part.

(c) [Deleted]

3. Appendices 1 and 2 are revised as set forth below.

APPENDIX 1—AUDIT AND EXAMINATION GUIDE FOR SMALL BUSINESS INVESTMENT COMPANIES

FOREWORD

The Small Business Investment Act of 1958, as amended, expresses the declared policy of the Congress and purpose of the Act to improve and stimulate the national economy, and particularly the small business segment thereof, by establishing a program to stimulate and add to the flow of private equity capital and long-term loan funds which small business concerns need to finance their operations and assist in their growth, expansion, and modernization, and which are not available in the amounts required: "Provided; however, that this policy shall be carried out in such manner as to insure the maximum participation of private financing sources."

The Small Business Administration, in carrying out this policy, requests the cooperation of independent public accountants engaged in the practice of public accounting to participate in their own localities in the audit (financial examination) program for small business investment companies. It is desired that the audits of such companies performed by independent public accountants selected by the individual companies will be conducted with the uniformly high degree of competency which the profession

has so long striven to maintain. Through the efficient, thorough, and economical performance of the audits, the best interests of the Licensee, the Small Business Administration, and the accounting profession will be served.

This Audit and Examination Guide for Small Business Investment Companies was initially prepared by the Small Business Administration with the advice of a committee of independent certified public accountants. It has been revised primarily to take account of amendments of the Small Business Investment Act and of the regulations governing small business investment companies. Any inquiries or comments relating to the examination of financial statements of small business investment companies, or to the auditing and reporting procedure as set forth in this Audit and Examination Guide should be directed to the Staff Accountant, Investment Division, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

GENERAL CONSIDERATIONS

The Small Business Administration, under authority granted by the Small Business Investment Act of 1958, as amended, requires small business investment companies licensed by SBA under the Act to have an audit (financial examination) made of their accounts and records annually by independent public accountants selected or approved by SBA. SBA requires that the engagement cover a "financial examination" type of audit described hereinafter. The annual audit shall be performed as of the close of each Licensee's fiscal year. Three copies of the annual audit report should be submitted to SBA as soon as practicable after completion and no later than the last day of the third month following the close of the period covered by the audit.

Any public accountant, certified or licensed by a regulatory authority of a State or other political subdivision of the United States, who is independent and who is duly authorized to practice as a public accountant, and is in good standing under the laws of the State or other comparable authority in which so authorized, may be considered qualified to render an opinion as an independent public accountant on behalf of an SBIC whose principal office is located in such State or authority. Effective December 31, 1975, only a certified public accountant may be considered qualified to render an opinion as an independent public accountant on behalf of an SBIC except that those licensed public accountants who have received their licenses on or before December 31, 1971, will also be considered similarly qualified.

The Small Business Administration will not recognize any public accountant as independent who is not in fact independent. For example an accountant will be considered not independent with respect to any small business investment company with which he has, or had during the period covered by the audit (financial examination), any direct financial interest or any material indirect financial interest; or with which he is, or was during such period connected as a promoter, underwriter, voting trustee, investment adviser, director, officer, or employee or in the capacity of rendering bookkeeping services. In determining whether an accountant may in fact be not independent with respect to a particular SBIC, SBA will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and such SBIC or any affiliate thereof, and will not confine itself to the relationships existing in connection with the filing of reports with this Agency.

The responsibility for the selection of the independent public accountant by the SBIC is vested in the board of directors. Any accountant qualifying as an independent public accountant, as explained above, may be considered as having SBA approval to perform the annual audit (financial examination) upon selection by the board, and the filing with SBA by such accountant of an executed IPA Statement. CO Form 112 (4-70), certifying as to his qualification and independence, unless otherwise advised by SBA. It is strongly recommended that the board give thorough consideration each year to the matter of selecting the public accountant to perform that year's audit. The board under this policy selects an accountant with whom it agrees as to the engagement and basis of compensation. The SBIC then furnishes notification of the board's selection to the Staff Accountant, Investment Division, Small Business Administration, 1441 L Street NW., Washington, DC 20416. Notification to SBA is not necessary when the same accountant or accountants are retained for successive years.

This guide has been prepared, and made a part of the regulations, to inform Licensees under the Small Business Investment Act of 1958, as amended, and independent public accountants engaged by them as to SBA's minimum requirements concerning fidelity bonds, valuation of portfolio assets, and audits (financial examinations) of SBICs. It is not intended to be a complete manual of audit (financial examination) procedure, nor is it intended to supplant the accountant's judgment as to any additional work required to meet generally accepted auditing standards and to render adequate and appropriate reports. Through use of this guide by independent public accountants the Administration expects audits (financial examinations) of uniformly high quality to be made of all small business investment companies licensed by SBA.

The procedures set forth herein apply generally to a type of audit technically termed a "financial examination."

A financial examination is to be made in accordance with generally accepted auditing standards. The auditing procedures employed should include: (1) Review of the system of internal control and of the accounting principles followed; (2) independent sampling (through inspection, correspondence, etc.) to ascertain the existence of assets; (3) application of audit tests to determine that liabilities are reflected in the balance sheet; (4) review and testing of the income and expense accounts; (5) review of the accounting records, with application of appropriate testing procedures, to determine the authenticity and general reliability of the financial statements prepared from the accounts; and (6) such other auditing procedures as the independent public accountant considers necessary in the circumstances.

SBA has prescribed a system of account classifications which is required to be used by licensed small business investment companies. The Agency requires uniform reporting and contemplates that generally accepted auditing standards will be maintained. The attainment of accounting and reporting uniformity and the maintenance of auditing standards will provide reliable information for use by SBIC management and SBA. Accountants engaged by SBICs should become familiar with:

Small Business Investment Act of 1958, as amended.

Regulations governing small business investment companies issued pursuant to the Small Business Investment Act of 1958, as amended.

System of Account Classifications for Small Business Investment Companies (Part 111, SBA Rules and Regulations).

Financial Report, SBA Form 468.

REPORT OF AUDIT (FINANCIAL EXAMINATION)

General

The financial statements referred to in this guide are those constituting the Financial Report, SBA Form 468,[1] and should be prepared on such form. The accountant's examination should be directed toward the expression of an opinion as to whether the statements of (a) financial condition, (b) surplus reconciliations, (c) income and expense, (d) realized gains and losses on investments, and (e) changes in financial position, present fairly the financial position of the SBIC as of the audit date and the results of its operations and changes in financial position for the period then ended in conformity with generally accepted accounting principles applied on a basis consistent with the preceding year. The schedules of SBA Form 468 should be subject to the audit procedures applied in the accountant's examination of the basic financial statements to enable him to express an opinion as to whether these schedules are fairly stated in all material respects in relation to the basic financial statements.

It is contemplated that a long-form audit report shall be rendered including the Financial Report, SBA Form 468 the accountant's opinion thereon and narrative comments relating to significant accounts and matters.

The accountant should, when possible, provide an unqualified opinion. In cases in which he considers it necessary to qualify or disclaim an opinion, the accountant should cite, when applicable the specific loans, investments or other items causing such qualification or disclaimer, and also state the specific factors involved which led to the qualification or disclaimer.

It is expected that all audit adjustments will be recorded in the SBIC's records before completion of the audit report, so that financial statements included in the audit report will agree with the books as adjusted to the balance sheet date, giving consideration to reclassifications of account balances for report purposes. If the adjustments are not on the books of the SBIC a statement should be made to this effect.

The accountant's comments should be concise and meaningful. Comments stereotyped as to expression on the basis of previous reports are to be avoided.

The agreement between the SBIC and the accountant with respect to the audit (financial examination) should provide that any information in the accountant's working papers will be made available upon request to the SBIC or to SBA.

Three copies of the audit report, with SBA Form 468, properly executed by the appropriate officers of the SBIC shall be submitted to SBA.

A copy of all adjusting journal entries recommended by the accountant should be attached to the inside of the back cover of each copy of the audit report submitted to SBA. Also attached to the inside of the back cover of each copy of the audit report should be a copy of any transmittal letter, special report, or similar communication furnished to the SBIC.

All SBIC audit reports submitted to SBA should be sent to: Investment Division, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

[1] Filed as part of the original.

Accountant's Report (Certificate)

The accountant's report shall be dated, signed, and shall identify without detailed enumeration the financial statements covered by the report. The accountant's report shall state whether the audit was made in accordance with generally accepted auditing standards; and shall designate any auditing procedures generally recognized as acceptable or deemed necessary by the accountant under the circumstances of the particular case, which have been omitted, and the reasons for their omission. Nothing herein shall be construed to imply authority for the omission of any procedures which independent public accountants would ordinarily employ in the course of an audit made for the purpose of expressing the opinion required as stated hereinafter. The accountant's report shall (a) state clearly the opinion of the accountant as to the fairness with which the financial statements present the financial position of the Licensee at the audit date, the results of its operations and changes in financial position for the period then ended in conformity with generally accepted accounting principles; (b) state whether the supplemental data contained in the schedules of SBA Form 468 have been subjected to the audit procedures applied in the examination of the basic financial statements and whether, in the accountant's opinion, these data are fairly stated in all material respects in relation to the basic financial statements; and (c) make reference to the consistent application of such principles or to any material changes in accounting principles or practices or method of applying the accounting principles or practices, which affect comparability of such financial statements with those of prior and future periods. Any matter to which the accountant takes exception shall be clearly identified, the exception thereto specifically and clearly stated, and, to the extent practicable, the effect of each such exception on the related financial statements given.

The independent public accountant is expected to satisfy himself as to the reasonableness of the bases used by SBIC's Board of Directors in determining the valuation of loans and investments as presented under the pertinent headings of this guide. The independent public accountant should determine and report in the narrative comments of his long-term report, whether the SBIC appears to have followed the valuation techniques and standards set forth in SBA Policy and Procedural Release No. 2006 dated December 31, 1965, in making the valuation. Except insofar as the valuations may affect the carrying values of investments shown on the financial statements, it shall be understood that the accountant's opinion on the financial statements contained in SBA Form 468 does not extend to the valuation of loans and investments given in the memorandum item after the end of the Statement of Financial Condition and in the memorandum columns of the applicable schedules.

Procedure for Reporting Irregularities

To meet its responsibilities SBA requires that the Investment Division be notified immediately in the event any apparent defalcation or other apparent criminal violation is disclosed. The examining accountant should determine that this has been done in every applicable case.

AUDIT OF ACCOUNTS AND REPORT OF AUDIT PROCEDURES AND FINDINGS

The audit (financial examination) referred to herein shall be conducted in accordance with generally accepted auditing standards and therefore shall include such tests of the accounting records and such other procedures as deemed necessary to enable the independent public accountant to render an opinion on the statements reported upon. Among the procedures to which particular attention should be given are the following:

Internal Control

It is expected that the independent public accountant will review the company's procedures and form an opinion on the effectiveness of the internal control. In determining the extent and nature of the testing and checking of certain accounts consideration should be given to existing internal control. The independent public accountant may if he considers it more appropriate, report on internal control in a supplementary letter report rather than commenting thereon in the general comment section on this report.

Each Licensee is required to establish and maintain effective control arrangements covering its porfolio of investment securities, funds, and equipment. Dual control over disbursements of funds and withdrawals of securities from safekeeping, and the segregation of duties of employees represent key features of such arrangements.

Fidelity Bond

The independent public accountant should check the provisions of the SBIC's fidelity bond against the requirements of SBA as stated in Addendum I of this guide, and should comment in his report regarding the conformity of the bond to such requirements.

Minutes

The accountant should review the minutes, and determine that items of a financial nature have been adequately reflected in the financial statements, schedules and notes thereto. Where, in the accountant's opinion, material actions of the SBIC are not adequately covered by the minutes and items covered in the minutes are not reflected in the financial statements, appropriate disclosure should be made in the accountant's report.

Cash

Cash on hand should be counted. Cash in banks should be reconciled with book balances and confirmed by correspondence. In addition to bank statements at balance sheet date of the audit, the independent public accountant should request and utilize cut-off statements as of a subsequent date to permit determination of the disposition of outstanding checks, deposits in transit, and other reconciling items.

U.S. Government Obligations, Insured Savings, and Time Deposits

Temporary investments made from the company's general cash funds in direct and/or fully guaranteed U.S. Government obligations should be verified by inspection or, when applicable, by confirmation from custodians. Verification should include ascertainment that proper interest coupons are attached to bearer bonds. The recorded cost or, in the case of U.S. bonds, the current redemption value should be verified. The accountant should ascertain that registered bonds are in the name of the SBIC or endorsed so as to be transferable to the company, or are accompanied by powers of attorney.

Temporary investments of the company's general cash funds in savings institutions should be reconciled with book balances and confirmed by correspondence. Time certificates of deposits should be examined to verify the SBIC's ownership of time deposits and to ascertain correctness of the balances per books.

Notes and Accounts Receivable, and Allowance for Uncollectibles

Miscellaneous notes on hand should be examined and the details compared with the company's records. A representative number should be confirmed by correspondence with the makers.

Accounts receivable for services rendered participating companies, for commitment fees, for declared dividends and sharings in income, and for management consulting, investigation, appraisal, and related services rendered, as shown by subsidiary records, should be reconciled to control accounts. The same should be done with respect to receivables representing participating companies' portions of principal and accrued interest receivable from financed small business concerns.

The collectibility of notes and accounts receivable should be considered on the basis of the most reliable information the auditor can obtain. Such amounts due should be discussed with the executive officers of the company. Any contractual delinquency in payments to date should be given due consideration. Items considered uncollectible should be recommended for writeoff, and those of doubtful collectibility should be adequately provided for in the allowance for uncollectible notes and accounts receivable. If considered desirable, an adjusting entry to the allowance account should be recommended by the accountant for adoption by the SBIC. Comments concerning the adequacy of the allowance account should be included in the audit report.

Accrued Interest Receivable and Allowance for Uncollectibles

Determination should be made that interest receivable is currently and correctly accrued on the SBIC's records. This involves interest accrued on U.S. Government obligations, loans to and debt securities of small business concerns, notes receivable, sales contracts, and other interest-bearing amounts due from debtors.

Comments concerning the adequacy of the allowance for uncollectible interest receivable should be included in the audit report.

Due From Directors, Officers, and Employees

Advances made to directors, officers, and employees should be reviewed for proper authorization and recording, and should be commented on if not authorized or has been outstanding more than 6 months.

Funds in Escrow and Other Current Assets

Funds in escrow pending closing of financing for small business concerns should be confirmed. Miscellaneous current assets should be reviewed for authenticity and appropriateness of classification.

Loans, Debt Securities, Loans and Debt Securities, Securities Sold With Recourse, Allowances for Uncollectibles and Losses, and Unearned Discount, Fees, and Other Charges

The independent public accountant should review notes, mortgages, and other obligation documents evidencing loans granted under section 305 of the Small Business Investment Act, as amended, and should confirm directly with the makers the amount of the unpaid balances. Debt securities of small business concerns, purchased by the SBIC under provisions of section 304 of the Act, as amended, should be subjected to a similar review and confirmation. Either type of financing instruments obtained from other SBIC's through purchase or through exchange of portfolio securities should likewise be examined and confirmed with the issuers. All obligation documents should be checked for signing by authorized parties, including proper witnessing and acknowledgment, and

for stated interest rate and term. Loans and debt securities pledged should be confirmed by correspondence with the holders. Determine if securities pledged are subject to SBA earmarking or nonhypothecation requirements and if so, that SBA has furnished written approval.

The System of Account Classifications provides for carrying loans and debt securities at their unpaid principal balances, including any related uncollected discounts, fees, or other charges. In the case of any such financings in which participations are sold to others, only the portion retained by the selling company is shown in the seller's books. Loans and debt securities are to be reported in the Statement of Financial Condition of SBA Form 468 on the same basis as recorded in the accounts.

Determination should be made that mortgages required to be recorded bear proper notation of such recording. The accountant should ascertain from such sources as the loan and debt security ledger cards or sheets, the collateral register, document files, minutes of board of directors' meetings, and statements of executive officers, what collateral documents should be on hand evidencing security for loans and debt securities, and should check for the presence of such collateral documents.

The accountant should inspect each participation agreement under which the company has purchased a participation interest in a loan or debt security, should inspect the documents evidencing such participation and should request confirmation from seller to the extent considered necessary. Similarly, amounts reflected in subsidiary records as participations of others in loans and debt securities of the company under audit should be reviewed in relation to the pertinent participation agreements and confirmed with the purchasers to the extent warranted.

The amounts of loans and debt securities sold with recourse should be checked to the records of such sales and to the advices received from the purchasers as to payments made by the financed small business concerns.

The independent public accountant should review the current financial statements of the concerns which are financed by the SBIC and provide comments when considered significant relative to the financial position of the concern financed. When such financial statements of the concerns are not available the accountant shall so state in his report.

The board of directors of the SBIC has the responsibility of determining in good faith a realistic valuation for each specific loan and debt security, which shall be arrived at after consideration of all pertinent factors. Valuation techniques and standards for guidance of the board are set forth in SBA Policy and Procedural Release No. 2006. The independent public accountant should satisfy himself as to the reasonableness of the bases employed by the board of directors in making determinations of the value of loans and debt securities. No appreciation in value of debt securities is to be recorded in the books of account. The valuations as determined by the board of directors are to be shown in the memorandum column of the applicable schedule of the Financial Report, SBA Form 468.

The accountant should discuss all marginal loans and debt securities with the executive officers of the SBIC. Writeoffs should be recommended in instances in which the unpaid balances of loans and debt securities are considered uncollectible. The allowance for uncollectible loans and the allowance for losses on debt securities should be reviewed as to adequacy and commented upon in the report. If considered desirable, adjusting entries to the allowance accounts should be recommended by the accountant for adoption by the SBIC.

Special attention should be given by the accountant to verification of all amounts of unearned discount, fees, and other charges shown as deducted from the unpaid balances of loans and debt securities.

Capital Stock of Small Business Concerns; Warrants, Options, and Other Stock Rights Acquired from SBCs; and Allowances for Losses

All capital stock of small business concerns in the possession of the SBIC should be verified by inspection of the stock certificates. Similar capital stock on the books which is not in the possession of the company should be confirmed by direct correspondence with those having possession thereof. Capital stock of small business concerns is to be recorded on the books of the SBIC at cost. In the case of any such financings in which participations are sold to others, only the portion retained by the selling company is shown in the seller's books.

The independent public accountant should review the cost determinations made with respect to warrants, options, or other stock rights carried on the books at a monetary value. Only the selling company's portion of such stock rights is shown in its books when participations in the stock rights are sold to others.

The accountant should inspect the agreement and other documents evidencing each participation purchased, and should request confirmation from sellers to the extent considered necessary. Similarly, amounts reflected in subsidiary records as participations of others in capital stock and warrants, options, or other stock rights acquired by the company under audit should be reviewed in relation to the pertinent participation agreements and confirmed with the purchasers to the extent warranted.

It is the responsibility of the SBIC's board of directors to determine in good faith a realistic valuation for each capital stock investment and for warrants, options, or other stock rights for which a separate cost has been determined. This valuation shall be arrived at after consideration of all pertinent factors. Valuation techniques and standards for guidance of the board are set forth in SBA Policy and Procedural Release No. 2006. The independent public accountant should satisfy himself as to the reasonableness of the bases employed by the board of directors in making the value determinations. No appreciation in the value of capital stock or stock rights investments is to be recorded in the books of account. The valuations of the stock and stock rights as determined by the board of directors are to be shown in the memorandum column of the applicable schedule of the Financial Report, SBA Form 468.

The financial position and earnings of the financed small business concerns are important factors in the board of director's determination of the real value of the stock and stock rights issued by such concerns. The independent public accountants should review the current financial statements of the concerns which are financed by the SBIC and provide comments when considered significant relative to the financial position of the concern financed. When financial statements of the concerns are not available the accountant shall so state in his report. Any material decrease in value of capital stock or stock rights, as determined by the board of directors, that is not obviously of a transitory nature should be compensated for by an increase in the allowance for losses on capital stock of small business concerns, or in the allowance for losses on their warrants, options, and other stock rights, as appropriate. These allowance accounts should be reviewed as to adequacy by the accountant and commented upon in his report. An adjusting entry to effect any necessary increase should be recommended by the accountant for adoption by the company. Likewise, entries should be recommended to write off any established loss on capital stock of small business concerns or on stock rights of such concerns.

Venture Capital

Under the Small Business Investment Act of 1958, as amended, SBICs are entitled to borrow additional funds from SBA if they have a qualifying amount of combined paid-in capital and paid-in surplus and maintain a minimum percentage of total funds available for investment in small business concerns invested or committed in "venture capital," as defined in § 107.3 of the regulations. The independent public accountant, referring to the official definition of venture capital and reviewing the lending instruments and related documents, should determine that the total amount of venture capital as indicated in the Financial Report, SBA Form 468, is substantially correct.

