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

SUBCHAPTER I—DETERMINATION OF PRICES

PART 877—SUGARCANE; PUERTO RICO

Fair and Reasonable Prices for 1971–72 Crop

Pursuant to the provisions of section 301(c)(2) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation, and due consideration of evidence presented at the public hearing held in San Juan, P.R., on October 28, 1971, the following determination is hereby issued.

The regulations previously appearing in these sections under "Determination of Prices; Sugarcane; Puerto Rico" remain in full force and effect as to the crops to which they were applicable.

Sec.

AUTHORITY: The provisions of §§ 877.21 to 877.30 issued under secs. 301, 403, 61 Stat. 929, as amended, 932; 7 U.S.C. 1131, 1153.

§ 877.21 General requirements.

A producer of sugarcane in Puerto Rico who is also a processor of sugarcane, to which this part applies as provided in § 877.28 (herein referred to as "processor"), shall have paid, or contracted to pay, for sugarcane of the 1971–72 crop grown by other producers and processed by him, prices not less than those determined in accordance with the following requirements.

§ 877.22 Definitions.

For the purpose of this part, the term:

(a) "Price of raw sugar" means the simple average of the daily spot price quotations for sugar deliverable under the New York Coffee and Sugar Exchange No. 10 domestic contract (bulk sugar) for the period January 1, 1972, through December 31, 1972, except that if the Director of the Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, determines that any such price quotation does not reflect the true market value of raw sugar because of inadequate volume or other factors, he may designate the price to be effective under this determination which he determines will reflect the true market value of raw sugar.

(b) "Sugar yield period" means any period not exceeding one calendar month as may be elected by the processor to determine the yield of raw sugar. The period adopted by the processor shall be used uniformly throughout the grinding season. In instances where odd days occur because a processor begins or ends grinding on a day which does not correspond with the beginning or ending of the sugar yield period, or grinding is interrupted because of holidays or for other reasons, such odd days shall be included either in the prior or subsequent sugar yield period, or treated as a separate sugar yield period.

(c) "Raw sugar" means raw sugar, 96° basis.

(d) "Yield of raw sugar" means the yield of raw sugar per 100 pounds of net sugarcane determined for the sugar yield period in accordance with the formulae set forth in Schedule A attached hereto and made a part hereof.

(e) "Inferior varieties of sugarcane" means sugarcane of the Saccharum Spontaneum or Saccharum Sinense variety (including sugarcane of the Japanese, Uba, Kavangerie, Zuinga, Caledonia, Coimbatore 213, and Coimbatore 281 varieties).

(f) "Net sugarcane" means (1) the gross weight of the sugarcane delivered to the mill determined to contain a quantity of trash not in excess of 5 percent of the gross weight, or (2) the gross weight of the sugarcane delivered to the mill less the quantity of trash determined to be in excess of 5 percent of such gross weight.

(g) "Trish" means green or dried leaves, sugarcane tops above the last formed joint, soil, stones, and all other extraneous material.

(h) "Area office" means Caribbean Area Agricultural Stabilization and Conservation Service Office, Post Office Box 8037, Fernandez Juncos Station, San Juan, PR 00910.

§ 877.23 Payment for sugarcane.

(a) The payment for net sugarcane delivered by the producer to the processor shall be made either by the delivery to the producer of his share of raw sugar or by the payment to the producer of the money value of his share of raw sugar, whichever method is agreed upon by the producer and the processor.

(b) For each 100 pounds of net sugarcane (including inferior varieties of sugarcane) having a yield of raw sugar of 9 pounds or more the producer's share of raw sugar shall be not less than the quantity of raw sugar determined by applying the following applicable percentage to the yield of raw sugar of the producer's net sugarcane:

Pounds of raw sugar per 100 pounds of net sugarcane	*Percentage*
9.0	63.0
9.5	63.5
10.0	64.0
10.5	64.5
11.0	65.0
11.5	65.5
12.0	66.0
12.5	66.5
13.0	67.0
13.5 and over	67.5

Intermediate points within the above scale are to be interpolated to the nearest one-tenth point.