Assets Acquired in Liquidation of Loans and Debt Securities, Accumulated Depreciation, Mortgages Payable, and Allowance for Losses

These assets may include a wide variety of things of value, as, for example, collateral notes receivable, accounts receivable, judgments, sheriffs' certificates, and various types of real and personal property. Property taken in liquidation should be recorded at an amount determined by the board of directors on the basis of bid-in-price, agreed consideration, or fair appraised value, as deemed most suitable: *Provided*, That the net amount recorded shall not exceed the total amount of the related loan or equity security indebtedness involved. In the case of mortgaged real property acquired in liquidation of loans and debt securities, the property should be recorded at gross value as determined by the board of directors, reduced as necessary to bring the net recorded value within the above-stated limitation. The amount of the existing mortgage or mortgages on such property should be shown as a deduction from the property acquired in liquidation on the asset side of the balance sheet. The accountant should verify each asset through application of procedures generally accepted for audit of the particular class of assets involved. Board authorization for recording these assets at the amounts shown should be ascertained. The amount recorded will correctly represent only the selling company's portion of any such assets in which participants are sold to others.

It is the board of directors' responsibility to determine in good faith a realistic valuation for each security or other item of property comprising assets acquired through liquidation of loans and debt securities. Such valuation shall be arrived at after consideration of all pertinent factors. Valuation techniques and standards for guidance of the board are set forth in SBA Policy and Procedural Release No. 2006. The independent public accountant should satisfy himself as to the reasonableness of the bases employed by the board in determining the values. No appreciation in the original recorded value of assets acquired in liquidation of loans and debt securities is to be recorded in the books of account. The valuations as determined by the board of directors are to be shown in the memorandum column of the applicable schedule of the Financial Report, SBA Form 468.

The accumulated depreciation on assets acquired in liquidation of loans and debt

securities should be reviewed by the accountant to assure that it is not less in amount than a conservative estimate of the expired service life of such property while owned by the SBIC. Insurance coverage should be reviewed.

Such acquired assets should be discussed with the executive officers of the company. Writeoff should be recommended for items considered worthless. The allowance for losses on assets acquired in liquidation of loans and debt securities should be reviewed as to adequacy and commented upon in the report. If considered desirable, adjusting entries to the allowance account should be recommended by the accountant for adoption by the SBIC.

Amounts Due From Debtors on Sale of Assets Acquired in Liquidation of Loans and Debt Securities, Participation by Others, and Allowance for Uncollectibles

Accounts and notes receivable, sales contracts, mortgages, and similar evidences of indebtedness to the SBIC arising from the sale of assets acquired in liquidation of loans and debt securities, as shown by subsidiary records, should be reconciled to the control account. Current and past-due accounts receivable should be confirmed as the independent public accountant may deem appropriate, considering the relative significance of such accounts in the financial statements. The accountant should check all notes, sales contracts, mortgages, and other documents evidencing amounts due from debtors on sale of assets acquired in liquidation of loans and debt securities, and should confirm directly with the makers the unpaid balances of such of these obligations as he considers necessary. Sales contracts and mortgages should be examined to ascertain that such documents required to be recorded bear proper notation of recording.

The collectibility of the amounts due should be estimated on the basis of the most reliable information the auditor can obtain. Such amounts due should be discussed with the executive officers of the company. Any contractual delinquency in payments to date should be given due consideration. Items considered uncollectible should be recommended for write-off, and those of doubtful collectibility should be adequately provided for in the allowance for uncollectible amounts due from debtors on sale of assets acquired in liquidation of loans and debt securities. If considered desirable, an adjusting entry to the allowance account should be recommended by the accountant for adoption by the SBIC. Comments concerning the adequacy of the allowance account should be included in the audit report.

Corporate Premises Owned, Furniture and Equipment, and Accumulated Depreciation

The independent public accountant, during the first audit of the SBIC, should examine the documents showing title to the property owned as corporate premises. It should be ascertained that the land is carried at acquisition cost, plus the cost of subsequent benefit assessments and improvements (other than buildings and improvements related thereto), and that the charging of such additional costs to the land account has been proper. The building owned as a part of the corporate premises should be recorded at acquisition cost plus cost of subsequent improvements thereto. Improvements to leased property used as the company's office quarters should be recorded at cost. The basis for recorded cost should be verified and capital additions should be checked to ascertain that only properly capitalizable items have been added to book cost. Vouchers and invoices covering such additions should be examined. Retirements and sales should be reviewed to see that all transactions have been properly reflected in the accounts. Insurance coverage should be reviewed.

The accumulated depreciation on the building and related improvements owned as a part of the corporate premises should be reviewed to assure that it is not less in amount than a conservative estimate of the expired service life of such building and improvements. The basis for amortization of leasehold improvements should be examined for appropriateness.

On occasion, an SBIC may be found operating in the same or communicating office or building with a bank or other financial institution. Sometimes both institutions are managed by the same individuals and the same facilities may be used for transacting business. The accountant should satisfy himself that safeguards are maintained which effectively segregate the books, records, and assets of the separate institutions at all times.

The accountant should ascertain that furniture and equipment, including automobiles, are recorded on the books at cost. Documents showing ownership of automobiles by the company should be inspected and invoices for all major additions to furniture and equipment during the audit period should be examined. Sales and trade-ins of furniture and equipment should be tested to determine that they have been appropriately recorded. Insurance coverage should be reviewed.

The accumulated depreciation on furniture and equipment, including automobiles, should be reviewed for adequacy.

The report should contain comments concerning unusual conditions, if any, found with respect to these assets.

Organization Costs

Legal fees, promotional expense, stock certificate costs, incorporation fees, taxes, and other charges which may comprise organization costs on the books should be audited for propriety as capital charges pending amortization or writeoff to the organization expense account. Following the first audit, the review of organization costs will ordinarily be concerned chiefly with a determination and evaluation of the basis for amortization and the consistency with which the planned elimination of this balance sheet item is being accomplished. At the first audit, the components of this asset should be disclosed in SBA Form 468 or the footnotes thereto.

Other

Insurance prepayments, and other prepayments and deferred items should be reviewed. All significant items should be examined for propriety, for applicability to future periods, and for appropriateness of the basis for writeoff. Particular note should be taken of any amounts deferred as the result of improper accounting or failure to identify the correct purposes of the charges.

The audit report should contain adequate description of prepayments and deferred charges and should contain comments concerning any large or unusual amounts.

Miscellaneous assets of the company not included under other captions should be shown here. Miscellaneous assets should be reviewed for validity and for propriety of their retention on the books.

Accounts Payable

Accounts payable for participating companies' portions of principal and accrued interest receivable from financed small business concerns, compensation for services rendered on participations purchased, for commitment fees on deferred participations by others, and for other values received, as shown by subsidiary records, should be verified and reconciled to control accounts. The accruals of compensation payable and commitment fees payable should be reviewed with reference to the related participation agreements. Unusually large amounts and a reasonable proportion of other amounts due on open account should be confirmed by correspondence with the creditors.

Other Current and Accrued Liabilities

Subsidiary records on other current and accrued liabilities, including those for interest, salaries, taxes, dividends, unapplied receipts, trust receipts, amounts due directors, officers, and employees (other than salaries), and other deferred credits, should be checked and reconciled with the control accounts. A certificate, signed by an executive officer of the company, should be obtained stating that all actual liabilities have been entered in the books and that all existing contingent liabilities have been reported to the auditor. The accountant should communicate with the SBIC's attorney to determine the existence of any claims in litigation or pending against the company for the purpose of reporting any contingent liability.

The accountant should (following upon the fact) state in the report that certificates were received from the executive officer and the attorney concerning the recording of actual liabilities and the existence of any claims in litigation or pending against the company.

The report should also present pertinent information concerning unusual current and accrued liabilities. Special attention and comment should be directed to any amounts due directors, officers, and employees, and to any contingent liabilities, including commitments and guarantees.

Funds Borrowed and Other Liabilities

Indebtedness to SBA should be reconciled to the current statements from the Small Business Administration. Direct confirmation from SBA is required and should be requested on the basis of a statement, submitted in triplicate to the Director, Office of Budget and Finance, Small Business Administration, 1441 L Street NW., Washington, DC 20416, showing the unpaid balances of principal and interest at the balance sheet date of the audit. Adequate identification of each obligation, using execution date and SBA loan symbols, should be given.

Debt to others than SBA for funds borrowed likewise should be confirmed by correspondence. Loan agreements, contracts and mortgages, and minutes of board meetings pertaining thereto should be examined in relation to SBA financing and loans from others to determine whether there has been compliance with such of their terms as have direct bearing on the financial position as represented in the audited statements.

The other liabilities and deferred credits should be checked for validity. If these items are material in amount, appropriate comments thereon should be included in the report. Special attention and comment should be directed to any amounts due directors, officers, and employees, and to any contingent, liabilities, including commitments and guarantees.

The independent public accountant should ascertain that the appropriate schedule of the Financial Report, SBA Form 468, reflects all commitments, guaranteed obligations, and other contingent liabilities, and that the total of all contingent liabilities is shown as a footnote at the bottom of page 2 of SBA Form 468.

Capital Stock and Surplus

Verification of capital stock should be carried out by examination of the stock records and the stock certificate books, or

by direct confirmation from the registrar and transfer agent, if applicable. Cash records or other records showing the consideration received for capital stock should be reviewed in connection with capital stock transactions during the period. Authorizations of the board of directors and also the charter and bylaws should be referred to. Determination should be made as to the existence of stock options, warrants, rights, conversion privileges, sales of stock on special terms, or reservations of shares of stock for sale to particular groups or for options and other rights. It should also be determined that all such transactions have been appropriately recorded and set forth in the statement of financial condition, notes thereto, or schedules as applicable. The independent public accountant should look for and disclose the existence of any arrearages in the payments on capital stock subscribed or in the payment of dividends on outstanding capital stock. Treasury stock transactions should be analyzed and determination made that appropriate accounting has been effected.

The audit report should contain thoroughly informative comments regarding capital stock transactions during the period.

Changes in the surplus accounts during the period should be reviewed for propriety of the accounting entries effecting the changes. Although all earnings for the year are ultimately transferred to a single retained earnings account, it should be determined that appropriate distinction has been made in classifying items in the Profit and Loss Summary and the Realized Gain and Loss Summary accounts as between (1) income and expense from operations and (2) realized gains and losses on investments. Paid-in surplus debits and credits must also be checked for appropriateness of classification.

Loans and Investments at Market or Fair Value

Review should be made of the valuation of loans and investments. The independent public accountant should determine whether the SBIC has followed the instructions for the memorandum item following the Statement of Financial Condition in SBA Form 468 in making the valuation.

Income and Expense and Gain and Loss Accounts

Appropriate tests should be made of income and expense and gain and loss accounts for the period under review. The test should be sufficient, when combined with information obtained in other phases of the audit, to satisfy the accountant that transactions summarized in these accounts are genuine and have been properly authorized and accurately recorded.

The verification procedures applied to income and expense and gain and loss accounts should be based on the same test-check principles as are applied to the balance sheet accounts. After examining representative transactions for the period or periods he has selected for testing, the accountant should scan the accounts and examine any entries which appear unusual. Special attention should be given to transactions contributing to the recorded gain or loss realized on sale of investments. In this connection, reference should be made to SBA requirements concerning the realization and use of income and gains, as set forth in Addendum II of this guide. A note to financial statements should include information as to the latest year through which Federal income tax returns of the SBIC have been audited by the Internal Revenue Service.

ADDENDUM I—FIDELITY BOND

1. NEED FOR BOND

Each Licensee shall obtain and maintain a fidelity bond which must be executed by a surety holding a certificate of authority from the Secretary of the Treasury pursuant to sections 6–13 of title 6 of the United States Code as an acceptable surety on Federal bonds. Each officer and employee who has control over or access to cash, securities or other property of the Licensee shall be covered by such fidelity bond. The form of bond must meet the provisions of paragraphs 2 through 5 below.

2. TYPE OF BOND

The fidelity bond may be issued on a "Discovery" or "Loss Sustained" basis. Each bond shall contain minimum coverage equivalent to insuring agreements (A) Fidelity, (B) On Premises and (C) In Transit provided in Finance Companies Blanket Bond Standard Form 15 or Stockbrokers Blanket Bond Standard Form 14 both revised to September 1970. It should be clearly understood that eligible fidelity bonds are not restricted to Standard Forms 15 and 14. Equivalent insurance coverage as previously stated, constitutes satisfactory coverage. Insuring Agreements (D) Forgery or Alteration, (E) Securities and (F) Counterfeit Currency, misplacement coverage and Electronic Data Processing Coverage are not required. The bond shall also contain a rider or endorsement providing that the surety will notify SBA of its intent to cancel the fidelity bond at least 30 days in advance of the effective date of the cancellation. At the option of the Licensee a loss deductible clause not to exceed $1,000 will be permissible under all of the insuring agreements.

A Licensee, including a bank-owned or controlled Licensee, may be covered as a joint insured under a Fidelity Bond if the coverage meets the above requirements.

3. CANCELLATIONS AND CLAIMS BY THE LICENSEE

Each Licensee, at least 30 days prior to making any request to the surety to terminate or cancel such bond, shall notify SBA in writing of its intent to terminate or cancel the bond. Each Licensee shall notify SBA immediately in writing of any claim for loss filed under the bond with the surety. Such notifications to SBA shall be by certified mail addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

4. AMOUNTS

The minimum amount of fidelity bond for each Licensee acceptable to SBA shall be based upon the total amount of the assets of the Licensee plus the unpaid balance of loans and investments which the Licensee has contracted to service for others, as follows:

Assets plus loans and investments serviced for others:

	Minimum coverage
Up to $400,000	$25,000
$400,001 to $500,000	30,000
$500,001 to $750,000	40,000
$750,001 to $1,000,000	50,000
$1,000,001 to $2,000,000	75,000
$2,000,001 to $3,000,000	100,000
$3,000,001 to $4,000,000	125,000
$4,000,001 to $5,000,000	150,000
$5,000,001 to $7,500,000	175,000
$7,500,001 to $10,000,000	200,000
$10,000,001 and over	(1)

[1] $200,000 plus $10,000 for each $1 million or fraction thereof over $10 million, except that no Licensee shall be required to provide and maintain a fidelity bond in an amount greater than $1 million.

5. BANK CUSTODIAN

Notwithstanding the provisions of paragraph 4 above, if a Licensee's portfolio securities are held by a commercial bank, which is a member of the Federal Deposit Insurance Corporation, as custodian under a custodianship agreement, such commercial bank's fidelity bond may be construed as furnishing the Licensee with adequate surety protection for securities and funds in its custody: *Provided*, That the amount of assets, as defined in paragraph 4, in the possession of the Licensee at any one time, or $400,000, whichever is greater, is covered by a prescribed fidelity bond.

ADDENDUM II—REALIZATION AND USE OF INCOME AND GAINS

1. PURPOSE

This addendum provides guidance to SBICs for the determination of the realization of operating income and gains on investments and the use of such profits for various corporate purposes.

2. RECOGNITION OF PROFIT

a. *Income from operations.* Licensees may, provided the collection of such income is reasonably assured:

(1) Treat income from dividends and fees as realized when a transaction is effected in the ordinary course of business, and

(2) Treat commitment income and interest income as realized when a transaction is effected, or through the passage of time.

b. *Gains from sales of assets.* Assets here considered include portfolio securities assets acquired in liquidation of loans and debt securities (including successor assets to those originally acquired in such liquidation), and those classified as other assets.

(1) Gain on the sale of assets when the sale represents a final transaction may be recognized as realized gain immediately when received by a Licensee in cash (money, checks, or negotiable money orders), demand certificates of deposit issued by banks which are members of the Federal Deposit Insurance Corporation, and/or negotiable direct obligations of the U.S. Government.

(2) That portion of cash installment payments representing gain may also be recognized as realized gain immediately as such payments are received when the installment feature is all that prevents characterization of the transaction as final.

(3) Any transaction with recourse upon the Licensee or involving any understanding, agreement, option, privilege, or other rights to repurchase by and/or resell to the Licensee shall not be considered a final transaction.

(4) Any reacquisition of the assets by the Licensee, whether or not the result of prior agreement or rights, shall be construed by SBA as a nullification of the finality of the original sale transaction.

(5) Any gain on sale of assets which does not qualify as realized gain in accordance with the foregoing shall be deferred pending such realization.

3. USE OF PROFITS

a. Only profits realized in accordance with the foregoing may be:

(1) Used for obtaining loan funds from SBA,

(2) Used for payment of dividends, or

(3) Treated as realized profits for improvement of bargaining position in mergers.

b. Profits realized as above may be used also for correcting capital impairment. In addition, noncash gain on the sale of assets to a bona fide purchaser, which gain has been deferred, may be recognized by SBA for the purpose of correcting capital impairment. This recognition will not be granted if uncertainty as to the ultimate realization of profit is so great that business prudence,

as well as generally accepted accounting principles, would preclude such recognition of gain. Circumstances such as any of the following would raise a serious question as to the propriety of the current recognition of any gain:

(1) Consideration received in exchange for assets disposed of consists of capital stock having no quoted market value, or other noncash real or personal property which cannot be reasonably evaluated.

(2) Evidence of financial weakness of the purchaser.

(3) Substantial uncertainty as to the amount of costs and expenses to be incurred.

(4) Substantial uncertainty as to the amount of proceeds to be realized because of form of consideration or method of settlement; for example, nonrecourse notes, non-interest-bearing notes, purchaser's stock, and notes with optional settlement provisions, all of interminable value.

(5) Amount and/or time of payment indeterminate, being dependent upon future sales or other action.

(6) Retention of effective control of the asset by the Licensee.

(7) Limitations and restrictions on the purchaser's profit and on development or disposition of the asset.

(8) Simultaneous sale and repurchase by the same or affiliated interest.

(9) Concurrent loan to or other financing of the purchaser.

(10) Small, or no down payment.

(11) Simultaneous sale and leaseback of asset

4. PROCEDURE FOR OBTAINING SBA RECOGNITION OF NONCASH GAIN FOR THE PURPOSE OF CORRECTING CAPITAL IMPAIRMENT

The Licensee should submit to SBA, in triplicate, a summary statement identifying each sale transaction involved, giving the following particulars:

a. Portfolio securities, acquired (or successor) assets, or other assets parted with and their cost less allowance for losses, proceeds obtained, and net gain or loss.

b. Name of purchaser and affiliation (if any) with Licensee.

c. Description and value of consideration received, including terms and collateral (if any) of any debt instruments, and

d. Provisions of any rights or privileges obtained or granted by the Licensee.

5. ACCOUNTING REQUIREMENTS

a. *Income from operations.* Restrictions on the classification of income as realized and procedures to be followed when such amounts are not to be considered as realized are found in the notes to income accounts Nos. 500, 512, 516, 532, in the System of Account Classifications for Small Business Investment Companies (Part 111 of the regulations).

b. *Gains from sales of assets.* (1) Any profit on the sale of assets which does not qualify as realized gain in accordance with section 2.b of this addendum should be credited to account No. 383. Other Deferred Credits, pending such realization.

(2) SBA recognition of noncash gain on sales of assets shall not constitute approval to transfer the amount involved from account No. 383 to the appropriate gain accounts, as such action shall remain dependent on meeting the qualifications in section 2.b of this addendum.

APPENDIX 2—INSTRUCTIONS FOR PREPARATION OF THE FINANCIAL REPORT, SBA FORM 468

GENERAL

There are set forth herein the instructions for preparation of the Financial Report, SBA Form 468, which report is required by Small Business Administration regulations to be filed wtih SBA by each licensed small business investment company at the end of each fiscal year, and at such other times as SBA may request. The Financial Report filed by each Licensee shall present fairly the financial position of the Licensee as of the close of the period covered by the report and the results of the Licensee's operations for such period, and shall be prepared in accordance with these instructions. The accounts referred to by account number in these instructions are those prescribed by SBA in the System of Account Classifications for Small Business Investment Companies as set forth in Part 111 of this chapter.

The Financial Report, SBA Form 468, shall be filed in triplicate with the Investment Division, Small Business Administration, 1441 L Street NW., Washington, DC 20416, on or before the last day of the third month following the close of the period covered by the report (in the case of an audited report).

Licensees which are registered investment companies should refer to the rules promulgated by the Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549, for the official requirements as to financial reports to be filed with SEC and the time allowed for filing.

The Financial Report, SBA Form 468, requires a statement of financial condition, statement of surplus reconciliations, statement of income and expense, statement of realized gain or loss on investments, statement of changes in financial position and supporting schedules. If any statement or schedule is not applicable, it is still required to be filed but should be marked "N/A" or "Not Applicable."

When the Licensee has a wholly owned subsidiary organized solely for the purpose of rendering management consulting services, financial reports submitted to SBA by the parent Licensee shall reflect consolidated figures covering the activities of both the parent Licensee and its subsidiary corporation.

When the Licensee has one or more branch offices, the data contained in the basic financial statements and all supporting schedules shall comprise a combination of the figures for the principal office and all branches. All money amounts required to be shown in the financial statements and schedules shall be expressed in whole dollars. Appropriate adjustments of individual amounts shall be made for the fractional part of a dollar so that the items will add to the totals shown.

HEADING

Set forth in the appropriate spaces the information called for representing the identification and the principal-office address of the Licensee. As the employer identification number, enter the number assigned to the Licensee by the U.S. Treasury Department. If such number has not yet been assigned, an Application for Employer Identification Number, Form SS-4, shall be submitted to the U.S. Director of Internal Revenue for the area in which the Licensee's principal office is located.

STATEMENT OF FINANCIAL CONDITION

Assets

Items:

1. *Cash.* State the total of the balances contained in accounts Nos. 100 through 120.

2. *U.S. Government obligations, insured savings, and time certificates of deposit.* State the total of the balances contained in accounts Nos. 130 through 137.

3. *Notes receivable.* State the balance contained in account No. 140.

4. *Accounts receivable.* State the balance contained in account No. 150.

(a) *Less: Allowance for uncollectibles* (applicable to items 3 and 4). State the balance contained in account No. 151.

5. *Accrued interest receivable.* State the balance contained in account No. 160.

(a) *Less: Allowance for uncollectibles.* State the balance contained in account No. 161.

6. *Due from directors, officers, and employees.* State the balance contained in account No. 255.

7. *Funds in escrow and other current assets.* State the balance contained in account No. 179 and the current portion of account No. 220.

8. *Total short-term assets.* Enter the total of the appropriate amounts opposite items 1, 2, 4(a), 5(a), 6, and 7.

9. *Loans (section 305).* State the balance contained in account No. 170.

(a) *Less: Amount sold with recourse.* State the balance contained in account No. 310.

(b) *Less: Allowance for uncollectibles.* State the balance contained in account No. 171.

(c) *Less: Unearned discount, fees, etc.* State the balance contained in account No. 173.

10. *Debt securities of SBCs (section 304).* State the total of the balances contained in accounts Nos. 180 and 184.

(a) *Less: Amount sold with recourse.* State the total of the balances contained in accounts Nos. 312 and 314.

(b) *Less: Allowance for losses.* State the balance contained in account No. 185.

(c) *Unearned discount, fees, etc.* State the balance contained in account No. 187.

11. *Capital stock of SBCs (section 304).* State the total of the balances contained in accounts Nos. 190 and 192.

(a) *Less: Allowance for losses.* State the balance contained in account No. 193.

12. *Warrants, options and other stock rights, acquired from SBCs (section 304).* State the balance contained in account No. 196.

(a) *Less: Allowance for losses.* State the balance contained in account No. 197.

13. *Assets acquired in liquidation of loans and debt securities.* State the balance contained in account No. 200.

(a) *Less: Accumulated depreciation.* State the balance contained in account No. 203.

(b) *Less: Mortgages payable.* State the balance contained in account No. 318.

(c) *Less: Allowance for losses.* State the balance contained in account No. 201.

14. *Amounts due from debtors on sale of assets acquired in liquidation of loans and debt securities.* State the balance contained in account No. 210.

(a) *Less: Allowance for uncollectibles.* State the balance contained in account No. 211.

15. *Total loans and investments.* Enter the total of the appropriate amounts opposite items 9(c), 10(c), 11(a), 12(a), 13(c), and 14(a).

16. *Corporate premises owned and furniture and equipment.* State the total of the balances contained in accounts Nos. 230, 240, and 242.

(a) *Less: Accumulated depreciation.* State the total of the balances contained in accounts Nos. 231 and 241.

17. *Organization costs.* State the balance contained in account No. 256.

18. *Other.* State the total of the balances contained in accounts Nos. 140, 220 (noncurrent portions), and 257.

19. *Total other assets.* Enter the total of the appropriate amounts opposite items 16(a), 17, and 18.

20. *Total.* Enter the total of items 8, 15, and 19.

Liabilities, Capital Stock, and Surplus

21. *Accounts payable.* State the balance contained in account No. 340.

22. *Accrued interest payable.* State the balance contained in account No. 350.

23. *Accrued taxes on income.* State the total of the balances contained in accounts Nos. 354.1, 354.2, etc.

24. *Other accrued expenses.* State the balance contained in account No. 358.

25. *Dividends payable.* State the total of the balances contained in accounts Nos. 360 through 364.

26. *Employee taxes withheld.* State the balance contained in account No. 370.

27. *Unapplied receipts and trust receipts.* State the total of the balances contained in accounts Nos. 374 and 378.

28. *Other.* State the total of the balances contained in accounts Nos. 320, 381, and 383 (portions applicable).

29. *Total short-term liabilities.* Enter the total of items 21 through 28.

30. *Notes payable to SBA.* State the balance contained in account No. 300.

31. *Notes payable to other than SBA, guaranteed by SBA.* State the balance contained in account No. 315.

32. *Notes payable to other than SBA, not guaranteed by SBA.* State the balance contained in account No. 316.

33. *Mortgages payable for funds borrowed.* State the balance contained in account No. 317.

34. *Other.* State the total of the balances contained in accounts Nos. 320, 381, and 383 (portions applicable).

35. *Debentures payable issued to SBA.* State the balance contained in account No. 301.

36. *Total liabilities.* Enter the total of the appropriate amounts opposite items 29, 30, 33, 34, and 35.

37. *Capital stock.* State the total of the balances contained in accounts Nos. 400 through 404 minus the balances contained in accounts Nos. 405 through 409.

38. *Paid-in surplus.* State the balance contained in account No. 420.

39. *Less: _____ shares of treasury stock at cost.* State the total of the balances contained in accounts Nos. 415 through 419.

40. *Total.* Enter the total of items 37 and 38 minus item 39.

41. *Capital stock subscribed.* State the total of the balances contained in accounts Nos. 410 and 411.

(a) *Less: Subscriptions receivable.* State the total of the balances contained in accounts Nos. 413 and 414.

42. *Total stockholders' paid-in capital and paid-in surplus.* Enter the total of the appropriate amounts opposite items 40 and 41(a).

43. *Retained earnings.* State the balance contained in the account No. 425.

44. *Appropriated retained earnings.* State the balance contained in account No. 427.

45. *Total capital stock and surplus.* Enter the total of the appropriate amounts opposite items 42 and 44.

46. *Total.* Enter the total of items 36 and 45.

Memorandum footnote. Show in the space provided the market or fair value of loans and investments (shown at cost less allowance for losses in item 15 of the Statement of Financial Condition). In determining the market or fair value of portfolio securities (including securities which may be readily acquired through exercise of rights), securities for which market quotations are readily available shall be valued at the market bid price, provided the securities are registered, or readily registrable, and salable, and further provided that, in the opinion of the board of directors, the bid price could be realized on immediate liquidation of the investment.

Securities other than those referred to above shall be at cost less allowance for probable losses unless, because of steady progress in the affairs of the portfolio company, an increase above cost to the small business investment company is clearly indicated in the SBIC's equity in the book value of the portfolio company's securities as shown on the portfolio company's books. In the latter case the securities may be valued at fair value as determined in good faith by the board of directors.

The value of loans and investments determined in accordance with the foregoing shall be reduced for purposes of this report by the amount of what would be an appropriate provision for taxes in respect of the unrealized appreciation included in the determined value.

In column (10) of Schedules 1 through 4, and column (8) of Schedule 7, identify with an asterisk each security which was valued above cost in arriving at the amount shown as market or fair value of loans and investments.

Footnote on contingent liabilities. Complete the footnote on page 2, at the end of the Statement of Financial Condition, which indicates the total amount of all contingent liabilities of the company. This amount shall be the same as the grand total of Schedule 12 of the report.

STATEMENT OF SURPLUS RECONCILIATIONS

Set forth in this statement all activities in accounts for paid-in surplus, retained earnings, and appropriated retained earnings during the fiscal year to date, showing opening balances, additions and deductions, and balances at close of the period. State separately the various additions and deductions, describing clearly the nature of the transactions out of which the items arose. Net income or loss from page 3 should be labeled "from net income, or (loss)" and realized gain or loss on investments from page 4 should be labeled "from net realized gain or (loss) on investments."

STATEMENT OF INCOME AND EXPENSE FOR THE FISCAL YEAR TO DATE

Income

Item

1. *Commitment income.* State the balance contained in account No. 500.

2. *Interest on loans.* State the balance contained in account No. 512.

3. *Interest on debt securities.* State the balance contained in account No. 516.

4. *Interest on invested idle funds.* State the balance contained in account No. 510.

5. *Interest income—other.* State the balance contained in account No. 520.

6. *Management consulting service fees.* State the balance contained in account No. 532.

7. *Investigation and service fees charged other lenders.* State the balance contained in account No. 534.

8. *Application and appraisal fees.* State the balance contained in account No. 536.

9. *Dividends on capital stock of SBCs.* State the balance contained in account No. 540.

10. *Sharings in income or revenue of SBCs.* State the balance contained in account No. 541.

11. *Income less expense of $_____ from assets acquired in liquidation of loans and debt securities.* State the balance in account No. 582 minus the balance in account No. 710. Show the balance contained in account No. 710 as a separate item in the space provided for the expense.

12. *Other income.* State the balance contained in account No. 584.

13. *Total income.* Enter the total of the appropriate amounts opposite items 1, 5, 8, 10, and 12.

Expenses

14. *Commitment expense.* State the balance contained in account No. 600.

15. *Interest on obligations payable to SBA.* State the balance contained in account No. 610.

16. *Interest on obligations payable to other than SBA.* State the balance contained in account No. 622.

17. *Stock record and other financial expenses.* State the balance contained in account No. 642.

18. *Total financial expenses.* Enter the total of items 14 through 17.

19. *Advertising and promotional costs.* State the balance contained in account No. 650.

20. *Appraisal and investigation costs.* State the balance contained in account No. 651.

21. *Auditing and examination costs.* State the balance contained in account No. 652.

22. *Communications.* State the balance contained in account No. 653.

23. *Cost of space occupied.* State the balance contained in account No. 654.

24. *Depreciation of corporate premises owned, furniture, and equipment.* State the balance contained in account No. 655.

25. *Directors' and stockholders' meetings costs.* State the balance contained in account No. 657.

26. *Insurance.* State the balance contained in account No. 658.

27. *Investment adviser costs.* State the balance contained in account No. 660.

28. *Legal services.* State the balance contained in account No. 661.

29. *Salaries of officers.* State the balance contained in account No. 663.1.

30. *Salaries of employees.* State the balance contained in account No. 663.2.

31. *Taxes, excluding income taxes.* State the balance contained in account No. 664.

32. *Travel.* State the balance contained in account No. 665.

33. *Employee benefits expense.* State the balance contained in account No. 670.

34. *Organization expense.* State the balance contained in account No. 672.

35. *Miscellaneous operating expenses.* State the balance contained in account No. 679.

36. through 39. (For unclassified items.)

40. *Total operating expenses.* Enter the total of items 19 through 39.

41. *Other expenses.* State the balance contained in account No. 715.

42. *Total expenses.* Enter the total of items 18, 40 and 41.

43. *Net operating income before provision for probable losses and income taxes.* Enter the balance resulting from the deduction of item 42 from item 13.

44. *Provision for probable losses on receivables.* State the balance contained in account No. 680.

45. *Provision for probable losses on portfolio securities.* State the balance contained in account No. 682.

46. *Provision for probable losses on assets acquired in liquidation of loans and debt securities.* State the balance contained in account No. 684.

47. *Provision for probable losses on amounts due from debtors on sale of assets acquired in liquidation of loans and debt securities.* State the balance contained in account No. 686.

48. *Net operating income before provision for income taxes.* Enter the balance resulting from the deduction of the appropriate amount opposite item 47 from item 43.

49. *Provision for Federal income taxes—Net income.* State the balance contained in account No. 720.1.

50. *Provision for State and other income taxes.* State the balance contained in account No. 720.2.

51. *Net income (loss) from operations.* Enter the balance resulting from the deduction of the appropriate amount opposite item 50 from item 48.

NOTE: The Statement of Income and Expense provides only for income and expenses from operations.

Extraordinary Income or Loss from transactions not in the ordinary course of operations shall be credited directly to retained earnings.

STATEMENT OF REALIZED GAIN OR LOSS ON INVESTMENTS

1. *U.S. Government securities.* Show the aggregate cost, aggregate net proceeds, and net gain or net loss on the sale or other disposition of U.S. Government obligations, direct and fully guaranteed.

2. *Debt securities of SBCs.* Show the aggregate cost less allowance for losses, aggregate net proceeds, and net gain or loss on the sale or other disposition of debt securities of small business concerns.

3. *Capital stock of SBCs.* Show the aggregate cost less allowance for losses, aggregate net proceeds, and net gain or loss on the sale or other disposition of capital stock of small business concerns.

4. *Warrants, options, and other stock rights acquired from SBCs.* Show the aggregate cost less allowance for losses, aggregate net proceeds, and net gain or loss on the sale or other disposition of warrants, options, and other stock rights acquired by the company from small business concerns.

5. *Assets acquired in liquidation of loans and debt securities.* Show the aggregate cost less allowance for losses and mortgages payable, aggregate net proceeds, and net gain or loss on the sale or other disposition of assets acquired in liquidation of loans and debt securities of small business concerns. The aggregate cost shown for this item shall be the same as that recorded in the books of account on the basis determined by the board of directors from among (1) bid-in price of the property, (2) agreed consideration for the property, and (3) fair appraised value of the property, but not to exceed the total amount of the related loan or debt security involved.

6. *Other.* Show the aggregate cost less allowance for losses, aggregate net proceeds, and net gain or loss on the sale or other disposition of any investments not included in items 1 through 5.

7. *Net gain and/or loss on investments.* Enter the net total of items 1 through 6.

8. *Combined net gain (loss) on investments.* Enter the balance resulting from the deduction of item 7, column (5) from item 7, column (4).

9. *Add realized gain for current year from prior sales of investments (deferred credits).* State the amount of deferred gain of prior years transferred to gain accounts in the current year.

10. *Less portion of gain not realized in cash, demand certificates of deposit issued by FDIC-member banks, and/or negotiable direct obligations of the U.S. Government.* State the amount of the above gain represented by proceeds other than cash, demand certificates of deposit issued by FDIC-member banks, and/or negotiable direct obligations of the U.S. Government.

11. *Net realized gain (loss) on investments before provision for income taxes.* Enter the balance resulting from the addition of item 9 and deduction of item 10 from item 8.

12. *Federal income taxes—Net realized gain on investments.* State the amount of estimated Federal income taxes applicable to net realized gain on investments for the fiscal year to date.

13. *State and other income taxes—Net realized gain on investments.* Show the amount of estimated State and other non-Federal income taxes applicable to net realized gain on investments for the fiscal year to date.

14. *Total provision for income taxes.* Enter the total of items 12 and 13.

15. *Net realized gain (loss) on investments.* Enter the balance resulting from the deduction of item 14 from item 11.

NOTE: Describe the transactions in this statement in accordance with the instructions set forth in the note at bottom of the form.

STATEMENT OF CHANGES IN FINANCIAL POSITION

Part 1—Source of Funds

Item

1. *Net income (loss) from operations.* Enter the amount of Item 51 shown in the Statement of Income and Expense.

2. *Net realized gain (loss) on investments.* Enter the amount of Item 15 shown on the Statement of Realized Gain or Loss on Investments (page 4 of SBA Form 468).

3. *Total net income.* Enter the total of Items 1 and 2.

4. *Provision for probable losses.* Enter the total amount of Items 45, 46, and 47 shown in the Statement of Income and Expense. (Excludes Item 44—Provision for Probable Losses on Receivables.)

5. *Depreciation and amortization.* Enter the amount of Item 24 and any other amounts of depreciation or amortization contained in the Statement of Income and Expense.

6. *Total funds provided by net income.* Enter the total of Items 3, 4, and 5 of this statement.

7. *Extraordinary income.* Enter amount of income from transactions not in the ordinary course of operations. Attach explanation sheet.

8. *From repayments and sales of loans.* Enter the total of column 7 (cash deductions) of Schedule 1.

9. *From repayments and sales of debt securities.* Enter the total of column 7 (cash deductions) of Schedule 2.

10. *From repayments and sales of capital stock.* Enter the total of column 7 (cash deductions) of Schedule 3.

11. *From repayments and sales of warrants, options and other stock rights.* Enter the total of column 7 (cash deductions) of Schedule 4.

12. *From repayments and sales of assets acquired in liquidation and amounts due from debtors on sale of assets acquired in liquidation.* Enter the total principal reduction for the period resulting from repayments and sales.

13. *From sale of licensees capital stock.* Enter the capital stock increase for the period resulting from sales for cash and capital stock subscriptions paid for in cash.

14. *Paid-in surplus.* Enter the increase for the period resulting from cash donations.

15. *Funds borrowed from SBA.* Enter the amount borrowed during the period.

16. *Funds borrowed from banks.* Enter the amount borrowed during the period. Do not include any borrowings reflected in Short-Term Liabilities—Items numbered 21 through 28 in SBA Form 468 Page 2.

17. *Other funds borrowed.* Identify and enter the amount borrowed during the period on mortgages and other long term borrowings not accounted for elsewhere.

18. *Total source of funds.* Enter the total of Items 6 through 17.

19. *Funds disbursed for loans.* Enter the total of column 5 (cash additions) of Schedule 1.

20. *Funds disbursed for debt securities.* Enter the total of column 5 (cash additions) of Schedule 2.

21. *Funds disbursed for capital stock of SBCs.* Enter the total of column 5 (cash additions) of Schedule 3.

22. *Funds disbursed for warrants, options and other stock rights.* Enter the total of column 5 (cash additions) of Schedule 4.

23. *Funds disbursed for other asset acquisitions.* Identify and enter the total increase in other asset acquisitions for the period involving cash transactions.

24. *Repayment of borrowed funds to SBA.* Enter the total principal paid during the period.

25. *Repayment of borrowed funds to banks.* Enter the total principal paid during the period.

26. *Repayment of borrowed funds to others.* Enter the total principal paid during the period on mortgages and other long-term debts.

27. *Funds disbursed for redemption of licensee's stock.* Enter the total paid during the period.

28. *Payment of dividends.* Enter the total paid for dividends during the period.

29. *Extraordinary expenses.* Identify and enter the amount of expenses paid from transactions not in the ordinary course of operations. Attach explanation sheet.

30. *Total disposition of funds.* Enter the total of Items 19 through 29.

31. *Net increase or (decrease) in funds available.* Enter the difference between Item 18 and Item 30.

32. *Funds available—At beginning of period.* Enter the total short-term assets (SBA Form 468, Page 1, Item No. 8) for the immediate prior year less total Short-Term Liabilities (SBA Form 468 Page 2 Item No. 29) for the same date.

33. *Funds available—At end of period.* Enter the total of Items 31 and 32.

Part 2—Changes in Financial Position From Noncash Transaction

Transactions not involving an outlay of cash contained in Balance Sheet Items numbered 9 through 46 on pages 1 and 2 of SBA Form 468 must be fully described in general journal entry form indicating the classification of accounts affected and the dollar amounts recorded.

SCHEDULE 1—LOANS (SECTION 305)

The items to be listed in this schedule shall include all loans held, made, or otherwise obtained, or disposed of by the company during the fiscal year to date setting forth the pertinent data indicated by the column heading. The reporting company's portion of participation in loans shall be included.

List each loan by employer identification number; owner group code number designating the group classification of the principal ownership of the small business concern as follows: (0) Negroes; (1) Puerto Ricans; (2) American Indians; (3) Spanish Americans; (4) Asians (Japanese, Chinese, Koreans, Filipinos); (5) Eskimos and Aleuts; (6) Undetermined and (7) Others—including whites; financing number; interest rate; Standard Industrial Classification code; name of financed small business concern, together with street address, city, State, zip code, and county in which located; date and maturity date; principal balance at beginning of period; cash additions during period; noncash additions during period (include refinancing); cash deductions during period; noncash deductions during period; and principal balance at close of period. The total in column (9) shall agree with Item 9 of the Statement of Financial Condition.

Show in column (10) the market value, or fair value as determined by the board of directors, of each loan which is determined to be worth less than the cost amount shown for it in column (9) minus any allowance for losses established for it. Any loan for which an allowance for losses has been established shall not be listed in column (10) at

any value higher than cost less such allowance.

An explanatory notation or footnote shall be entered in the schedule with respect to any loan (or any interest therein) obtained from another Licensee.

Treat multiple disbursements under the same financing agreement as a single financing. Show the total of all loan financing on the last sheet of this schedule.

In column (1) enter the employer identification number of each listed small business concern; if a concern does not have such number, it should obtain one by filing Form SS-4 with the U.S. Director of Internal Revenue for the area in which the concern is located. Insert the appropriate owner group code number, in parentheses, following the employer identification number of each small business concern.

Enter for each listed small business concern the four-digit Standard Industrial Classification Code of the principal industry in which the concern is engaged; refer to the SIC Manual issued by the Bureau of the Budget.

If the Licensee has had more than one financing in the same category outstanding to the same small business concern (cumulative beginning with March 31, 1966, outstanding balances), each such similar financing should be assigned a financing number (1-2-3, etc.) for identification purposes, and this number should be shown in the applicable column on this report and on future reports in relation to the same financing. A number once assigned to a specific financing of a small business concern should never be reassigned to another financing in the same category to the same concern.