(c) For each 100 pounds of net sugarcane (including inferior varieties of sugarcane) having a yield of raw sugar of less than 9 pounds, the producer's share of raw sugar shall be not less than the quantity determined by subtracting 3⅓ pounds of raw sugar from the yield of raw sugar of the producer's net sugarcane.

(d) If settlement with the producer is made in sugar, delivery shall be made, loaded in the producer's vehicle, at the mill where the sugar is produced, unless the producer and processor agree in writing to delivery at another mill: *Provided*, That the processor shall bear any increase in marketing costs resulting from such agreement.

(e) If settlement with the producer is made in cash, the processor shall pay to the producer the money value of his share of raw sugar determined on the basis of the price of raw sugar converted to an f.o.b. mill price by subtracting therefrom the admissible deductions for selling and delivery expenses on raw sugar in accordance with Schedule B, attached hereto and made a part hereof.

§ 877.24 Payment for molasses.

For each ton of net sugarcane delivered the processor shall either deliver to the producer 66 percent of the average production of blackstrap molasses per ton of net sugarcane of the 1971–72 crop processed at each mill or shall pay to the producer the money value of such quantity of molasses, whichever method is agreed upon between the producer and the processor. If settlement with the producer is made in cash such settlement shall be based upon the average gross proceeds from the sales of molasses less the admissible deductions for selling and delivery expenses in accordance with Schedule C attached hereto and made a part hereof. A processor operating more than one mill shall compute the average gross proceeds per gallon from the sales of molasses produced at all mills operated by such processor and shall compute the net proceeds per gallon separately for each mill operated by such processor. If a processor has not sold 1971–72 crop molasses by the time he is required to submit to the area office a

statement as required by § 877.27(b), he shall have made a provisional molasses payment to producers based upon not less than 85 percent of the average of the net proceeds per gallon realized by all other processors in Puerto Rico who made cash settlements for 1971–72 crop molasses, as determined by the Director of the area office. Final settlement with producers shall be made promptly after the 1971–72 crop molasses has been sold, based upon the average net proceeds therefrom and the processor shall promptly submit to the area office a statement as required by § 877.27(b). In the event a processor has transferred all or part of its 1971–72 production of molasses to an affiliate, molasses payments to growers shall be based on the price of the molasses transferred to the affiliate, but such price shall not be less than the average net proceeds per gallon as determined by the Director of the area office for all processors who sold 1971–72 crop molasses. Where payment is based on the average net proceeds of all processors who sold molasses, the processor is required to make a provisional molasses payment not later than June 1, 1973, based upon not less than 85 percent of the estimated average of net proceeds per gallon realized by all other processors in Puerto Rico, as determined by the Director of the area office from reports submitted under provisions of § 877.27(b). Processor is further required to make a final molasses payment in the amount necessary to base the total molasses payment upon a price not less than the average net proceeds per gallon for all processors who sold the 1971–72 crop of molasses after the area office has determined such net proceeds and notified the processor.

§ 877.25 Determination of net sugarcane.

(a) The net sugarcane of each producer (including the processor) which is delivered to the mill each day shall be determined as follows: The processor jointly with a representative designated by the producers or the producer organization in any mill area, shall examine the sugarcane deliveries and estimate whether the deliveries contain a quantity of trash (1) not in excess of 5 percent of the gross weight, or (2) in excess of 5 percent of the gross weight. In the absence of a producer representative the processor shall have full responsibility for examining such sugarcane deliveries and for making such estimates. As to the deliveries of sugarcane of any producer which are estimated to contain trash not in excess of 5 percent, the gross weight of the sugarcane delivered shall also be the net weight. As to the deliveries of sugarcane of any producer estimated by both the processor and the representative of producers or by either of such parties to contain trash in excess of 5 percent, the net weight shall be determined by taking a representative sample of not less than 100 pounds of sugarcane from one or more of the deliveries deemed to be representative and separate therefrom all trash, except that when the sugarcane is sampled by means of a core sampler the sample shall be not less than 20 pounds. The weight of trash which is removed from the sample of sugarcane shall be expressed as a percentage of the gross weight of the sample. The net weight of the sugarcane delivery from which the sample was taken shall be determined by deducting from the gross weight of such sugarcane, a percentage thereof which represents the excess, if any, of the trash over 5 percent, and the same adjustments as determined above shall be applied to the gross weight of all other deliveries delivered by that producer during the same day, or in the case of sugarcane handled in bulk during the same sugar yield period, which are estimated to contain trash content reasonably similar to the delivery from which the sample was taken. A written description of the procedure to be used when sugarcane is sampled by means of a core sampler shall be submitted by the processor to the area office and shall be subject to approval of that office.