In column (9) identify each item "pledged" or "earmarked" by letter (P) or letter (E), as appropriate. Also, identify by the letter (V) each item qualifying under the regulations as venture capital and by the letters (SP) each item qualifying under the regulations as special discretionary porfolio. Show the total of all venture capital amounts on the last sheet of this schedule immediately under the "Totals" line at the foot of column (9). Show the total of all special discretionary portfolio amounts on the last sheet of this schedule immediately under the "Total venture capital".

SCHEDULE 2—DEBT SECURITIES (SECTION 304, (§ 107.302(B)(2) OF REGULATIONS)

The items to be listed shall include all debt securities held, acquired, converted, or disposed of during the fiscal year to date, setting forth the pertinent data indicated by the column headings. The reporting company's portion of participation in debt securities shall be included.

List each debt security by employer identification number; owner group code number designating the group classification of the principal ownership of the small business concern as follows: (0) Negroes; (1) Puerto Ricans; (2) American Indians; (3) Spanish Americans; (4) Asians (Japanese, Chinese, Koreans, Filipinos); (5) Eskimos and Aleuts; (6) Undetermined and (7) Others—including whites; financing number; interest rate; Standard Industrial Classification code; name of financed small business concern, together with street address, city, State, zip code, and county in which located; date and maturity date; principal balance at beginning of period; cash additions during period; noncash other additions during period; cash deductions during period; noncash deduction during period; and principal balance at close of period. The total in column (9) shall agree with Item 10 of the Statement of Financial Condition.

Show in column (10) the market value, or fair value as determined by the board of directors, of each debt security which is determined to be worth more than the cost amount shown for it in column (9) and each debt security which is determined to be worth less than the cost amount shown for it in column (9), minus any allowance for losses established for it. Any debt security for which an allowance for losses has been established shall not be listed in column (10) at any value higher than cost less such allowance.

Show in column (11) opposite each debt security financing the percentage of the financed small business concern's voting securities which has been and/or can be obtained by the Licensee through exercise of conversion privileges and/or stock purchase warrants or options received in connection with the specific financing. This percentage shall be computed without giving consideration to the possibility of simultaneous exercise of stock rights by other investment interests. Wherever a Licensee considers it important to disclose that its percentage of actual and potential ownership is affected by the probable action of others in exercising their stock rights, a footnote should be appended to the percentage figure arrived at by consideration of only the Licensee's action. In such footnote the percentage of actual and potential ownership giving consideration to the probable action of others should be set forth, together with an explanation including the names of the other investors who are likely to exercise their rights, the percentages of actual and potential ownership they hold, and the general terms of their stock rights.

An explanatory notation or footnote shall be entered in the schedule with respect to any debt security (or any interest therein) obtained from another Licensee.

Treat multiple disbursements under the same financing agreement as a single financing. Show the total of all debt security financing on the last sheet of this schedule.

In column (1) enter the employer identification number of each listed small business concern; if a concern does not have such number, it should obtain one by filing Form SS-4 with the U.S. Director of Internal Revenue for the area in which the concern is located.

Insert the appropriate owner group code number, in parentheses, following the employer identification number of each small business concern.

Enter for each listed small business concern the four-digit Standard Industrial Classification Code of the principal industry in which the concern is engaged; refer to the SIC Manual issued by the Bureau of the Budget.

If the Licensee has had more than one financing in the same category outstanding to the same small business concern (cumulative beginning with March 31, 1966, outstanding balances), each such similar financing should be assigned a financing number (1-2-3, etc.) for identification purposes, and this number should be shown in the applicable column on this report and on future reports in relation to the same financing. A number once assigned to a specific financing of a small business concern should never be reassigned to another financing in the same category to the same concern.

In column (9) identify each item "pledged" or "earmarked" by letter (P) or letter (E), as appropriate. Also, identify by the letter (V) each item qualifying under the regulations as venture capital and by the letters (SP) each item qualifying under the regulations as special discretionary portfolio. Show the total of all venture capital amounts on the last sheet of this schedule immediately under the "Totals" line at the foot of column (9). Show the total of all special discretionary portfolio amounts on the last sheet of this schedule immediately under the "Total venture capital".

SCHEDULE 3—CAPITAL STOCK OF SBC'S

Furnish in this schedule a summary of all capital stock of small business concerns setting forth the pertinent data indicated by the column headings. The items to be listed shall include all capital stock of small business concerns held, acquired, converted, or disposed of during the fiscal year to date setting forth the pertinent data indicated by the column headings. The reporting company's portion of participation in investments shall be included.

List each investment by employer identification number; Owner Group Code number; financing number; Standard Industrial Classification code; name of financed small business concern, together with street address, city, State, zip code, and county in which located; date acquired, type and class, number of shares, etc.; balance at cost at beginning of period; cash additions during period; noncash additions during period at cost; cash deductions during period; noncash deductions during period at cost; and balance at cost at close of period.

The total in column (9) for capital stock of SBCs shall agree with Item 11 of the Statement of Financial Condition.

Show in column (10) the market value, or fair value as determined by the board of directors, of each investment which is determined to be worth more than the cost amount shown for it in column (9) and each investment which is determined to be worth less than the cost amount shown for it in column (9), minus any allowance for losses established for it. Any investment for which an allowance for losses has been established shall not be listed in column (10) at any value higher than cost less such allowance. Show in column (11) the percentage of ownership in the small business concern.

An explanatory notation or footnote shall be entered in the schedule with respect to any investment (or any interest therein) obtained from another Licensee.

Treat multiple disbursements under the same financing agreement as a single financing. Show the total of all capital stock on the last sheet of this schedule.

In column (1) enter the employer identification number of each listed small business concern; if a concern does not have such number, it should obtain one by filing Form SS-4 with the U.S. Director of Internal Revenue for the area in which the concern is located. Enter the appropriate Owner Group Code number in parentheses.

Enter for each listed small business concern the four-digit Standard Industrial Classification Code of the principal industry in which the concern is engaged; refer to the SIC Manual issued by the Bureau of the Budget.

If the Licensee has had more than one financing in the same category outstanding to the same small business concern (cumulative beginning with March 31, 1966, outstanding balances), each such similar financing should be assigned a financing number (1-2-3, etc.) for identification purposes, and this number should be shown in the applicable column on this report and on future reports in relation to the same financing. A number once assigned to a specific financing of a small business concern should never be reassigned to another financing in the same category to the same concern.

In column (9) identify each item "pledged" or "earmarked" by letter (P) or letter (E), as appropriate. Also, identify by the letter (V) each item qualifying under the regulations as venture capital and by the letters (SP) each item qualifying under the regulations as special discretionary portfolio. Show the total of all venture capital amounts

immediately under the "Totals" line at the foot of column (9) on the last sheet of this schedule. Show the total of all special discretionary portfolio amounts on the last sheet of this schedule immediately under the "Total venture capital".

SCHEDULE 4—WARRANTS, OPTIONS AND OTHER STOCK RIGHTS ACQUIRED FROM SBCS

The items to be listed shall include all warrants, options and other stock rights acquired from SBCs (for which a cost has been determined separate from that of the financing instruments which they accompanied and/or for which there exists a market value, or a fair value as determined by the board of directors) which were held, obtained, surrendered, expired or sold during such period setting forth the pertinent data indicated by the column headings. If no separate cost, market value, or fair value has been determined, the warrants, options and other stock rights shall be listed with no value assigned. The reporting company's portion of participation in investments shall be included.

List each investment by employer identification number; Owner Group Code number; financing number; Standard Industrial Classification code; name of financed small business concern, together with street address, city, State, zip code, and county in which located; date acquired, type and class, etc.; balance at cost at beginning of period; cash additions during period; noncash additions during period at cost; cash deductions during period; noncash deductions during period at cost; and balance at cost at close of period.

The total in column (9) shall agree with Item 12 of the Statement of Financial Condition. Show in column (10) the market value, or fair value as determined by the board of directors, of each investment which is determined to be worth more than the cost amount shown for it in column (9) and each investment which is determined to be worth less than the cost amount shown for it in column (9), minus any allowance for losses established for it. Any investment for which an allowance for losses has been established shall not be listed in column (10) at any value higher than cost less such allowance.

Show in column (11) opposite each financing item the percentage of the financed small business concern's voting securities which has been and/or can be obtained by the Licensee through exercise of conversion privileges and/or stock purchase warrants or options received in connection with the specific financing, or which is represented by the financing item itself. This percentage shall be computed without giving consideration to the possibility of simultaneous exercise of stock rights by other investment interests. Whenever a Licensee considers it important to disclose that its percentage of actual and potential ownership is affected by the probable action of others in exercising their stock rights, a footnote should be appended to the percentage figure arrived at by consideration of only the Licensee's action. In such footnote the percentage of actual and potential ownership giving consideration to the probable action of others should be set forth, together with an explanation including the names of the other investors who are likely to exercise their rights, the percentages of actual and potential ownership they hold, and the general terms of their stock rights.

An explanatory notation or footnote shall be entered in the schedule with respect to any investment (or any interest therein) obtained from another Licensee.

Treat multiple disbursements under the same financing agreement as a single financing. Show the total of all, warrants, options, and other stock rights financing on the last sheet of this schedule.

In column (1) enter the employer identification number of each listed small business concern; if a concern does not have such number, it should obtain one by filing Form SS–4 with the U.S. Director of Internal Revenue for the area in which the concern is located.

Insert the appropriate owner group code number, in parentheses, following the employee identification number of each small business concern. In column enter for each listed small business concern the four-digit Standard Industrial Classification Code of the principal industry in which the concern is engaged; refer to the SIC Manual issued by the Bureau of the Budget.

If the Licensee has had more than one financing in the same category outstanding to the same small business concern (cumulative beginning with March 31, 1966, outstanding balances), each such similar financing should be assigned a financing number (1–2–3, etc.) for identification purposes, and this number should be shown in the applicable column on this report and on future reports in relation to the same financing. A number once assigned to a specific financing of a small business concern should never be reassigned to another financing in the same category to the same concern.

(d) In column (12) identify each item "pledged" or "earmarked" by letter (P) or letter (E), as appropriate. Also, identify by the letter (V) each item qualifying under the regulations as venture capital and by the letters (SP) each item qualifying under the regulations special discretionary portfolio. Show the total of all venture capital amounts immediately under the "Totals" line at the foot of column (9). Show the total of all special discretionary portfolio amounts on the last sheet of this schedule immediately under the "Total venture capital."

SCHEDULE 5—DETAILS OF CERTAIN LOANS (SECTION 305) AND INVESTMENTS (SECTION 305) LISTED IN SCHEDULES 1 THROUGH 4

Enter in this schedule all loans and debt securities shown in Schedules 1 and 2 and all investments shown in Schedules 3 and 4 concerning which any one or more of the following conditions exist:

1. New or additional financing has been furnished during the fiscal year to date, as shown in column (5) and (6) of Schedules 1 through 4.

2. The terms of existing financing have been amended and/or the related collateral has been changed during the fiscal year to date.

3. Any rescheduling, refinancing, or refunding of principal and/or the interest has occurred, or conversion of a delinquent item has taken place, during the fiscal year to date. (Full details on such events are to be furnished in column (6) or on an attached sheet.)

5. There is an outstanding SBA loan, SBA guarantee or a bank loan or other private loan, or SBA participation in such a private loan to the Licensee's portfolio concern.

List the items by employer identification number in column (1) and identify them by name of small business concern, type of financing, and financing number in columns (2), (3), and (4). In column (5) show the original principal amount or other cost. Details of the amortization plan and other significant provisions of the financing instruments, including a precise description of capital stock of SBCs, shall be set forth in column (6). The outstanding balance of any SBA direct loan, SBA participation loan, or SBA guaranteed loan to the Licensee's portfolio concern is to be shown in column (7). The Licensee is requested to obtain this information from the portfolio small business concern, if it is not already available in the Licensee's office. The value and description of collateral are to be set forth in column (8). Information as to the portion of such collateral assigned as security for the financing granted by the Licensee is required to be presented in column (8).

If any loans or debt securities earmarked or pledged to SBA are in default as to payment of principal or interest, or with respect to any other covenants of the financing agreements, the repayment delinquencies will, of course, be included in Schedule 6. Any other defaults are to be described in column (6) of Schedule 5. Such earmarked or pledged loans and debt securities shall be identified in the schedule by the letter (E) or (P), as appropriate. If no earmarked loans or debt securities are in default as to principal or interest payments, or as to any other covenants in the financing agreements, a statement to that effect shall be placed on Schedule 5.

SCHEDULE 6—ALLOWANCE FOR LOSSES ON PORTFOLIO SECURITIES—DELINQUENT LOANS AND DEBT SECURITIES

List in this schedule all loans and investments for which an allowance for losses has been established or allocated on a specific item basis and/or which (if loans or debt securities) are delinquent to the extent of having installment payments past due more than 1 month. Identify each item in column (1) by the employer identification number and name of the financed small business concern; indicate by appropriate letter in column (2) the type of financing (loan, debt security, stock, warrants, and options); and record the financing number in column (3) if there has been more than one financing of the same type with respect to the same small business concern.

In columns (4) through (8), show the opening balance of the allowance for losses on each security, the additions and deductions pertaining to such allowance, and the closing balance, all relating to the fiscal year to date. If there exists an overall allowance for losses, established on a percentage or other basis and not allocated to individual securities, the beginning and ending balances thereof, together with changes during the period, shall be shown appropriately on the "General Allowance" line at the bottom of the schedule. The grand total of column (8) shall equal the sum of items 9(b), 10(b), 11(a), and 12(a) in the Statement of Financial Condition.

Show in column (9) the principal balance or other cost, as of the close of the period, of each security listed on the schedule. In columns (10) and (11) show all installments of principal and/or interest past due more than one month on loans and debt securities. Such portfolio items shall be identified and classified in columns (1), (2), and (3), and any allowances for losses related thereto shall be included appropriately in the columns provided therefor. Any loans or debt securities earmarked or pledged to SBA shall be identified in the schedule by the letter (E) or (P), as appropriate. Show the totals of columns (10) and (11).

SCHEDULE 7—ASSETS ACQUIRED IN LIQUIDATION OF LOANS AND DEBT SECURITIES—ALLOWANCE FOR LOSSES

List and describe in this schedule, by former debtors (small business concerns), all assets carried during the fiscal year to date in the account for assets acquired in liquidation of loans (section 305) and debt securities (section 304 and § 107.302(b)(2) of the regulations). This will correctly represent only the reporting company's portion of such assets. The balance at the beginning

of the reporting period, additions and deductions during the period, and balance at the close of the period shall be shown in columns (3), (4), (5), and (6). The allowance for losses established for the reporting company's portion of the assets held with reference to each small business concern shall be recorded in column (7). Current market value, or fair value as determined by the board of directors at the close of the period shall be shown in column (8). The totals of column (6) and (7) shall agree with Items 13 and 13(c), respectively, of the Statement of Financial Condition.

SCHEDULE 8—AMOUNTS DUE FROM DEBTORS ON SALE OF ASSETS ACQUIRED IN LIQUIDATION OF LOANS AND DEBT SECURITIES—ALLOWANCE FOR UNCOLLECTIBLES

Show in this schedule, by debtors, all accounts receivable, notes receivable, sales contracts, purchase money mortgages, etc., carried during the period in the account for amounts due from debtors on sale of assets acquired in liquidation of loans (section 305) and debt securities (section 304). The interest rate and other terms shall be given. The balances at the beginning and close of the period shall be shown, together with additions and deductions during such reporting period. Allowances for uncollectibles based upon an evaluation of the reporting company's portion of individual amounts due shall be recorded in column (9) opposite the name of the debtor. If a general allowance is utilized instead of individual allowances, it shall appear only at the bottom of column (9). The totals of columns (8) and (9) shall agree with Items 14 and 14(a), respectively, of the Statement of Financial Condition. Under column (2) identify the asset or assets originally acquired in liquidation to which the amount due relates.

SCHEDULE 9—PARTICIPATIONS AND JOINT FINANCING

Show in this schedule all financings in which the reporting company participated and all financings made jointly by the reporting company and one or more other lenders or investors during the fiscal year to date, or which were outstanding at any time during such period. Identify each item in column (1) by the employer identification number and name of the financed small business concern; indicate by appropriate letter in column (2) the type of financing (loan, debt security, stock, warrants, and options); and enter the financing number in column (3) if there has been more than one financing of the same type by the reporting company to the same small business concern.

In column (4) show the original total amount contributed by all parties in the participation or joint financing. The names of such participating or joint financing entities (including the name of the reporting company) shall be shown in column (5) with appropriate indication as to which is the initiating (sponsoring) entity.

Show in column (6), (7), or (8), as appropriate, the reporting company's outstanding principal balance, or other cost, of participation purchased, participation sold, or joint financing, as of the close of the period covered in the report. Enter in column (9) a description of collateral pertaining to each financing, together with information as to the percentage applicable to each party and as to any preferences agreed upon.

SCHEDULE 10—CASH, U.S. GOVERNMENT OBLIGATIONS, INSURED SAVINGS, AND TIME CERTIFICATES OF DEPOSIT

Show in Schedule 10a all cash on hand and in general funds demand deposits; funds in imprest bank accounts. Demand deposits are balances subject to withdrawal without notice and shall be in commercial banks which are members of the Federal Deposit Insurance Corporation. Cash items in process of collection represent those cash items which have been placed with banks for collection. Petty cash shall represent the full amount of the petty cash imprest fund.

List in Schedule 10b(1) all securities owned which have been issued or guaranteed by the U.S. Government, showing the name of the issuer and the title of each issue. Other required data, such as interest rate, call date, maturity date, and principal amount at par of bonds and notes, may be obtained by inspection of the securities or from records of securities pledged. The cost of the securities shall be shown in column (6) and the current market value thereof in column (7).

Show in Schedule 10b(2) all funds invested in insured savings accounts and all funds on time deposit evidenced by time certificates of deposit. Savings accounts shall be institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation. Time deposits shall include all time certificates of deposit held by the company in commercial banks which are members of the Federal Deposit Insurance Corporation.

SCHEDULE 11—DUE FROM DIRECTORS, OFFICERS, AND EMPLOYEES

Show in this schedule amounts due from directors, officers, and employees for advances made to them (listing name and title of debtor in column (1)). The unpaid balance of each amount due at the beginning of the fiscal year shall be shown in column (2); additions, writeoffs, and collections during the fiscal year to date shall be set out in columns (3), (4), and (5); and the balance at the close of the period shall be shown in column (6). The total of column (6) shall agree with Item 6 in the Statement of Financial Condition. An explanation shall be cial Condition. An explanation shall be furnished for any amount written off or for any collection other than in cash.

SCHEDULE 12—COMMITMENTS, GUARANTEES, AND OTHER CONTINGENT LIABILITIES

Furnish in Schedule 12a, (1) commitments to small business concerns for equity financing under section 304 of the Act, as amended, (2) commitments to small business concerns for loans under section 305 of the Act, as amended, and (3) commitments to banks or other lenders for deferred participations in loans or commitments to small business concerns. Show the total amount of all commitments outstanding. Show the total of all venture capital commitments outstanding immediately under "Total commitments outstanding". Enter license number in the space allotted and enter owner group code number in parentheses alongside name of small business concern.

Furnish in Schedule 12b all obligations of portfolio concerns guaranteed by the company, showing (1) date of guarantee, (2) name of debtor small business concern, (3) name of lender, owner group code number, and (4) outstanding amount of guarantee. Show the total outstanding amount of all guarantees.

Set forth separately in schedule 12c with total, all other contingent liabilities.

SCHEDULE 13—OBLIGATIONS PAYABLE

Show in this schedule, by creditors, all obligations payable representing (1) debentures payable to SBA, (2) SBA direct loans, (3) guaranteed loans purchased by SBA, (4) loans guaranteed by SBA, (5) loans not guaranteed by SBA, (6) mortgages payable for funds borrowed, and (7) mortgages payable on assets acquired in liquidation of loans and debt securities. Such liabilities shall be grouped by the foregoing categories, and described in column (2), but subtotals are not required. Guaranteed loans purchased by SBA represent loans, originally financed by banks, which have been transferred to SBA through reassignment, transfer and delivery of the notes to SBA.

The interest rate and other terms of each obligation shall be recorded in columns (3) and (4); the unpaid balance at the beginning of the fiscal year and additions and deductions during the fiscal year to date shall be shown in columns (5), (6), and (7); and the balance payable at the close of the period, segregated between (a) amounts owed to SBA for funds borrowed and (b) amounts owed to others for funds borrowed and/or amounts representing mortgages payable on assets acquired in liquidation of loans and debt securities, shall be reflected in columns (8) and (9).

The total of column (8) shall agree with the total of Items 30 and 35 of the Statement of Financial Condition, and the total of column (9) shall agree with the total of Items 13(b), 31, and 32, and the appropriate amount opposite Item 33 of such statement.

SCHEDULE 14—CAPITAL STOCK OF LICENSE

Furnish in this schedule a complete description of the company's capital stock authorized, capital stock issued and outstanding, and data relating to special transactions involving capital stock.

In column (1) shall be described the type and class of each issue, such as common—$5 par, preferred (7 percent Series of 1969), etc. The par value or, for no-par stock, the stated value shall also be reported in column (1).

The number of shares authorized, whether issued or not, shall be reported in column (2).

The number of shares and amount, at par or stated value, of stock issued and not retired or canceled shall be reported in columns (3) and (4). The total of column (4) shall agree with Item 37 of the Statement of Financial Condition. The number of shares held as treasury stock shall be shown in column (5). Column (6) will represent the difference between column (3) and column (5).

Column (7) shall be the amount at par or stated value representing the number of shares outstanding as shown in column (6). The total of column (8) shall represent the amount of capital stock subscribed at the subscription price and shall agree with Item 41 of the Statement of Financial Condition.

In column (9) shall be reported the amount of subscriptions receivable, which shall agree in total with Item 41(a) of the Statement of Financial Condition.

Column (10) shall show the number of shares (other than those under option reserved for purchase by officers and employees, and column (11) shall show the number of shares reserved to cover options and other rights.

SCHEDULE 15—OPTIONS ON LICENSEE'S CAPITAL STOCK

Furnish in this schedule full information concerning outstanding capital stock options which have been granted by the company.

The holder of each option shall be identified in column (1). The number of shares optioned shall be shown in column (2). In column (3) shall be described the type and class of stock called for by the option, such as common—$5 par, preferred (7 percent Series of 1969), etc.

Column (4) shall show the grant and expiration dates of each option and column (5) shall set forth the price or prices at which each option is exercisable, together

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PART III

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

TRANSPORT CATEGORY AIRPLANES

Crashworthiness and Passenger Evacuation Standards

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation

[Docket No. 9605, Amdt. Nos. 25–32; 37–32; 121–84]

CRASHWORTHINESS AND PASSENGER EVACUATION STANDARDS; TRANSPORT CATEGORY AIRPLANES

The purpose of these amendments is to improve the crashworthiness and the emergency evacuation equipment requirements and operating procedures for transport category airplanes.

These amendments are based on a notice of proposed rule making (34 F.R. 13036, August 12, 1969) circulated as Notice 69–33, dated August 6, 1969.

Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all matters presented in the numerous comments received in response to Notice 69–33. Based upon those comments and upon further review within the FAA, a number of substantive and editorial changes have been made to the proposed rules. However, in view of the number of comments received only the most pertinent ones are discussed hereinafter. Except as modified by the following discussion, the reasons for the amendments are those contained in the notice.

In Notice 69–33 it was proposed to make certain of the requirements applicable to airplanes for which applications for type certificates have been filed, but the type certificates would not be issued until after the effective date of the proposed amendments. Several comments were received objecting to this proposal because the requirements need to be considered in the initial design stages of an airplane, which is several years prior to the issuance of the type certificate, and to impose them on airplanes nearing type certification might require a substantial redesign of the airplane and would necessitate production-line type design changes thereby dislocating production. Commentators point out that any safety benefit that might result from complying with the proposed requirement would not be commensurate with the unreasonably heavy penalty at this late stage in the certification process. In addition, several comments contended that a number of the proposed requirements are inappropriate and others are unnecessarily severe for airplanes that have a low passenger seating capacity. The FAA's purpose in proposing to make the requirements retroactive was to assure that the new generation of large jumbo jets for which applications for type certificates had been filed, would meet crashworthiness and passenger evacuation requirements that were consistent with the state-of-the-art. However, the type certification basis of those airplanes have now been established and the proposed requirements were considered in determining the airworthiness standards applicable to those airplanes. Therefore, it is no longer necessary to make the proposed requirements retroactive for these airplanes. Furthermore, the proposed retroactive requirements were not developed with the smaller transport category airplanes in mind. The crashworthiness and passenger evacuation problems increase as the size and passenger capacity of the airplane increases. Most of the proposed requirements are related to the design requirements of the larger transport category airplanes and the need to provide rapid egress for a large number of passengers in an emergency with minimum confusion. Any attainable safety benefit that might result by applying the proposed requirements retroactively to the smaller transport category airplanes that have low seating capacities, smaller cabin areas, and less complex designs would not be commensurate with the heavy burden that such a retroactive requirement would impose. Accordingly, proposed § 25.3 and the proposed amendment to § 21.17 have been withdrawn, and the proposed retroactive requirements of §§ 121.310 and 121.312 have been deleted. In addition, the "September 30, 1969" dates specified in present § 121.310 (a) and (h) have been editorially revised for consistency with the dates specified in this amendment. No substantive change has been made in the present requirement by this date change since the Part 25 requirements referenced in these sections have remained unchanged from September 30, 1969, to the date of this amendment.

In addition, the FAA has determined that certain of the requirements in proposed §§ 25.562, 25.721, 25.787, 25.807, and 25.812 are inappropriate and unnecessary, or are unnecessarily severe, for transport category airplanes that have maximum passenger seating configurations, excluding pilots seats, of nine seats or less. In those instances, the proposed requirements have been revised to provide exceptions and to include requirements for such airplanes that provide a level of safety for such airplanes equivalent to that for airplanes with larger passenger seating configurations. Insofar as the requirements are stated in terms of airplane passenger seating "configuration" whereas the present rules refer to passenger "capacity" no substantive change has been made by these revisions and none is intended. It should be noted that the foregoing classification is consistent with Amendment 23–10, adopted subsequent to the issuance of Notice 69–33, which limited the applicability of Part 23 to small airplanes that have a passenger seating configuration, excluding pilots seats, of nine seats or less.

Several comments objected to the proposed amendment of § 25.561 increasing the ultimate inertia forces in the upward and sideward direction and adding an aft load requirement. The commentators contended that the proposed changes to the present requirement are unnecessary, that the proposed side load and upward load factors are not realistic, that the aft load criterion is not appropriate, and that the costs associated with the increase in airplane weight that would result from compliance with the proposed amendment imposes an unreasonable burden. In view of the comments received, the FAA believes that further study of this proposal is necessary. Therefore, the proposal and the related change in proposed § 121.310(f)(6) have been withdrawn for further study and consideration in subsequent rulemaking.

In notice 69–33 it was proposed to add a new § 25.562 containing various requirements dealing with fuel containment. There were a number of comments indicating that the proposal was too severe and too detailed. It was also pointed out that the proposal implies a structural design requirement for a condition well beyond initial structural failure and for which technical analysis would not be reliable. There was also an indication that the reference to injury to occupants is inappropriate in connection with a proposal dealing with design requirements for fuel containment. Finally, it was pointed out that there is no practical way to ensure, with absolute certainty, that an airplane would comply with this proposal in a wheels-up landing. The FAA agrees with these comments and the proposed new § 25.562 has been withdrawn. Instead, the substance of paragraph (a) of proposed § 25.562 has been added as paragraph (b) of § 25.721 taking into account the comments noted above.

Subsequent to the issuance of Notice 69–33, § 25.721 was substantially amended and proposed paragraph (d) is now paragraph (a). Moreover, in response to a comment, the parenthetical expression in the proposed amendment has been changed to make it clear that the regulation is based on the assumption that the overloads act in the upward and aft directions.

Concerning the proposed amendment to § 25.787, several commentators recommended that the proposal be changed to require restraints for each stowage compartment in the passenger cabin rather than requiring that such compartments be completely enclosed. The FAA does not agree. The intent of the proposal is to provide more protection than that provided by restraint devices, such as tie-down straps or webbing. The conventional webbing, nets, or tie-down straps are effective provided that someone makes the necessary connections and adjustments.

Several comments stated that the term "item of mass" in proposed § 25.789 should be defined. One commentator indicated that § 25.789 should be made applicable only to galley equipment, service carts, and crew baggage. The FAA does not agree. A complete enumeration of all the possible items of mass that could be in a passenger or crew compartment would not be practicable. Part 25 contains the type certification requirements for transport category airplanes and § 25.789 is applicable only to items of mass that are included in the type design of the airplane. Section 25.789 is intended to provide protection from each

such "item of mass" located in the passenger or crew compartments, such as galley equipment, fire extinguishers and other safety equipment, and the proposal has been revised to clearly state the requirement.

In response to comments received, § 25.791 has been revised to make it clear that only one sign notifying when smoking is prohibited and one sign notifying when safety belts should be fastened must, when illuminated, be legible to each person seated in the passenger cabin under all probable conditions of cabin illumination. In addition, consistent with past practice, the proposal has been revised to make it clear that signs may use either letters or symbols, and that the standards apply only when passenger information signs are installed to comply with applicable operating rules.

The FAA received several recommendations with respect to § 25.803. In this connection, it was recommended that only "initial" reflectance and "initial" contrast should be specified for the escape route as they are the only ones under the manufacturer's control. The FAA does not agree. Reflectance and contrast do not inherently deteriorate, as do radioactive signs, and if the markings are chipped or scuffed, they can be restored to their original level by ordinary maintenance. The FAA does not agree with one commentator that the requirement for a minimum width for the escape route in § 25.803(e) should be deleted. Without a minimum requirement, the escape route could be defined by a strip so narrow that it would not provide proper identification of the escape route and would tend to slow down the flow of passengers evacuating the airplane. However, the proposed requirement has been revised to specify an escape route width of 42 inches at Type A exits since this is the minimum width permitted for those exits. In addition, the proposal has been revised in response to several comments to specify an escape route width, a reflectance, and a surface-to-marking contrast requirement for those escape routes only that do not have a means, such as side rails or guards, for channeling the flow of evacuees. Such channel devices must be designed to accommodate the needs of the particular exit and escape route and provide a rapid and effective means for passenger evacuation.

Several comments were received concerning the proposed change to the requirements for a Type III exit stating that it would be difficult for the average person to exit thorugh a 20 x 36 exit (when this exit is not over the wing) with a step up of 20 inches from the cabin floor and enter an inflatable slide. It was recommended that the present definition of a Type III exit be retained. The FAA does not believe that the Type III exit need be restricted to overwing locations. A Type III exit with a 20-inch step up to a slide should not present any more difficulty to the average person than a Type III exit located over the wing having a 20-inch step up inside the airplane and a 27-inch step down outside the airplane to the wing. It should be noted that one of the considerations in permitting Type III exits to be used in other than over-the-wing locations is the fact that over-the-wing exits may not be the most desirable exits in a ditching situation. Damage assessment of airplanes in ditchings shows that the wing flaps may be severely damaged and both the leading and trailing edge of the wings may have torn-metal projections. These may damage life rafts launched and loaded from the wing. In such circumstances, it would be preferable to launch and load rafts from nonoverwing locations.

Several comments recommended that the Type IV exit be retained for the smaller transport category airplanes, particularly those having a low passenger seating capacity, on the ground that the installation of Type III exits instead of Type IV exits would significantly increase the structural weight of the airplane, and that this weight penalty is an unreasonable burden inasmuch as any benefit that might be afforded by a Type III exit would have little effect on airplane evacuation. The FAA agrees with the comments to the extent that they apply to small transport category airplanes that have a passenger seating configuration, excluding pilot seats, of nine seats or less. Accordingly, the present definition of a Type IV exit has been retained in § 25.807(a), and proposed § 25.807(c)(1) has been revised to permit the use of Type IV exits (one on each side of the fuselage) on such airplanes. In addition, the provisions of present § 25.807 (c)(7) and (d) and § 25.813 that pertain to Type IV exits have been retained.

Several comments were received recommending that other provisions of current § 25.807(c) also be changed. One comment recommended the deletion of the requirement that where more than one floor level exit per side is prescribed, at least one such exit must be located near each end of the cabin. In another instance, it was recommended that applicants should be able to select the values in either the table in paragraph (c) (1) or (2). The FAA does not agree with either of these suggestions. The change to § 25.807(c) proposed in Notice 69–33 concerned only the deletion of the reference to, and the values for, Type IV exits. Both of the foregoing recommendations are outside the scope of the notice. Finally, a request was made to change the values for a Type A exit from 100 passenger seats to 115 passenger seats. The FAA does not agree. There has not been sufficient service experience with the Type A exit to date to justify the requested change. While the request may have merit, it will require further study by the FAA.

Several comments noted that the requirements of present § 25.809(b) do not include consideration of fuselage deformation, which is covered in other rules, and that it should be made clear that the proposed addition to the present rule does not include consideration of such deformation. The FAA agrees and the proposed amendment to § 25.809(b) has been revised to clearly state the intent of the requirement. In addition, proposed subparagraph (b)(1) has been revised to make it clear that the requirement applies to the airplane when it is in the normal ground attitude as well as in the attitudes corresponding to the collapse of one or more legs of the landing gear.

A comment was also received recommending that proposed § 25.809 (b)(2) and (f)(1)(ii) be changed to require the total time from exit actuation to full slide deployment to be not more than 10 seconds. This suggestion is beyond the scope of the notice and requires further study. The FAA intends to consider it in connection with future rulemaking. However, § 25.809(f)(1)(i) has been revised to clearly state that deployment must begin during the exit opening cycle.

In response to a comment, proposed paragraph (g) of § 25.809 has been revised to allow the showing required by that paragraph to be made by tests alone or by a combination of analysis and tests.

One comment recommended that the requirement in § 25.809(h) be revised to prescribe that means must be provided to assist evacuees to reach the ground from overwing exits if the place on the airplane structure at which the escape route terminates is more than 6 feet above the ground with the airplane on the ground and the critical landing gear collapsed. Under the current requirement the 6 feet is measured with the airplane on the ground and all landing gear extended. The FAA intends to consider this recommendation, which is beyond the scope of the notice, in subsequent rulemaking.

Comments received concerning proposed § 25.809(i) indicated that the objective of this proposal had been misunderstood. The intent of the proposal is to prevent the installation of a powered exit system, the failure of which would render more than one exit totally inoperative. If a single power-boost or single power-operated exit-opening system is the primary system for operating more than one exit in an emergency, each exit must be capable of meeting the requirements of § 25.809(b)(1) in the event of failure of the primary system. The proposed requirement has been revised to make this clear.

A comment was received recommending that the exit locator signs required in § 25.811(d) not be required in airplanes having a seating capacity of 21 or less if the exit marking sign is plainly visible from any point in the cabin. The comment stated that this should be done because under the proposal the overhead locator signs would be within a few feet of the exit marking signs. The purpose of the exit locator sign is to aid in locating emergency exits and it is anticipated that regardless of the size of an airplane or its seating capacity, the exit locator signs will be near the emergency exit. This is the intent of the regulation. Another comment recommended that the proposal should require that the exit locator sign indicating the location of the nearest exit must be visible to each seated passenger. The FAA has found

that these signs provide for effective evacuation performance. The primary need to see exit locating signs occurs when the passenger reaches the aisle during emergency evacuation. As a practical matter, in existing airplanes, the exit locating signs are generally visible to passengers in their seats.

In response to a comment, the proposed requirement in § 25.812(f) that emergency lighting must be provided at each overwing exit for, among other things, a minimum width of 4 feet for a Type A exit has been changed to specify a minimum width of 42 inches. The minimum width of a Type A exit is 42 inches and the illuminated area need not be more than 42 inches wide.

One comment stated that the state-of-the-art permits each light to have its own independent power supply. The comment indicates that there is no reason to permit any light to be inoperative except those directly damaged by the fuselage separation and suggested that § 25.812(k) be changed accordingly. The FAA does not agree. This matter was considered in Amendment 25–15, adopted September 15, 1967. At that time, the FAA stated that it is not necessary to require that all lights except those directly damaged by the fuselage breakup remain operative after any single vertical separation of the fuselage during crash landing. The FAA considers that the present requirement which permits up to 25 percent of certain of the emergency lights, in addition to those directly damaged by the fuselage breakup, to be rendered inoperative is all that is required in the interest of safety. However, it should be noted that under current requirements certain important interior and exterior lights must still remain operative.

A recommendation was made to change the lead-in statement in § 25.853 to refer to "typical" decorative surfaces and to define such surfaces as "paint finishes and decorative textured laminates applied to the materials." The FAA does not believe that this change is necessary. Under this proposal repetitive testing would not be required for finishes and decorative surfaces that are found to be "typical", with respect to their burn characteristics, of finishes and decorative surfaces already tested.

In response to comments received, § 25.853(a) has been revised to make it clear that the requirement does not apply to compartments for the stowage of small items, such as maps and magazines. However, the FAA does not agree with the recommendation that synthetic materials should be tested by a method other than a vertical test. While it is recognized that the test procedures referenced in § 25.853 could be made more stringent in various ways, the FAA has no reason to believe that materials (whether synthetic or other) meeting the prescribed tests do not have adequate burn characteristics.

One commentator stated that proposed § 28.812(b) should be revised to require a supplementary self-illuminated sign that would remain lighted at all times to make passengers aware of the exit location. The FAA does not consider that such a requirement is necessary. The purpose of the proposal is to make passengers aware of the location of the exits during the confusion attending an emergency. The FAA does not consider the passenger locating signs need be illuminated during normal operation; the general cabin lighting system normally provides sufficient illumination for the unlighted locator signs.

In response to a comment, the proposed requirements of § 25.812(b)(1) have been revised to provide some tolerance in the letter height to stroke-width ratio for emergency exit locator signs. The final rule allows a letter height to stroke-width ratio of not more than 7:1 nor less than 6:1.

One comment objected to the requirement in § 25.812(d) that the floor of the passageway leading to each floor-level passenger emergency exit must be provided with illumination that is not less than 0.02 foot-candle. The commentator stated that 0.01 foot-candle is all that is necessary in evacuation systems, and that, because eye adaption is more difficult at higher illumination levels, 0.02 foot-candles might be detrimental. The FAA considers the illumination of the passageway leading to an emergency exit to be very important and critical to safety. Evacuees must have assurance of adequate illumination for rapid and uninterrupted movement to the exit as well as for movement through the exit. While the FAA is aware of the lighting preadoption problem, it nevertheless considers that 0.02 foot-candle illumination is essential for passageway lighting.

Subsequent to the issuance of Notice 69–33, the lead-in sentences of § 25.812 (e) and (g)(2) were amended by Amendment 25–28, and the proposed changes to these paragraphs have been revised to include the later amendments, as revised for consistency with the requirements being adopted by this amendment.

One comment concerning the proposed requirement for a crew warning light in § 25.812(e)(2) indicated that a light burning continuously would result in power depletion. The flight crew warning light provides positive indication when the emergency lighting control device is neither armed nor turned on. The current drain is very small when related to the total electrical system demand and is outweighed by the gain in safety.

A comment recommended that instead of requiring the operating handle for Type III exists to be self-illuminated, the rule should permit lighting from the emergency lighting system as an acceptable alternative. The FAA does not agree. Adequate illumination of Type III emergency exit operating handles in an emergency situation can only be provided through self-illumination. Persons crowding the exit are likely to block off light from any source other than from the handle itself. It was also recommended that the operating instructions for opening emergency exits should be readable from the aisle rather than a distance of 30 inches. The FAA disagrees. The instructions need only be readable by the persons at or near the exit who are in a position to open the exit. The 30-inch requirement has been in the regulation for many years and there is no evidence that it is not adequate. However, since paragraph (e) of § 25.811 applies only to operation of an exit from the inside, it has been revised to make this clear. It was also recommended that self-illuminated handles be required on all passenger emergency exits instead of limiting them to Type III exits. All Type A and Type I exits and all Type II exits not located overwing, are floor level exits and the rules now require general illumination for passageways leading to such exits. This general illumination provides adequate illumination for operating handles and instructions. However, the comment may have merit with respect to Type II and Type IV overwing exits and the FAA plans to consider it in subsequent rule-making action with respect to such exits.

It was also recomemnded that each sign use the words "emergency exit" to eliminate the possibility that passengers might attempt to open emergency exits in other than emergency conditions. The FAA does not consider that such a change is necessary. All exits are "emergency" exits and the FAA considers that the word "exit" is more appropriate.

In response to comments received, proposed paragraph (a) of § 25.812 has been revised for the purpose of clarifying the requirement. No substantive change has been made by this revision.

One commentator stated that test evidence suggests that a reduction in the flame resistant standards of sidewall materials up to the top of the window line can be made with no loss of overall safety compared with the standard above this height, having regard to the lesser tendency for flame to spread at the lower level. The FAA does not agree. While the FAA is aware of higher potential temperature and flame spread at the upper sidewalls and ceiling, it is also aware that wall panels and partitions normally are continuous to floor level. Furthermore, there is no certainty that the cabin ceiling and upper sidewalls will remain uppermost after a crash landing.

One comment concerning § 25.853 suggested that "covering of upholstery" be deleted from the requirements of paragraph (b). The FAA agrees. The term "upholstery" includes the material used to stuff and to permanently cover furniture. It was also suggested that cargo compartment liners, insulation blankets, and cargo covers be deleted from § 25.853 and that all cargo compartment requirements be placed in § 25.855. The FAA does not agree that this is necessary. However, the provisions have been revised to clearly set forth the distinction between the fire protection requirement of §§ 25.853 and 25.855. In this case, the final rule makes it clear that § 25.853 covers, in addition to other materials, materials used in convertible passenger/crew cargo compartments. On the other hand, § 25.855 covers cargo and baggage compartments not occupied by passenger or crew.