(b) With respect to the sample taken as provided in paragraph (a) of this section, the processor shall make a separate determination of the weight of soil and stones contained in such sample and may charge the producer 5 cents per ton of net sugarcane delivered which is represented by the sample for each 1 percent, fractions in proportion, by which the weight of soil and stones is in excess of 1 percent of the gross weight of the sample.

(c) The processor may charge the producer 66 percent of the actual cost, but not to exceed $2.64, for each sample taken for trash including soil and stones to cover the cost of sampling and measuring the actual quantity of trash.

§ 877.26 Services and allowances to producers.

(a) When payment is made to the producer by the delivery of raw sugar, the processor shall store and insure all such sugar through December 31, 1972, and shall bear the cost thereof.

(b) The costs of services which were borne by the processor for the 1970–71 crop shall be borne by the 1971–72 crop.

(c) Allowances made to producers by the processor for the 1970–71 crop shall be made for the 1971–72 crop at the rates which were effective under comparable conditions in 1970–71; except that the processor is given the option of paying hauling allowances to producers on either (1) the gross weight of sugarcane, or (2) the net weight of sugarcane as determined by deducting from the gross weight the amount of trash that is in excess of 5 percent: *Provided*, That if the processor elects to pay allowances on the net weight, the allowance shall be computed at not less than the rates established in Rule 12 of the Sugar Board plus 10 percent of such rates. The method of paying hauling allowances elected by the processor shall be used uniformly throughout the grinding season.

(d) Nothing in paragraphs (b) or (c) of this section shall be construed as prohibiting negotiations between the processor and producer with respect to the amount of services or allowances to be made to the producer, any change to be approved in writing by the area office upon a determination by the Director of the area office that the change is fair and reasonable.

§ 877.27 Reporting requirements.

(a) The processor shall submit to the area office a statement as to whether settlement with producers is to be made in sugar or in cash, together with a statement as to the sugar yield which will be used during the grinding season. Such information shall be submtted not later than 14 days after publication of this part in the FEDERAL REGISTER, except that if the Director of the area office determines that the failure to submit such statement by such date was unintentional, an extension of time may be granted by the area office.

(b) If the processor makes settlement in cash he shall submit in duplicate to the area office statements verified by a certified public accountant of the gross proceeds from the sales of molasses and the deductions made in determining the f.o.b. mill price of sugar and the net proceeds from molasses. Such statements shall be submitted not later than June 1, 1973, except that if the Director of the area office determines that the failure to submit such statement by such date was unintentional, an extension of time may be granted by the area office.

(c) The processor shall submit to the area office a statement as to the option he elects in making hauling allowances to producers during the grinding season. Such information shall be submitted not later than 14 days after publication of this part in the FEDERAL REGISTER.

§ 877.28 Applicability.

The requirements of this part are applicable to all sugarcane purchased from other producers and processed by a processor who produces sugarcane (a processor-producer is defined in § 893.1 of this chapter); and to sugarcane purchased by a cooperative processor from nonmembers. The requirements are not applicable to sugarcane processed by a cooperative processor for its members.

§ 877.29 Procedures for checking compliance.

The procedures to be followed by the ASCS Caribbean area office in checking compliance with the requirements of this part are set forth under the heading Part 8—"Fair Price Determination" in Handbook 5–SU, issued by the Deputy Administrator, State and County Operations, Agricultural Stabilization and Conservation Service. Handbook 5–SU may be inspected at and copies obtained from the ASCS Caribbean Area Office, Post Office Box 8037, Fernandez Juncos Station, San Juan, PR 00910.

§ 877.30 Subterfuge.

The processor shall not reduce the returns to the producer below those determined in accordance with the requirements of this part through any subterfuge or device whatsoever.