A number of comments suggested that certain of the items listed in proposed § 25.853(b) could be constructed with

elastomeric materials and that the rule should not require this material to be listed to the standards of paragraph (b). The FAA agrees and the proposal has been revised to allow those items, if constructed of elastomeric materials, to be tested under the requirements of paragraph (b-2).

With respect to proposed § 25.853(c), there was a comment recommending that the words "instrument assemblies" be changed to read "instrument panels." The FAA does not agree. Under the current rules, "edge light instrument panels" made of specified materials were exempt from the requirements of paragraph (a) of § 25.853 applicable to all wall and ceiling panels. Notice 69–33 proposed to remove that exemption since there are materials that can be used in edge light instrument panels that are available and that meet the self-extinguishing requirements of paragraph (a). The proposed requirement concerning "edge lighted instrument assemblies" is not related to edge lighted instrument panels. The edge lighted instrument assembly requirement applies to one or more instruments situated in a common housing. Such assemblies may be installed in edge lighted instrument panels.

A comment was also received requesting that proposed § 25.853(d) be changed so that "small parts" need not be tested. The commentator contends that it is impractical to test each small part and that the chemistry of materials is sufficiently well known to prevent the use of rapid burning materials. The FAA does not agree that all small parts need not be tested. However, the requirement has been revised to provide that small parts which the Administrator finds would not contribute significantly to the propogation of a fire, need not be tested. Another comment stated that the 4 in./min. burn rate is unnecessarily lenient for all small parts and recommended a 2.5 in./min. burn rate. The FAA does not agree. The availability of materials that would meet the 2.5 in./min. burn rate is limited. Moreover, the quantities of materials involved in this recommendation is not sufficient to warrant the more stringent burn capability.

Various comments also requested clarification regarding the applicability of proposed § 25.853(d) to motion picture film. The motion picture film that is used aboard aircraft now is safety film. In response to these comments and after further consideration, the FAA has determined that motion picture film need not meet the proposed requirements, but must meet the specifications for safety film set forth in Standard Specifications for Safety Photographic Film PHI.25. The proposal has been revised accordingly. Moreover, the ducts through which the motion picture film travels during operation in flight must meet the requirements of § 25.853(b) which apply to other ducts on the airplane.

The purpose of the proposed amendment to §§ 25.855 and 25.857 was to delete the requirement for a liner in cargo compartments from § 25.857 and put it in § 25.855. However, it appears that the proposed change to § 25.855, while establishing certain characteristics for liners, does not expressly require a liner. Therefore, proposed § 25.855(a) has been revised to require a liner in Class B through E cargo and baggage compartments. Moreover, it has been brought to the FAA's attention that the proposed amendment could be interpreted as prohibiting "a pinhole or translucent resin area through which light can be seen but flame does not penetrate." This was not intended and the appropriate change has been made to clarify the proposal.

In a comment on § 25.1359(d), it was recommended that this requirement should apply to electrical wire and cable insulation in a "pressurized zone" rather than in the entire fuselage. The FAA does not agree. With respect to wire and cable insulation, the FAA is equally concerned about all areas of the fuselage. Burning wire insulation could cause the spread of a fire from a nonpressurized zone to a pressurized zone. Another comment recommended that wire insulation must be self-extinguishing when tested at an angle of 60°, that a burn length requirement not to exceed 3 inches should be added, and that the dripping requirement should be changed to an average of 3 seconds. It was also recommended that the proposal should refer to "coaxial cable" rather than "cable" and should specify a burn rate of 2.5 in./min. for that cable. The test procedure specified in Appendix F for wire and cable is a 60° test. Therefore, it is appropriate to refer to the 60° test in § 25.1359(d). Moreover, through oversight, the proposal did not contain a burn length requirement which is essential in determining that any material is self-extinguishing. Therefore, the proposal has been changed to specify a 3-inch burn length. However, the FAA does not agree that the proposal should be changed to refer to coaxial cables and to specify a 2.5 in./min. burn rate. The FAA considers that all electrical cable insulation must meet the proposed fire protection requirement, including coaxial. Since the regulation now contains a burn length requirement as the criterion for self-extinguishing properties, there is no need for a burn rate requirement.

A comment recommended that the proposal be revised to require a single wire vertical test with a 2-second extinguishing time and a 10-wire bundle test with a 5-second extinguishing time. The FAA does not believe that these tests are necessary to insure that electrical wire and cable insulations have adequate self-extinguishing characteristics. The proposed requirement covers both burn length and extinguishing time and also permits persons to use any approved equivalent method for determining that the insulation is self-extinguishing. The test methods recommended could be used if they are equivalent to the method stated in the appendix.

In response to a comment, paragraph (a) of Appendix F has been changed to add a limitation of 24 hours as an alternative to reaching moisture equilibrium. The FAA believes that this revision would not significantly affect the outcome of the tests. In addition, the proposed paragraph (b) has been revised to permit testing material of the actual size used in the airplane if it is smaller than the specified 2 inches wide and 12 inches long.

In response to comments, the Federal Standard referenced in paragraph (c) of Appendix F has been revised to reflect the correct designation and paragraph (f) has been revised to specify that the flame must contact the center of the material.

In response to comment, the proposal covering burn length has been revised to make it clear that the burn length excludes areas where material has melted away from the heat source. Finally, in response to comments a number of clarifying changes have been made to the proposal for the 60 degree test applicable to wire and cable. In this connection, the rule now requires the testing of a minimum of three specimens in place of the statistical determination. It also allows the upper end of the specimens to be passed over a rod or pulley and the use of a Tirrill burner as well as a Bunsen burner. The requirement for a ¼-inch inlet and the centigrade reference for the burner have been deleted for consistency with other test requirements.

The proposed changes to §§ 37.132, 37.136, and 37.178 have been incorporated into the appropriate provisions under those TSO's to make it clear that the new requirements apply only to new models of equipment manufactured on or after the effective date of the new requirements.

In Notice 69–33, it was proposed to amend § 121.215 to cover only the requirement for ash trays and to require placarding when smoking is not allowed. This amendment was proposed on the grounds that all the other fire protection requirements currently contained in § 121.215 concerning cabin interiors are now covered under other provisions in Part 121. While this statement is appropriate insofar as the later aircraft are concerned, it is not appropriate with respect to all of the older aircraft covered under Subpart J. Thus, until such time as there is a major overhaul of a cabin or a refurbishing of a cabin interior on those aircraft as provided in § 121.312, the fire protection requirements of § 121.215 are still necessary. The current provisions of § 121.215 have been retained with an appropriate reference to § 121.312.

It was also proposed to amend § 121.285 to require that cargo bins in passenger compartments meet the current requirements of § 25.853(b) upon adoption of these amendments. However, as indicated in one of the comments, such a proposed change would be inconsistent with current § 121.312 which only requires compliance with current § 25.853 for such cargo bins upon refurbishing or major overhaul of cabin compartment. The proposed change to § 121.285 has therefore been withdrawn.

While there was no change to § 121.291 proposed in Notice 69–33, the FAA is

aware that some confusion exists concerning the application of § 121.291 to an airplane that is the same, from an emergency evacuation point of view, as another airplane in which the certificate holder has successfully demonstrated emergency evacuation. The FAA does not believe that in such a situation a repeat of the demonstration is necessary. Therefore, § 121.291 has been revised to make this clear.

While not covered in Notice 69–33 in any detail, the FAA considers it appropriate at this time to make certain editorial revisions to § 121.310. The many substantive changes being made to § 121.310 make these editorial changes desirable. In this connection all of the expired compliance dates in the section have been deleted and the various paragraphs have been appropriately rearranged to accommodate these deletions. No substantive changes have been made by these editorial revisions and none is intended. These editorial revisions affect paragraphs (a), (g), (h), (i), and (j).

A clarifying change has been made to § 121.310(a) to make it consistent with the corresponding requirement in § 25.812(a).

The proposed amendment to § 121.310 (b)(2) has been revised to remove the inconsistency between the lead-in paragraph and the referenced provisions of § 25.812(b). The lead-in paragraph, as proposed in Notice 69–33, inadvertently retained the requirement that interior emergency exit marking and locator signs must have white letters 1 inch high on a red background 2 inches high. While this is appropriate for airplanes that are type certificated prior to the effective date of this amendment, it is inconsistent with the interior emergency exit marking requirements for airplanes that are type certificated after that date. In addition, the requirements set forth in subdivision (iii) of this proposal have been incorporated into subdivision (i) since they are not related to the new requirements set forth in subdivision (ii).

In answer to one commentator, a "transverse vertical separation" in § 121.310(d) is a vertical separation of the airplane that is approximately 90° to the longitudinal axis. The addition of the word "transverse" makes § 121.310(d) consistent with § 25.812(e)(3).

It was proposed to amend § 121.310(d) further by adding a new subparagraph (3) requiring a flight crew warning light. In response to a comment, and after further consideration, the FAA believes that it would be unreasonably burdensome to apply this requirement to airplanes already in service. However, airplanes newly certificated under § 25.812(e)(2) of this amendment will be equipped with a flight crew warning light, thereby providing an orderly transition to an improved level of safety.

The proposed amendment requiring that each exit emergency light provide the required level of illumination for at least 10 minutes at the critical ambient conditions after emergency landing has been removed from subdivision (iii) of subparagraph (2) of § 121.310(d) and placed in a new subparagraph (3). It has been determined by the FAA that the operators will need additional time in order to make the modifications necessary to meet this requirement. Therefore, this new requirement has been placed in subparagraph (3) with a compliance date 2 years after the effective date of this amendment.

Several comments were received concerning proposed § 121.312. All of these comments cited difficulties with the requirement that cabin interior material must be replaced upon the first "major overhaul" or upon "refurbishing" of the cabin interior. The comments noted that cabin interiors are being maintained on an "on condition" basis and suggested that the rule should be so clarified. The incorporation of an "on condition" requirement in proposed § 121.312 would require a complete revision to that section and would be outside the scope of the notice. However, it appears that a clarification of that regulation may be necessary and the FAA is currently studying this proposal with a view to initiating appropriate rulemaking.

Concerning the proposed change to § 121.317, it has come to the attention of the FAA that on some airplanes, the seat belt and no smoking signs are not visible to some seated passengers. In these instances, an announcement is made over the public address system that the signs have been turned on. In the final rule, operators of such airplanes have been given 2 years to procure and install the additional signs required to comply with the new rule. In the meantime, the operators must continue to meet the current requirements.

Section 121.391(d) has been revised to make it clear that: (1) This paragraph applies only to flight attendants required by § 121.391; and (2) the flight attendants need only be located at the required floor level exits. It was not intended that flight attendants be seated at the additional floor level exits because such exits do not, in general, meet all of the standards applicable to required emergency exits. The FAA believes that in the interest of safety, flight attendants must be located at the most effective floor level exits.

Several comments indicated that the requirement in § 121.571, that passengers be briefed to keep their safety belts "loosely and comfortably fastened while seated", would not be appropriate. After such a briefing, passengers might not have the belt fastened tight enough to provide the necessary restraint in the event of unexpected turbulence. The FAA agrees and the rule requires only that passengers be told that they should keep their seat belts fastened while seated.

In addition, one commentator noted that a pretakeoff briefing is not the appropriate place for the announcement that when the seat belt sign is off passengers should keep their seat belts fastened. The commentator believes that this briefing should be made after takeoff when turning the seat belt sign off. The FAA agrees, and the proposal has been changed accordingly.

Several comments were received concerning proposed § 121.577. These comments recommended that the proposal permit certain beverages and foods to be located at a passenger seat during takeoff or landing of an airplane. One commentator indicated that beverages in small paper or plastic cups or a breakfast roll would not constitute a danger to passengers in the event of an accident. As the FAA stated in Notice 69–33, in an emergency situation requiring evacuation, the litter from food service of any kind (including coffee or rolls) can be hazardous. Therefore, the proposal has not been changed as recommended. However, proposed § 121.577(b) has been revised to make it clear that during takeoff and landing passenger food and beverage trays and serving carts must be secured in their stowed positions, i.e., correctly positioned in their storage compartment and their restraint means, if any, fastened.

Numerous comments were received on the proposal concerning carry-on baggage (§ 121.589). Several comments pointed out that the restraint requirement should not be made mandatory for all seats. The FAA agrees that it is only when baggage is permitted to be stowed under a seat that the seat need be fitted with a means to prevent articles of baggage stowed under it from sliding forward. The proposal has been revised accordingly. Two comments objected to any requirement that carry-on baggage be stowed under a seat. The inconvenience of having to check baggage with no corresponding gain in safety was cited as reason for their objection. The FAA does not agree. Carry-on baggage must be secured to prevent injury to passengers, and to prevent interference with passenger evacuation, in a crash situation. The increase in safety realized from such a requirement far outweighs the inconvenience of checking the baggage. Another comment recommended that the rule permit stowage of carry-on baggage in front of passengers seated facing a bulkhead provided the bulkhead meets the crash impact requirements of paragraph (c) of § 121.589. Section 121.285 already provides for the carriage of cargo, including carry-on baggage, forward of the foremost seated passenger. However, insofar as the recommendation would required the imposition of crash impact loads on bulkheads, it would constitute a substantive change in the existing requirements. Such a change is outside the scope of Notice 69–33. On the other hand, the recommendation appears to have merit and may be the subject of a future rule-making action.

There was also a comment recommending that the carry-on baggage should be restrained in the sideward direction as well as in the forward direction. Such a requirement was not proposed in Notice 69–33 and the FAA believes that most seats provide side restraint. However, since there may be seats that do not, the FAA is looking

into the matter and will initiate rule making as needed.

In consideration of the foregoing, Parts 25, 37, and 121 of the Federal Aviation Regulations are amended, effective May 1, 1972, as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. Section 25.721 is amended to read as follows:

§ 25.721 General.

(a) The main landing gear system must be designed so that if it fails due to overloads during takeoff and landing (assuming the overloads to act in the upward and aft directions), the failure mode is not likely to cause—

(1) For airplanes that have a passenger seating configuration, excluding pilots seats, of nine seats or less, the spillage of enough fuel from any fuel system in the fuselage to constitute a fire hazard; and

(2) For airplanes that have a passenger seating configuration, excluding pilots seats, of 10 seats or more, the spillage of enough fuel from any part of the fuel system to constitute a fire hazard.

(b) Each airplane that has a passenger seating configuration excluding pilots seats, of 10 seats or more must be designed so that with the airplane under control it can be landed on a paved runway with any one or more landing gear legs not extended without sustaining a structural component failure that is like to cause the spillage of enough fuel to constitute a fire hazard.

(c) Compliance with the provisions of this section may be shown by analysis or tests, or both.

2. Section 25.785(c) is amended by amending the second sentence of the lead-in paragraph and subparagraphs (1), (2), and (3) to read as follows:

§ 25.785 Seats, berths, safety belts, and harnesses.

* * * * *

(c) * * * Each occupant of any other seat must be protected from head injury by a safety belt and, as appropriate to the type, location, and angle of facing of each seat, by one or more of the following:

(1) A shoulder harness that will prevent the head from contacting any injurious object.

(2) The elimination of any injurious object within striking radius of the head.

(3) An energy absorbing rest that will support the arms, shoulders, head, and spine.

* * * * *

3. Section 25.787 is amended by striking out paragraph (c) and by changing the title of the section and amending paragraph (a) to read as follows:

§ 25.787 Stowage compartments.

(a) Each compartment for the stowage of cargo, baggage, carry-on articles, and equipment (such as life rafts), and any other stowage compartment must be designed for its placarded maximum weight of contents and for the critical load distribution at the appropriate maximum load factors corresponding to the specified flight and ground load conditions, and to the emergency landing conditions of § 25.561(b), except that the forces specified in the emergency landing conditions need not be applied to compartments located below, or forward, of all occupants in the airplane. If the airplane has a passenger seating configuration, excluding pilots seats, of 10 seats or more, each stowage compartment in the passenger cabin, except for underseat and overhead compartments for passenger convenience, must be completely enclosed.

* * * * *

(c) [Deleted]

4. A new § 25.789 is added to read as follows:

§ 25.789 Retention of items of mass in passenger and crew compartments.

Means must be provided to prevent each item of mass (that is part of the airplane type design) in a passenger or crew compartment from becoming a hazard by shifting under the appropriate maximum load factors corresponding to the specified flight and ground load conditions, and to the emergency landing conditions of § 25.561(b).

5. A new § 25.791 is added to read as follows:

§ 25.791 Passenger information signs.

When passenger information signs are installed to comply with the operating rules of this chapter, at least one sign (using either letters or symbols) notifying when smoking is prohibited and one sign (using either letters or symbols) notifying when safety belts should be fastened must, when illuminated, be legible to each person seated in the passenger cabin under all probable conditions of cabin illumination. Signs which notify when safety belts should be fastened and when smoking is prohibited must be so constructed that the crew can turn them on and off.

6. Paragraph (e) of § 25.803 is amended to read as follows:

§ 25.803 Emergency evacuation.

* * * * *

(e) An escape route must be established from each overwing emergency exit, and (except for flap surfaces suitable as slides) covered with a slip resistant surface. Except where a means for channeling the flow of evacuees is provided—

(1) The escape route must be at least 42 inches wide at Type A passenger emergency exits and must be at least 2 feet wide at all other passenger emergency exits, and

(2) The escape route surface must have a reflectance of at least 80 percent, and must be defined by markings with a surface-to-marking contrast ratio of at least 5.1.

7. Section 25.807 *Passenger emergency exits*, is amended as follows:

A. By amending paragraph (a)(3) to read as follows:

B. By amending paragraphs (c) and (d) to read as follows:

§ 25.807 Passenger emergency exits.

(a) * * *

(3) *Type III.* This type must have a rectangular opening of not less than 20 inches wide by 36 inches high, with corner radii not greater than one-third the width of the exit, and with a step-up inside the airplane of not more than 20 inches. If the exit is located over the wing the step-down outside the airplane may not exceed 27 inches.

* * * * *

(c) *Passenger emergency exits.* The prescribed exits need not be diametrically opposite each other nor identical in size and location on both sides. They must be distributed as uniformly as practicable taking into account passenger distribution. If only one floor level exit per side is prescribed, and the airplane does not have a tail cone or ventral emergency exit, the floor level exits must be in the rearward part of the passenger compartment, unless another location affords a more effective means of passenger evacuation. Where more than one floor level exit per side is prescribed, at least one floor level exit per side must be located near each end of the cabin, except that this provision does not apply to combination cargo/passenger configurations. Exits must be provided as follows:

(1) Except as provided in subparagraphs (2) through (6) of this paragraph, the number and type of passenger emergency exits must be in accordance with the following table:

Passenger seating configuration (crewmember seats not included)	Emergency exits for each side of the fuselage			
	Type I	Type II	Type III	Type IV
1 through 9				1
10 through 19			1	
20 through 39		1	1	
40 through 79	1		1	
80 through 109	1		2	
110 through 139	2		1	
140 through 179	2		2	

(2) An increase in the passenger seating configuration above the maximum permitted under subparagraph (1) of this paragraph but not to exceed a total of 299 seats may be allowed in accordance with the following table for each additional pair of emergency exits in excess of the minimum number prescribed in subparagraph (1) of this paragraph for 179 passenger seats:

Additional emergency exits (each side of fuselage):	*Increase in passenger seating configuration allowed*
Type A	100
Type I	45
Type II	40
Type III	35

(3) For passenger seating configurations in excess of 299 seats, each emergency exit in the side of the fuselage must be either a Type A or Type I. A passenger seating configuration of 100 seats is allowed for each pair of Type A exits and a passenger seating configuration of 45 seats is allowed for each pair of Type I exits.

(4) If a passenger ventral or tail cone exit is installed and can be shown to allow a rate of egress at least equivalent to that of a Type III exit with the airplane in the most adverse exit opening condition because of the collapse of one or more legs of the landing gear, an increase in the passenger seating configuration beyond the limits specified in subparagraph (1), (2), or (3) of this paragraph may be allowed as follows:

(i) For a ventral exit, 12 additional passenger seats.

(ii) For a tail cone exit incorporating a floor level opening of not less than 20 inches wide by 60 inches high, with corner radii not greater than one-third the width of the exit, in the pressure shell and incorporating an approved assist means in accordance with § 25.809(f)(1), 25 additional passenger seats.

(iii) For a tail cone exit incorporating an opening in the pressure shell which is at least equivalent to a Type III emergency exit with respect to dimensions, step-up and step-down distance, and with the top of the opening not less than 56 inches from the passenger compartment floor, 15 additional passenger seats.

(5) For airplanes on which the vertical location of the wing does not allow the installation of overwing exits, an exit of at least the dimensions of a Type III exit must be installed instead of each Type IV exit required by subparagraph (1) of this paragraph.

(6) Each emergency exit in the passenger compartment in excess of the minimum number of required emergency exits must meet the applicable requirements of §§ 25.809 through 25.812, and must be readily accessible.

(d) *Ditching emergency exits for passengers.* Ditching emergency exits must be provided in accordance with the following requirements, unless the emergency exits required by paragraph (c) of this section already meet them:

(1) For airplanes that have a passenger seating configuration, excluding pilots seats, of nine seats or less, one exit above the waterline in each side of the airplane, meeting at least the dimensions of a Type IV exit.

(2) For airplanes that have a passenger seating configuration, excluding pilots seats, of 10 seats or more, one exit above the waterline in a side of the airplane, meeting at least the dimensions of a Type III exit, for each unit (or part of a unit) of 35 passenger seats, but no less than two such exits in the passenger cabin, with one on each side of the airplane. However, where it has been shown through analysis, ditching demonstrations, or any other tests found necessary by the Administrator, that the evacuation capability of the airplane during ditching is improved by the use of larger exits, or by other means, the passenger seat/exit ratio may be increased.

(3) If side exits cannot be above the waterline, the side exits must be replaced by an equal number of readily accessible overhead hatches of not less than the dimensions of a Type III exit except that, for airplanes with a passenger configuration, excluding pilots seats, of 35 seats or less, the two required Type III side exits need be replaced by only one overhead hatch.

8. Section 25.809 *Emergency exit arrangement,* is amended as follows:

A. By amending paragraph (b) to read as set forth below.

B. By amending paragraph (f)(1) to read as set forth below.

C. By amending paragraph (g) to read as set forth below.

D. By amending paragraph (h) and by adding a new paragraph (i) to read as set forth below.

§ 25.809 Emergency exit arrangement.

* * * * *

(b) * * * Each emergency exit must be capable of being opened, when there is no fuselage deformation—

(1) With the airplane in the normal ground attitude and in each of the attitudes corresponding to collapse of one or more legs of the landing gear; and

(2) Within 10 seconds measured from the time when the opening means is actuated to the time when the exit is fully opened.

* * * * *

(f) * * * (1) The assisting means for each passanger emergency exit must be a self-supporting slide or equivalent, and must be designed to meet the following requirements:

(i) It must be automatically deployed and deployment must begin during the interval between the time the exit opening means is actuated from inside the airplane and the time the exit is fully opened. However, each passenger emergency exit which is also a passenger entrance door or a service door must be provided with means to prevent deployment of the assisting means when it is opened from either the inside or the outside under non-emergency conditions for normal use.

(ii) It must be automatically erected within 10 seconds after deployment is begun.

(iii) It must be of such length that the lower end is self-supporting on the ground after collapse of one or more legs of the landing gear.

(g) Each emergency exit must be shown by tests, or by a combination of analysis and tests, to meet the requirements of paragraphs (b) and (c) of this section.

(h) If the place on the airplane structure at which the escape route required in § 25.803(e) terminates is more than 6 feet from the ground with the airplane on the ground and the landing gear extended, means must be provided to assist evacuees (who have used the overwing exits) to reach the ground. If the escape route is over a flap, the height of the terminal edge must be measured with the flap in the takeoff or landing position, whichever is higher from the ground. The assisting means must be of such length that the lower end is self-supporting on the ground after collapse of any one or more landing gear legs.

(i) If a single power-boost or single power-operated system is the primary system for operating more than one exit in an emergency, each exit must be capable of meeting the requirements of paragraph (b) of this section in the event of failure of the primary system. Manual operation of the exit (after failure of the primary system) is acceptable.

9. Section 25.811 *Emergency exit marking,* is amended as follows:

A. By amending paragraph (d) to read as set forth below.

B. By amending the lead-in sentence and subparagraph (1) of paragraph (e) to read as set forth below.

C. By amending subparagraph (2) of paragraph (e) by inserting the words "Type A", between the word "each" and the words "Type I".

D. By amending paragraph (g) to read as set forth below.

§ 25.811 Emergency exit marking.

* * * * *

(d) The location of each passenger emergency exit must be indicated by a sign visible to occupants approaching along the main passenger aisle (or aisles). There must be—

(1) A passenger emergency exit locator sign above the aisle (or aisles) near each passenger emergency exit, or at another overhead location if it is more practical because of low headroom, except that one sign may serve more than one exit if each exit can be seen readily from the sign;

(2) A passenger emergency exit marking sign next to each passenger emergency exit, except that one sign may serve two such exits if they both can be seen readily from the sign; and

(3) A sign on each bulkhead or divider that prevents fore and aft vision along the passenger cabin to indicate emergency exits beyond and obscured by the bulkhead or divider, except that if this is not possible the sign may be placed at another appropriate location.

(e) The location of the operating handle and instructions for opening the exit from the inside must be shown as follows:

(1) For each passenger emergency exit, by a marking on or near the exit that is readable from a distance of 30 inches. In addition, the operating handle for each Type III passenger emergency exit must be self-illuminated with an initial brightness of at least 160 microlamberts. If the operating handle is covered, self-illuminated cover removal instructions having an initial brightness of at least 160 microlamberts must also be provided.

* * * * *

(g) Each sign required by paragraph (d) of this section may use the word "exit" in its legend in place of the term "emergency exit".

10. Section 25.812 *Emergency lighting*, is amended as follows:

A. By amending the lead-in statement of paragraph (a) to read as set forth below.

B. By amending paragraphs (b), (c), (d), (e), (f), and (g) to read as set forth below.

C. By amending paragraph (k) by inserting the word "transverse" between the words "single" and "vertical" in the lead-in statement and by striking out the word "exit" in subparagraph (3).

§ 25.812 Emergency lighting.

(a) An emergency lighting system, independent of the main lighting system, must be installed. However, the sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system. The emergency lighting system must include:

* * * * *

(b) Emergency exit signs—

(1) For airplanes that have a passenger seating configuration, excluding pilot seats, of 10 seats or more must meet the following requirements:

(i) Each passenger emergency exit locator sign required by § 25.811(d)(1) and each passenger emergency exit marking sign required by § 25.811(d)(2) must have red letters at least 1½ inches high on an illuminated white background, and must have an area of at least 21 square inches excluding the letters. The lighted background-to-letter contrast must be at least 10:1. The letter height to stroke-width ratio may not be more than 7:1 nor less than 6:1. These signs must be internally electrically illuminated with a background brightness of at least 25 foot-lamberts and a high-to-low background contrast no greater than 3:1.

(ii) Each passenger emergency exit sign required by § 25.811(d)(3) must have red letters at least 1½ inches high on a white background having an area of at least 21 square inches excluding the letters. These signs must be internally electrically illuminated or self-illuminated by other than electrical means and must have an initial brightness of at least 400 microlamberts. The colors may be reversed in the case of a sign that is self-illuminated by other than electrical means.

(2) For airplanes that have a passenger seating configuration, excluding pilot seats, of nine seats or less, that are required by § 25.811(d) (1), (2), and (3) must have red letters at least 1 inch high on a white background at least 2 inches high. These signs may be internally electrically illuminated, or self-illuminated by other than electrical means, with an initial brightness of at least 160 microlamberts. The colors may be reversed in the case of a sign that is self-illuminated by other than electrical means.

(c) General illumination in the passenger cabin must be provided so that when measured along the centerline of main passenger aisle(s), and cross aisle(s) between main aisles, at seat armrest height and at 40-inch intervals, the average illumination is not less than 0.05 foot-candle and the illumination at each 40-inch interval is not les than 0.01 foot-candle. A main passenger aisle(s) is considered to extend along the fuselage from the most forward passenger emergency exit or cabin occupant seat, whichever is farther forward, to the most rearward passenger emergency exit or cabin occupant seat, whichever is farther aft.

(d) The floor of the passageway leading to each floor-level passenger emergency exit, between the main aisles and the exit openings, must be provided with illumination that is not less than 0.02 foot-candle measured along a line that is within 6 inches of and parallel to the floor and is centered on the passenger evacuation path.

(e) Except for subsystems provided in accordance with paragraph (g) of this section that serve no more than one assist means, are independent of the airplane's main emergency lighting system, and are automatically activated when the assist means is erected, the emergency lighting system must be designed as follows.

(1) The lights must be operable manually from the flight crew station and (if required by the operating rules of this chapter) from a point in the passenger compartment that is readily accessible to a normal flight attendant seat.

(2) There must be a flight crew warning light which illuminates when power is on in the airplane and emergency lighting control device is neither armed nor turned on.

(3) When armed or turned on, the lights must remain lighted or become lighted upon interruption (except an interruption caused by a transverse vertical separation of the fuselage during crash landing) of the airplane's normal electric power. There must be means to safeguard against inadvertent operation of the control device from the "armed" or "on" position.

(f) Exterior emergency lighting must be provided as follows:

(1) At each overwing emergency exit the illumination must be—

(i) Not less than 0.03 foot-candle (measured normal to the direction of the incident light) on a 2-square-foot area where an evacuee is likely to make his first step outside the cabin;

(ii) Not less than 0.05 foot-candle (measured normal to the direction of the incident light) for a minimum width of 42 inches for a Type A overwing emergency exit and of 2 feet for all other overwing emergency exits along the 30 percent of the slip-resistant portion of the escape route required in § 25.803(e) that is farthest from the exit; and

(iii) Not less than 0.03 foot-candle on the ground surface with the landing gear extended (measured normal to the direction of the incident light) where an evacuee using the established escape route would normally make first contact with the ground.

(2) At each non-overwing emergency exit not required by § 25.809(f) to have descent assist means the illumination must be not less than 0.03 foot-candle (measured normal to the direction of the incident light) on the ground surface with the landing gear extended where an evacuee is likely to make his first contact with the ground outside the cabin.

(g) The means required in § 25.809(f)(1) and (h) to assist the occupants in descending to the ground must be illuminated so that the erected assist means is visible from the airplane.

(1) If the assist means is illuminated by exterior emergency lighting, it must provide illumination of not less than 0.03 foot-candle (measured normal to the direction of the incident light) at the ground end of the erected assist means where an evacuee using the established escape route would normally make first contact with the ground, with the airplane in each of the attitudes corresponding to the collapse of one or more legs of the landing gear.

(2) If the emergency lighting subsystem illuminating the assist means serves no other assist means, is independent of the airplane's main emergency lighting system, and is automatically activated when the assist means is erected, the lighting provisions—

(i) May not be adversely affected by stowage; and

(ii) Must provide illumination of not less than 0.03 foot-candle (measured normal to the direction of incident light) at the ground and of the erected assist means where an evacuee would normally make first contact with the ground, with the airplane in each of the attitudes corresponding to the collapse of one or more legs of the landing gear.

* * * * *

11. Section 25.813(c) is amended to read as follows:

§ 25.813 Emergency exit access.

* * * * *

(c) There must be access from each aisle to each Type III or Type IV exit, and—

(1) For airplanes that have a passenger seating configuration, excluding pilot seats, of 20 or more, the projected opening of the exit provided must not be obstructed by seats, berths, or other protrusions (including seatbacks in any position) for a distance from that exit not less than the width of the narrowest passenger seat installed on the airplane;

(2) For airplanes that have a passenger seating configuration, excluding pilots seats, of 19 or less, there may be minor obstructions in this region, if there are compensating factors to maintain the effectiveness of the exit.

* * * * *

12. Section 25.853 is amended by amending the lead-in statement and paragraphs (a) and (b) and by adding new paragraphs (b–1), (b–2), and (b–3) to read as follows:

§ 25.853 Compartment interiors.

Materials (including finishes or decorative surfaces applied to the materials) used in each compartment occupied by

the crew or passengers must meet the following test criteria as applicable:

(a) Interior ceiling panels, interior wall panels, partitions, galley structure, large cabinet walls, structural flooring, and materials used in the construction of stowage compartments (other than underseat stowage compartments and compartments for stowing small items such as magazines and maps) must be self-extinguishing when tested vertically in accordance with the applicable portions of Appendix F of this part, or other approved equivalent methods. The average burn length may not exceed 6 inches and the average flame time after removal of the flame source may not exceed 15 seconds. Drippings from the test specimen may not continue to flame for more than an average of 3 seconds after falling.

(b) Floor covering, textiles (including draperies and upholstery), seat cushions, padding, decorative and nondecorative coated fabrics, leather, trays and gallery furnishings, electrical conduit, thermal and acoustical insulation and insulation covering, air ducting, joint and edge covering, cargo compartment liners, insulation blankets, cargo covers, and transparencies, molded and thermoformed parts, air ducting joints, and trim strips (decorative and chafing), that are constructed of materials not covered in paragraph (b–2) of this section, must be self extinguishing when tested vertically in accordance with the applicable portions of Appendix F of this part, or other approved equivalent methods. The average burn length may not exceed 8 inches and the average flame time after removal of the flame source may not exceed 15 seconds. Drippings from the test specimen may not continue to flame for more than an average of 5 seconds after falling.

(b–1) Motion picture film must be safety film meeting the Standard Specifications for Safety Photographic Film PH 1.25 (available from the United States of America Standards Institute, 10 East 40th Street, New York, NY 10018), or an FAA-approved equivalent. If the film travels through ducts, the ducts must meet the requirements of paragraph (b) of this section.

(b–2) Acrylic windows and signs, parts constructed in whole or in part of elastomeric materials, edge lighted instrument assemblies consisting of two or more instruments in a common housing, seat belts, shoulder harnesses, and cargo and baggage tiedown equipment, including containers, bins, pallets, etc., used in passenger or crew compartments, may not have an average burn rate greater than 2.5 inches per minute when tested horizontally in accordance with the applicable portions of Appendix F of this part, or other approved equivalent methods.

(b–3) Except for electrical wire and cable insulation, and for small parts (such as knobs, handles, rollers, fasteners, clips, grommets, rub strips, pulleys, and small electrical parts) that the Administrator finds would not contribute significantly to the propagation of a fire, materials in items not specified in paragraphs (a), (b), (b–1), or (b–2) of this section may not have a burn rate greater than 4 inches per minute when tested horizontally in accordance with the applicable portions of Appendix F of this part or other approved equivalent methods.

* * * * *

13. Section 25.855 is amended by amending paragraph (a) and by adding new paragraphs (a–1) and (a–2) to read as follows:

§ 25.855 Cargo and baggage compartments.

(a) Thermal and acoustic insulation (including coverings) and liners, used in each cargo and baggage compartment not occupied by passengers or crew, must be constructed of materials that at least meet the requirements set forth in § 25.853(b).

(a–1) Class B through Class E cargo or baggage compartments as defined in § 25.857, must have a liner and the liner must be constructed of materials that at least meet the requirements set forth in § 25.853(b), must be separate from (but may be attached to) the airplane structure, and must be tested at a 45° angle in accordance with the applicable portions of Appendix F of this part or other approved equivalent methods. In the course of the 45° angle test, the flame may not penetrate (pass through) the material during application of the flame or subsequent to its removal, the average flame time after removal of the flame source may not exceed 15 seconds, and the average glow time may not exceed 10 seconds.

(a–2) Insulation blankets and cargo covers used to protect cargo in compartments not occupied by passengers or crew must be constructed of materials that at least meet the requirements of § 25.853(b), and tiedown equipment (including containers, bins, and pallets) used in each cargo and baggage compartment not occupied by passengers or crew must be constructed of materials that at least meet the requirements set forth in § 25.853(b–3).

* * * * *

§ 25.857 [Amended]

14. Section 25.857 is amended by striking out subparagraph (4) of paragraph (b), subparagraph (5) of paragraph (c), subparagraph (4) of paragraph (d), and subparagraph (1) of paragraph (e) and by designating them "reserved".

15. Section 25.1359 is amended by adding a new paragraph (d) to read as follows:

§ 25.1359 Electrical system fire and smoke protection.

* * * * *

(d) Insulation on electrical wire and electrical cable installed in any area of the fuselage must be self-extinguishing when tested at an angle of 60° in accordance with the applicable portions of Appendix F of this part, or other approved equivalent methods. The average burn length may not exceed 3 inches and the average flame time after removal of the flame source may not exceed 30 seconds. Drippings from the test specimen may not continue to flame for more than an average of 3 seconds after falling.

§ 25.141 [Amended]

16. Section 25.1411(c) is amended by striking out the reference to "§ 25.807 (c)(4)" and inserting reference to "§ 25.809(f)" in place thereof.

17. Paragraph (a) of § 25.1557 is amended to read as follows:

§ 25.1557 Miscellaneous markings and placards.

(a) *Baggage and cargo compartments and ballast location.* Each baggage and cargo compartment, and each ballast location must have a placard stating any limitations on contents, including weight, that are necessary under the loading requirements. However, underseat compartments designed for the storage of carry-on articles weighing not more than 20 pounds need not have a loading limitation placard.

* * * * *

18. Appendix F is amended to read as follows:

Appendix F

An acceptable Test Procedure for showing compliance with §§ 25.853, 25.855, and 25.1359.

(a) *Conditioning.* Specimens must be conditioned to 70° F, plus or minus 5° and at 50 percent plus or minus 5 percent relative humidity until moisture equilibrium is reached or for 24 hours. Only one specimen at a time may be removed from the conditioning environment immediately before subjecting it to the flame.

(b) *Specimen configuration.* Except as provided for materials used in electrical wire and cable insulation and in small parts, materials must be tested either as a section cut from a fabricated part as installed in the airplane or as a specimen simulating a cut section, such as: A specimen cut from a flat sheet of the material or a model of the fabricated part. The specimen may be cut from any location in a fabricated part; however, fabricated units, such as sandwich panels, may not be separated for test. The specimen thickness must be no thicker than the minimum thickness to be qualified for use in the airplane, except that: (1) Thick foam parts, such as seat cushions, must be tested in ½-inch thickness; (2) when showing compliance with § 25.853(b–3) for materials used in small parts that must be tested, the materials must be tested in no more than ⅛-inch thickness; (3) when showing compliance with § 25.1359(d) for materials used in electrical wire and cable insulation, the wire and cable specimens must be the same size as used in the airplane. In the case of fabrics, both the warp and fill direction of the weave must be tested to determine the most critical flammability conditions; When performing the tests prescribed in paragraphs (d) through (e) of this appendix, the specimen must be mounted in a metal frame so that; (1) in the vertical tests of paragraph (d), the two long edges and the upper edge are held securely; (2) in the horizontal test of paragraph (e), the two long edges and the edge away from the flame are held securely; (3) the exposed area of the specimen is at least 2 inches wide and 12 inches long, unless the actual size used in the airplane is smaller; and (4) the edge to which the burner flame is applied must not consist of the finished or protected edge of the specimen but must be representative of the actual

cross-section of the material or part installed in the airplane. When performing the test prescribed in paragraph (f) of this appendix, the specimen must be mounted in a metal frame so that all four edges are held securely and the exposed area of the specimen is at least 8 inches by 8 inches.

(c) *Apparatus.* Except as provided in paragraph (h) of this appendix, tests must be conducted in a draft-free cabinet in accordance with Federal Test method Standard 191 Method 5903 (revised Method 5902) for the vertical test, or Method 5906 for horizontal test (available from the General Services Administration, Business Service Center, Region 3, Seventh and D Streets SW., Washington, DC 20407) or other approved equivalent methods. Specimens which are too large for the cabinet must be tested in similar draft-free conditions.

(d) *Vertical test, in compliance with § 25.853 (a) and (b).* A minimum of three specimens must be tested and the results averaged. For fabrics, the direction of weave corresponding to the most critical flammability conditions must be parallel to the longest dimension. Each specimen must be supported vertically. The specimen must be exposed to a Bunsen or Tirrill burner with a nominal ⅜-inch I.D. tube adjusted to give a flame of 1½ inches in height. The minimum flame measured by a calibrated thermocouple pyrometer in the center of the flame must be 1,550° F. The lower edge of the specimen must be three-fourths inch above the top edge of the burner. The flame must be applied to the center line of the lower edge of the specimen. For materials covered by § 25.853 (a), the flame must be applied for 60 seconds and then removed. For materials covered by § 25.853(b), the flame must be applied for 12 seconds and then removed. Flame time, burn length, and flaming time of drippings, if any, must be recorded. The burn length determined in accordance with paragraph (g) of this appendix must be measured to the nearest one-tenth inch.

(e) *Horizontal test in compliance with §25.853 (b–2) and (b–3).* A minimum of three specimens must be tested and the results averaged. Each specimen must be supported horizontally. The exposed surface when installed in the aircraft must be face down for the test. The specimen must be exposed to a Bunsen burner or Tirrill burner with a nominal ⅜-inch I.D. tube adjusted to give a flame of 1½ inches in height. The minimum flame temperature measured by a calibrated thermocouple pyrometer in the center of the flame must be 1,550° F. The specimen must be positioned so that the edge being tested is three-fourths of an inch above the top of, and on the center line of, the burner. The flame must be applied for 15 seconds and then removed. A minimum of 10 inches of the specimen must be used for timing purposes, approximately 1½ inches must burn before the burning front reaches the timing zone, and the average burn rate must be recorded.

(f) *Forty-five-degree test, in compliance with § 25.855(a–1).* A minimum of three specimens must be tested and the results averaged. The specimens must be supported at an angle of 45° to a horizontal surface. The exposed surface when installed in the aircraft must be face down for the test. The specimens must be exposed to a Bunsen or Tirrill burner with a nominal ⅜-inch I.D. tube adjusted to give a flame of 1½ inches in height. The minimum flame temperature measured by a calibrated thermocouple pyrometer in the center of the flame must be 1,550° F. Suitable precautions must be taken to avoid drafts. One-third of the flame must contact the material at the center of the specimen and must be applied for 30 seconds and then removed. Flame time, glow time, and whether the flame penetrates (passes through) the specimen must be recorded.