STATEMENT OF BASES AND CONSIDERATIONS

General. The foregoing determination establishes the fair and reasonable price requirements which must be met, as one of the conditions for payment under the act, by a producer who processes sugarcane of the 1971–72 crop grown by other producers.

Requirements of the act. Section 301 (c)(2) of the act provides as a condition for payment, that the producer on the farm who is also directly or indirectly a processor of sugarcane, as may be determined by the Secretary, shall have paid, or contracted to pay under either purchase or toll agreements, for sugarcane grown by other producers and processed by him at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing.

1971–72 price determination. This determination differs from the 1971 crop determination in the following respects: (1) Processors are given the option of paying hauling allowances to producers on either the gross weight of sugarcane or the net weight of sugarcane as determined by deducting from the gross weight the amount of trash in excess of 5 percent, except that if the processor elects to pay allowances on the net weight, the amount of the allowance shall be computed at not less than the rates established by the Sugar Board of Puerto Rico plus 10 percent of such rates; and (2) the quantity of sugar required to be shipped to the mainland to establish admissible selling and delivery expenses for the total quantity of the processor's sugar is reduced from 33 percent to 20 percent.

A public hearing was held in San Juan, Puerto Rico, on October 28, 1971, at which interested persons were afforded the opportunity to present testimony and make recommendations with respect to fair and reasonable prices for the 1971–72 crop of sugarcane. A representative of the Association of Sugar Producers of Puerto Rico recommended that processors not be required to pay transportation allowances on the quantity of trash that is in excess of 5 percent of the gross weight of the sugarcane. The witness testified that all but two of the 14 mills operating for the coming crop will be using the core sampler system which will give accurate trash determinations, and that the limitation to 5 percent of extraneous matter in determining the payment for hauling allowances would be to the benefit of both growers and processors. He also stated that if the limitation is not established, it would be an encouragement to continue increasing the amount of trash delivered with sugarcane, regardless of whether it is growers' or administration cane. He testified that in cases where raw sugar is not shipped to the mainland, a change may be required in the determination to provide for a fair and reasonable cost for the transportation of sugar to the mainland, assuming it had been shipped, so that the raw sugar sold to refiners in Puerto Rico can be based on the actual price less the estimated costs for marketing. In a supplemental brief, the witness stated that liquidation of the grower's sugar as determined by core sampler analysis and the limitation on hauling allowances to 5 percent trash would not be a double penalty on the grower.

A representative of the Sugar Board of Puerto Rico testified that they are very much concerned about the way cane is being hauled to the mills and the way cane has been analyzed for sugar content. He stated that the Board has placed much interest year after year in finding the best method for analyzing cane. He said they are pushing the use of the core sampler for direct analysis of the sugarcane, and that they have two consultants working with them in the establishment of such processes in all but possibly two mills. The witness stated that they are carrying out an extensive study of the marketing situation in view of the changes in marketing costs since most of the sugar now produced remains in Puerto Rico.

A representative of the Puerto Rico Farm Bureau recommended that no change be made in the existing determination unless certain proposals presented by other witnesses were adopted. He stated that if the recommendation that allowances for hauling and transporting sugarcane be based on net weight rather than gross weight is adopted, then the sharing relationship now existing between growers and processors would have to be examined to assure that it is fair and equitable. He further stated that they are not convinced the core sampler will make dependable determinations on the extraneous matter in sugarcane, but even if it proved dependable, they would still oppose the recommendation that allowances for hauling and transportation be made on net cane. He said that the determination should be amended to follow the same scale as that of the Sugar Board of Puerto Rico for determining the producer's share of raw sugar.

The witness also stated that unless a substantial amount of sugar is shipped to the mainland in 1972 there will be no basis for determining selling and delivery expenses under the present price determination; and that it would be fairer to everyone if the actual costs incurred in moving the sugar from the mill to the refinery in Puerto Rico were allowed rather than estimated expenses based on the assumption the sugar had been delivered to the mainland.

A representative of the Puerto Rico Land Administration testified with respect to limiting deductions from sugar sales to actual expenses incurred for transportation from the local raw sugar mill to the local refinery. He stated that such an arrangement would require local refiners to pay the New York, c.i.f., price for sugar delivered f.o.b. in Puerto Rico, which would in turn require them to absorb the costs of moving refined sugar to the mainland. He said it would be unfair to refiners to have to buy local sugar at New York prices and yet only be allowed to deduct an amount equivalent to inland transportation costs in Puerto Rico.