(g) *Sixty-degree test in compliance with § 25.1359(d).* A minimum of three specimens of each wire specification (make and size) must be tested. The specimen of wire or cable (including insulation) must be placed at an angle of 60° with the horizontal in the cabinet specified in paragraph (c) of this appendix with the cabinet door open during the test or must be placed within a chamber approximately 2 feet high x 1 foot x 1 foot, open at the top and at one vertical side (front), and which allows sufficient flow of air for complete combustion, but which is free from drafts. The specimen must be parallel to and approximately 6 inches from the front of the chamber. The lower end of the specimen must be held rigidly clamped. The upper end of the specimen must pass over a pulley or rod and must have an appropriate weight attached to it so that the specimen is held tautly throughout the flammability test. The test specimen span between lower clamp and upper pulley or rod must be 24 inches and must be marked 8 inches from the lower end to indicate the central point for flame application. A flame from a Bunsen or Tirrill burner must be applied for 30 seconds at the test mark. The burner must be mounted underneath the test mark on the specimen, perpendicular to the specimen and at an angle of 30° to the vertical plane of the specimen. The burner must have a nominal bore of three-eighths inch, and must be adjusted to provide a 3-inch-high flame with an inner cone approximately one-third of the flame height. The minimum temperature of the hottest portion of the flame, as measured with a calibrated thermocouple pyrometer, may not be less than 1,750° F. The burner must be positioned so that the hottest portion of the flame is applied to the test mark on the wire. Flame time, burn length, and flaming time of drippings, if any, must be recorded. The burn length determined in accordance with paragraph (g) of this appendix must be measured to the nearest one-tenth inch. Breaking of the wire specimens is not considered a failure.

(h) *Burn length.* Burn length is the distance from the original edge to the farthest evidence of damage to the test specimen due to flame impingement, including areas of partial or complete consumption, charring, or embrittlement, but not including areas sooted, stained, warped, or discolored, nor areas where material has shrunk or melted away from the heat source.

PART 37—TECHNICAL STANDARD ORDER AUTHORIZATIONS

1. Section 37.132 is amended by changing the section heading, by amending paragraph (a)(1), and by adding a new subdivision (vi) to paragraph (a)(2) to read as follows:

§ 37.132 Safety Belts—TSO–C22f.

(a) *Applicability*—(1) *Minimum performance standards.* This technical standard order prescribes the minimum performance standards that safety belts must meet in order to be identified with the applicable TSO marking. New models of safety belts that are to be so identified and that are manufactured on or after May 1, 1972, must meet the standards set forth in National Aircraft Standards (NAS) Specification 802 revised May 15, 1950, with the exceptions covered in subparagraph (2) of this paragraph. NAS 802 is incorporated by reference herein in accordance with 5 U.S.C. 552(a)(1) and § 37.23 and is available as indicated in § 37.23. Additionally, NAS 802 may be examined at any FAA regional office of the Chief, Engineering and Manufacturing Branch (or in the case of the Western Region, the Chief, Aircraft Engineering Division), and may be obtained from the National Standards Association, 1321 14th Street NW., Washington, DC 20005, at a cost of three (3) dollars. Belts approved under prior issuances of this section may continue to be manufactured under the earlier provisions.

(2) *Exceptions.* * * *

(vi) In lieu of compliance with paragraphs 1.1.1, 3.1.4, and 4.3.1.1 of NAS 802, the webbing and all other materials used in the belt assembly must comply with the fire protection provisions of § 25.853 (b–2) of this chapter.

* * * * *

2. Section 37.136 is amended to read as follows:

§ 37.136 Aircraft seats and berths—TSO–C39a.

(a) *Applicability*—(1) *Minimum performance standards.* (i) This technical standard order prescribes the minimum performance standards that aircraft seats and berths of the following types must meet in order to be identified with the applicable TSO marking:

Type I—Transport (9g forward load).
Type II—Normal and utility.
Type III—Acrobatic.
Type IV—Rotorcraft.

(ii) New models of seats and berths that are to be so identified, and that are manufactured on or after May 1, 1972, must meet the standards set forth in National Aircraft Standard (NAS) Specification 809, dated January 1, 1956, with the exceptions covered in subparagraph (2) of this paragraph. NAS 809 is incorporated by reference herein in accordance with 5 U.S.C. 552(a)(1) and § 37.23 and is available as indicated in § 37.23. Additionally, NAS 809 may be examined at any FAA regional office of the Chief, Engineering and Manufacturing Branch (or in the case of the Western Region, the Chief, Aircraft Engineering Division), and may be obtained from the National Standards Association, 1321 14th Street NW., Washington, DC 20005, at a cost of three (3) dollars.

(2) *Exceptions.* (i) The sideward loads as specified in 4.1.2. Table I need not exceed the requirements of the applicable Federal Aviation Regulations.

(ii) In lieu of compliance with paragraphs 2.1, 3.12, and 4.32 of NAS 809, materials in Type I seats and berths must comply with the fire protection provisions of § 25.853(b) of this chapter.

(b) *Marking.* The weight required in § 37.7 need not be included.

(c) *Previous approval.* Seats and berths approved prior to May 1, 1972, may continue to be manufactured under the provisions of their original approval.

3. Section 37.178 is amended as follows:

A. The section heading is changed and paragraph (a) is amended to read as set forth below.

B. Paragraphs 4.0.4 and 7.0.3 of Federal Aviation Administration Standard, Individual Flotation Devices, are amended to read as set forth below.

§ 37.178 Individual flotation devices—TSO–C72b.

(a) *Applicability.* This technical standard order (TSO) prescribes the minimum performance standards that individual flotation devices must meet in order to be identified with the applicable TSO marking. New models of the devices that are to be so identified, and that are manufactured on or after May 1, 1972, must meet the requirements of the "Federal Aviation Administration Standard, Individual Flotation Devices", amended effective May 1, 1972, set forth at the end of this section.

* * * * *

4.0.4 *Fire protection.* If the device is not used as part of a seat or berth, materials used in the device, including any covering, must meet paragraph 6.0.2 of this standard. If the device is to be used as part of a seat or berth, all materials used in the device must meet paragraph 7.0.3 of this standard.

* * * * *

7.0.3 *Test for fire protection of materials.* Materials used in flotation devices that are to be used as part of an aircraft seat or berth must comply with the self-extinguishing fire protection provisions of § 25.853(b) of Part 25 of this chapter. In all other applications, the materials in the flotation devices must be tested in accordance with paragraph 6.0.2 of this standard to substantiate adequate flame resistant properties.

* * * * *

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

1. Paragraph (a) of § 121.215 is amended to read as follows:

§ 121.215 Cabin interiors.

(a) Except as provided in § 121.312, each compartment used by the crew or passengers must meet the requirements of this section.

* * * * *

2. Paragraph (a) of § 121.291 is amended to read as follows:

§ 121.291 Demonstration of emergency evacuation procedures.

(a) Each certificate holder must show, by actual demonstration conducted in accordance with paragraph (a) of Appendix D to this part, that the emergency evacuation procedures for each type and model of airplane with a seating capacity of more than 44 passengers, that is used in its passenger-carrying operations, allow the evacuation of the full seating capacity, including crewmembers, in 90 seconds or less, in each of the following circumstances:

(1) A demonstration must be conducted upon the initial introduction of a type and model of airplane into passenger-carrying operations. However, the demonstration need not be repeated for any airplane type or model that has the same number and type of exits, the same cabin configuration, and the same emergency equipment, as any other airplane used by the certificate holder in successfully demonstrating emergency evacuation in compliance with this paragraph.

(2) A demonstration must be conducted—

(i) Upon increasing by more than 5 percent the passenger seating capacity for which successful demonstration has been conducted; or

(ii) Upon a major change in the passenger cabin interior configuration that will affect the emergency evacuation of passengers.

* * * * *

3. Section 121.310 is amended as follows:

A. Paragraphs (a), (b)(2), and (c) are amended to read as set forth below.

B. Paragraph (d) of § 121.310 is amended by amending the flush paragraph at the end by inserting the word "transverse" between the word "a" and the word "vertical", and by adding a new subparagraph (3) to read as set forth below.

C. Paragraph (e) of § 121.310 is amended by amending the last sentence

D. Paragraph (f) of § 121.310 is amended by amending the last sentence of subparagraph (3) to read as set forth below.

E. Paragraphs (g), (h), (i), and (j) are amended to read as set forth below.

As amended, § 121.310 will read as follows:

§ 121.310 Additional emergency equipment.

(a) *Means for emergency evacuation.* Each passenger-carrying landplane emergency exit (other than over-the-wing) that is more than 6 feet from the ground with the airplane on the ground and the landing gear extended, must have an approved means to assist the occupants in descending to the ground. The assisting means for a floor-level emergency exit must meet the requirements of § 25.809(f)(1) of this chapter in effect on April 30, 1972, except that, for any airplane for which the application for the type certificate was filed after that date, it must meet the requirements under which the airplane was type certificated. An assisting means that deploys automatically must be armed during taxiing, takeoffs, and landings. However, if the Administrator finds that the design of the exit makes compliance impractical, he may grant a deviation from the requirement of automatic deployment if the assisting means automatically erects upon deployment and, with respect to required emergency exits, if an emergency evacuation demonstration is conducted in accordance with § 121.291(a). This paragraph does not apply to the rear window emergency exit of DC–3 airplanes operated with less than 36 occupants, including crewmembers and less than five exits authorized for passenger use.

(b) *Interior emergency exit markings.* * * *

(2) Each passenger emergency exit marking and each locating sign must meet the following:

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, each passenger emergency exit marking and each locating sign must be manufactured to meet the requirements of § 25.812(b) of this chapter in effect on April 30, 1972. On these airplanes, no sign may continue to be used if its luminescence (brightness) decreases to below 100 microlamberts. The colors may be reversed if it increases the emergency illumination of the passenger compartment. However, the Administrator may authorize deviation from the 2-inch background requirements if he finds that special circumstances exist that make compliance impractical and that the proposed deviation provides an equivalent level of safety.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, each passenger emergency exit marking and each locating sign must be manufactured to meet the interior emergency exit marking requirements under which the airplane was type certificated. On these airplanes, no sign may continue to be used if its luminescence (brightness) decreases to below 250 microlamberts.

(c) *Lighting for interior emergency exit markings.* Each passenger-carrying airplane must have an emergency lighting system, independent of the main lighting system. However, sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system. The emergency lighting system must—

(1) Illuminate each passenger exit marking and locating sign; and

(2) Provide enough general lighting in the passenger cabin so that the average illumination, when measured at 40-inch intervals at seat armrest height, on the centerline of the main passenger aisle, is at least 0.05 foot-candles.

(d) *Emergency light operation.* * * *

(3) After May 1, 1974, each light must provide the required level of illumination for at least 10 minutes at the critical ambient conditions after emergency landing.

(e) *Emergency exit operating handles.* (1) For a passenger-carrying airplane for which the application for the type certificate was filed prior to May 1, 1972, the location of each passenger emergency exit operating handle, and instructions for opening the exit, must be shown by a marking on or near the exit that is readable from a distance of 30 inches. In addition, for each Type I and Type II emergency exit with a locking mechanism released by rotary motion of the handle, the instructions for opening must be shown by—

(i) A red arrow with a shaft at least three-fourths inch wide and a head twice the width of the shaft, extending along at least 70° of arc at a radius approximately equal to three-fourths of the handle length; and

(ii) The word "open" in red letters 1 inch high placed horizontally near the head of the arrow.

(2) For a passenger-carrying airplane for which the application for the type certificate was filed on or after May 1, 1972, the location of each passenger emergency exit operating handle and instructions for opening the exit must be shown in accordance with the requirements under which the airplane was type certificated. On these airplanes, no operating handle or operating handle cover may continue to be used if its luminescence (brightness) decreases to below 100 microlamberts.

(f) *Emergency exit access.* * * *

(3) * * * In addition—

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, the access must meet the requirements of § 25.813(c) of this chapter in effect on April 30, 1972; and

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the access must meet the emergency exit access requirements under which the airplane was type certificated.

* * * * *

(g) *Exterior exit markings.* Each passenger emergency exit and the means of opening that exit from the outside must be marked on the outside of the airplane. There must be a 2-inch colored band outlining each passenger emergency exit on the side of the fuselage. Each outside marking, including the band, must be readily distinguishable from the surrounding fuselage area by contrast in color. The markings must comply with the following:

(1) If the reflectance of the darker color is 15 percent or less, the reflectance of the lighter color must be at least 45 percent.

(2) If the reflectance of the darker color is greater than 15 percent, at least a 30 percent difference between its reflectance and the reflectance of the lighter color must be provided.

(3) Exits that are not in the side of the fuselage must have the external means of opening and applicable instructions marked conspicuously in red or, if red is inconspicuous against the background color, in bright chrome yellow and, when the opening means for such an exit is located on only one side of the fuselage, a conspicuous marking to that effect must be provided on the other side. "Reflectance" is the ratio of the luminous flux reflected by a body to the luminous flux it receives.

(h) *Exterior emergency lighting and escape route.* (1) Each passenger-carrying airplane must be equipped with exterior lighting that meets the following requirements:

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, the requirements of § 25.812 (f) and (g) of this chapter in effect on April 30, 1972.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the exterior emergency lighting requirements under which the airplane was type certificated.

(2) Each passenger-carrying airplane must be equipped with a slip-resistant escape route that meets the following requirements:

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, the requirements of § 25.803(e) of this chapter in effect on April 30, 1972.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the slip-resistant escape route requirements under which the airplane was type certificated.

(i) *Floor level exits.* Each floor level door or exit in the side of the fuselage (other than those leading into a cargo or baggage compartment that is not accessible from the passenger cabin) that is 44 or more inches high and 20 or more inches wide, but not wider than 46 inches, each passenger ventral exit (except the ventral exits on M–404 and CV–240 airplanes), and each tail cone exit, must meet the requirements of this section for floor level emergency exits. However, the Administrator may grant a deviation from this paragraph if he finds that circumstances make full compliance impractical and that an acceptable level of safety has been achieved.

(j) *Additional emergency exits.* Approved emergency exits in the passenger compartments that are in excess of the minimum number of required emergency exits must meet all of the applicable provisions of this section except paragraph (f) (1), (2), and (3) of this section and must be readily accessible.

4. Section 121.311 is amended by adding a new paragraph (e) to read as follows:

§ 121.311 Seat and safety belts.

* * * * *

(e) Each occupant of a seat equipped with a shoulder harness must fasten the shoulder harness during takeoff and landing, except that, in the case of crewmembers, the should harness need not be fastened if the crewmember cannot perform his required duties with the shoulder harness fastened.

5. Section 121.312 is amended to read as follows:

§ 121.312 Materials for compartment interiors.

Upon the first major overhaul of an airplane cabin or refurbishing of the cabin interior all materials in each compartment used by the crew or passengers that do not meet the following requirements must be replaced with materials that meet these requirements:

(a) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, § 25.853 of this chapter in effect on April 30, 1972.

(b) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the materials requirement under which the airplane was type certificated.

6. Paragraph (a) of § 121.317 is amended to read as follows:

§ 121.317 Passenger information.

(a) Until May 1, 1974, no person may operate an airplane unless it is equipped with signs that are visible to passengers and cabin attendants to notify them when smoking is prohibited and when safety belts should be fastened. After May 1, 1974, no person may operate an airplane unless it is equipped with passenger information signs that meet the requirements of § 25.791 of this chapter. The signs must be constructed so that the crew can turn them on and off. They must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot in command.

* * * * *

7. Section 121.391 is amended by inserting the words "required by this section" between the word "attendants" and the word "shall", and by inserting the word "required" between the word "to" and the word "floor", in paragraph (d) and by amending paragraph (c) to read as follows:

§ 121.391 Flight attendants.

* * * * *

(c) The number of flight attendants approved under paragraphs (a) and (b) of this section are set forth in the certificate holder's operations specifications.

* * * * *

8. Paragraph (a) of § 121.571 is amended to read as follows:

§ 121.571 Briefing passengers before takeoff.

(a) Each certificate holder operating a passenger-carrying airplane shall insure that all passengers are orally briefed by the appropriate crewmember as follows:

(1) Before each takeoff, on each of the following:

(i) Smoking.

(ii) The location of emergency exits.

(iii) The use of seat belts.

(2) After each takeoff, immediately before or immediately after turning the seat belt sign off, an announcement shall be made that passengers should keep their seat belts fastened, while seated, even when the seat belt sign is off.

* * * * *

9. A new § 121.576 is added to read as follows:

§ 121.576 Retention of items of mass in passenger and crew compartments.

After May 1, 1974, means must be provided to prevent each item of galley equipment and each serving cart, when not in use, and each item of crew baggage, which is carried in a passenger or crew compartment from becoming a hazard by shifting under the appropriate load factors corresponding to the emergency landing conditions under which the airplane was type certificated.

10. A new § 121.577 is added to read as follows:

§ 121.577 Food and beverage service equipment during takeoff and landing.

(a) No certificate holder may take off or land an airplane when any food, beverage, or tableware, furnished by the certificate holder is located at any passenger seat.

(b) No certificate holder may take off or land an airplane unless each passenger's food and beverage tray and each serving cart is secured in its stowed position.

(c) Each passenger shall comply with instructions given by a crewmember in compliance with this section.

11. Section 121.589 is amended to read as follows:

§ 121.589 Carry-on baggage.

(a) No certificate holder may permit an airplane to take off or land unless each article of baggage carried aboard by passengers is stowed—

(1) In a suitable baggage or cargo stowage compartment;

(2) As provided in paragraph (c) of § 121.285; or

(3) Under a passenger seat.

(b) Each passenger shall comply with instructions given by crewmembers regarding compliance with paragraph (a) of this section.

(c) Each passenger seat under which baggage is permitted to be stowed shall be fitted with a means to prevent articles of baggage stowed under it from sliding forward under crash impacts severe enough to induce the ultimate inertia forces specified in § 25.561(b)(3) of this chapter or in the emergency landing condition regulations under which the aircraft was type certificated.

(Secs. 313(a), 601, 603, 604, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423, 1424, sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on February 15, 1972.

J. H. SHAFFER,
Administrator.

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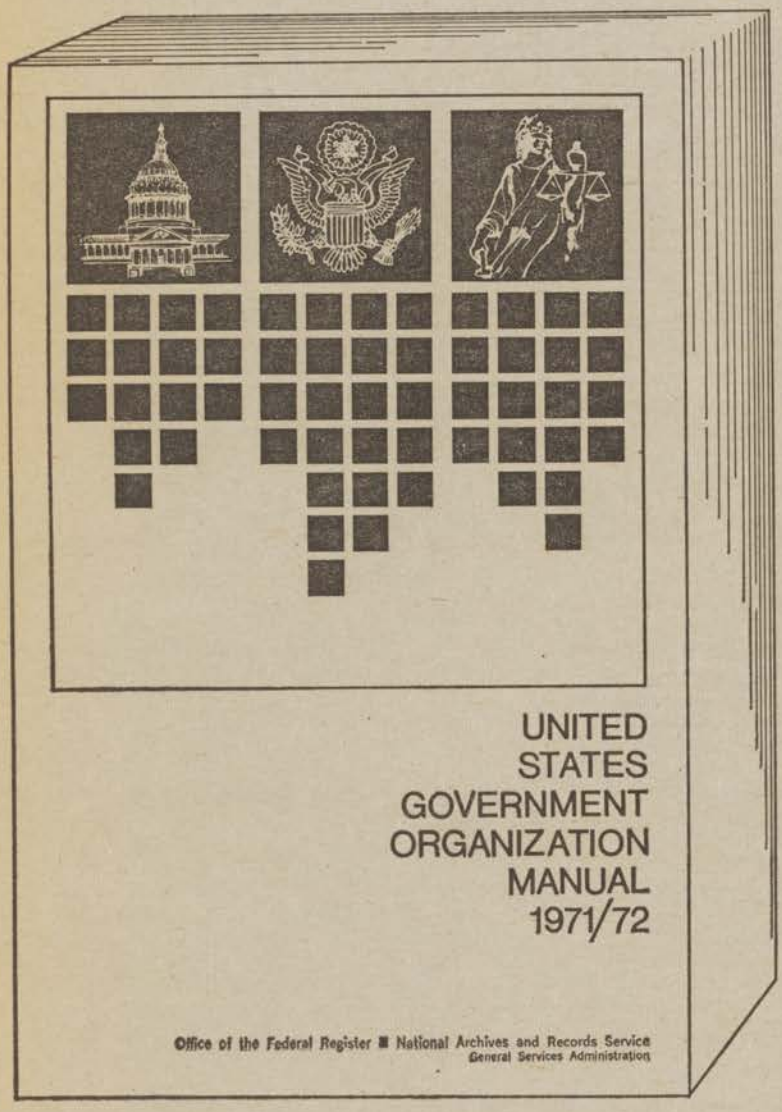

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