Consideration has been given to the recommendations made at the public hearing; to data on the returns, costs, and profits or losses of producing and processing sugarcane obtained by field survey for recent crops and recast in terms of price and production conditions likely to prevail for the 1971–72 crop; and to other pertinent information. Analysis of these data indicate that, on average, neither the producing nor the processing of sugarcane in Puerto Rico has been profitable for several years, and will not be profitable for the 1971–72 crop. Total sugar production continues to decrease each year. The 320,500 tons of sugar produced from the 1970–71 crop was the smallest production since the early 1900's. Present indications are that the 1971–72 crop will be little if any larger than the 1970–71 crop. The yield of raw sugar per ton of cane averaged 140 pounds in 1970–71 as compared to 154 pounds in 1969–70, 162 pounds in 1968–69, and 204 pounds in 1960–61.

This determination provides to the processor the option of paying hauling allowances to producers on either the gross weight of sugarcane or the net weight of sugarcane as determined by deducting from the gross weight the amount of trash in excess of 5 percent. However, if the processor elects to pay allowances on the net weight, the allowance is to be computed at not less than the rates established by the Sugar Board plus 10 percent of such rates. The Department is concerned about the increasing amounts of trash being delivered with sugarcane, even though it has been brought about largely by the greater use of mechanization in the harvesting operation. The trash has increased processing costs and reduced extraction, and the payment of hauling allowances on this excess material has also increased costs to the processor and has not encouraged producers to improve the quality of sugarcane being delivered to the mill. Since the core sampler is planned for use by the majority of processors, trash samples should be more easily obtainable. It is believed that the interest of both the producer and the processor can be better served by encouraging the delivery and milling of cleaner cane.

The recommendations for changes in the provision relating to admissible deductions for selling and delivery expenses on raw sugar sold locally have not been adopted. However, because of the declining production of raw sugar and the prospects for the 1971–72 crop, the percentage of a mill's production shipped to the mainland used in determining the allowable selling and delivery expenses for the total quantity of raw sugar produced by a mill has been lowered from 33 percent to 20 percent.

On the basis of an examination of all pertinent factors, the provisions of this determination are deemed to be fair and reasonable.

Accordingly, I hereby find and conclude that the foregoing determination

will effectuate the price provisions of the Sugar Act of 1948, as amended.

NOTE: The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Effective date. This determination shall become effective upon publication in the FEDERAL REGISTER (3–21–72), and is applicable to the 1971–72 crop of Puerto Rican sugarcane.

Signed at Washington, D.C., on March 14, 1972.

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

SCHEDULE A

FORMULAE FOR DETERMINING THE "YIELD OF RAW SUGAR" FOR EACH PRODUCER

(A) Where a continuous sample of the crusher juice of the deliveries of sugarcane by a producer is used, the formula for determining the yield of raw sugar shall be:

$$R=TI\,(S-0.3B)F$$

Where:

R = Yield of raw sugar, 96° basis;

S = Polarization of the crusher juice obtained from the sugarcane of each producer;

B = Brix of the crusher juice obtained from the sugarcane of each producer;

T = Trash correction factor which varies inversely with the amount of trash contained in the sugarcane of each producer from 1.0 for sugarcane which contains an amount of trash not in excess of 5 percent of the gross weight of sugarcane to 0.76075 for sugarcane which contains an amount of trash in excess of 30 percent: *Provided*, That where sugarcane has been subjected to a washing process prior to milling, the amount of trash that is soil shall be excluded in determining the correction factor.

I = Inferior sugarcane correction factor which is applied only to interior varieties of sugarcane of each producer and is determined as follows:

(a) When the purity, P (where $P=100\,S\div B$), of the crusher juice of sugarcane is equal to 75 or more, the factor $I=0.9$; or

(b) When the purity, P (where $P=100\,S\div B$), of the crusher juice of such sugarcane is less than 75, the factor $I=0.9-0.02\,(75-P)$;

F = Yield factor which is determined as follows:

(a) Determine the "tentative recovery of raw sugar," 96° basis, for each producer delivering sugarcane during the settlement period from the product of the formula $(S-0.3B)$, the number of hundredweights of net sugarcane, the applicable trash correction factor, T; and where applicable the inferior sugarcane correction factor, I; and

(b) Divide the pounds of raw sugar, 96° basis, produced at the mill during the applicable settlement period by the sum of the "tentative recoveries of raw sugar" for all producers to obtain the yield factor, F.

If part of the sugarcane delivered by producers is subjected to a washing process prior to milling, the polarization and brix of the resulting dilute crusher juice of such sugarcane shall be converted to an undiluted crusher juice basis by application of dilution compensation factors (DCF) computed as follows:

$$\text{Brix DCF}=\frac{\text{Brix of undiluted crusher juice sample}}{\text{Brix of diluted crusher juice sample}}$$

$$\text{Pol DCF}=\frac{\text{Pol of undiluted crusher juice sample}}{\text{Pol of diluted crusher juice sample}}$$

A written description of procedures and the frequency of sampling sugarcane to be used in determining DCF factors shall be submitted by the processor to the area office and shall be subject to approval of that office.

(B) Where the "direct cane analysis" method is used the sampling of sugarcane delivered by producers must be by the core sampler method and the formula for determining the yield of raw sugar shall be:

$$R=F\,[S-0.3\,(B+0.1\,f_c)\,]$$

Where:

R = 96° yield percent cane.

S = Pol percent cane.

B = Brix percent cane.

f_c = Fiber percent cane.

F = Factor calculated using the values obtained during the liquidation period, weighted on the basis of the net weight of cane and substituted at the right side of the following equation:

$$F=\frac{R}{S-0.3\,(B+0.1\,f_c)}$$

Whenever the "direct cane analysis" method is used, no adjustments in the cane weight and yield shall be made for purposes of determining the yield of raw sugar.

A written description of the direct cane analysis method and the core sampling procedures to be used therewith shall be submitted by the processor to the area office and shall be subject to approval of that office.

(C) Where the sugarcane delivered by producers is sampled by hand or machine and the juice is extracted by a laboratory hand mill, the yield of raw sugar may be determined in accordance with the formula provided under (A) above after the sample mill juice Brix and sucrose for each producer has been factored to a crusher juice basis. A written description of the sampling procedure to be used shall be submitted by the processor to the area office and shall be subject to approval of that office.

(D) Where sugarcane is handled in bulk, the procedures for sampling the deliveries of sugarcane by a producer shall be representative of all the deliveries of sugarcane of such producer. A written description of the sampling procedure shall be submitted by the processor to the area office and shall be subject to approval of that office.

SCHEDULE B

ADMISSIBLE DEDUCTIONS FOR SELLING AND DELIVERY EXPENSES ON RAW SUGAR

Admissible deductions for selling and delivery expenses in connection with the payment for sugarcane provided in section 877.23 of the 1971–72 price determination are limited to the sum of the following expenses for each mill operated by a processor, net of any receipts which reduce such expenses:

(1) Freight from the mill directly to the bulk raw sugar loading terminal, including the cost of covering cars or trucks where necessary;

(2) The cost of receiving, handling, and loading aboard ship at the bulk terminal at the rates established by the Puerto Rico Public Service Commission and in effect at the time the sugar is delivered to the bulk sugar terminal facility;

(3) Ocean freight;

(4) Unloading at destination;

(5) Freight demurrage resulting from causes beyond the control of the shipper;

(6) Reclaiming, weighing, and loading at mill or where stored;

(7) Shore risk, marine and war risk insurance;

(8) Brokerage or commission and exchange;

(9) Weighing, testing, and sampling at destination;

When any of the necessary services included in items (1), (3), (4), (5), or (6) above are furnished by the processor, costs incurred may include for each of the services rendered:

(1) Direct and immediate supervisory labor;

(2) Maintenance labor and supplies required for the facilities used;

(3) Taxes and insurance assessed or charged to the processor on such labor and a proportionate share of retirement and pension, bonuses, and vacation expenses properly allocable to such labor;

(4) Direct supplies; and

(5) Depreciation (at rates allowed by the taxing authority), property taxes, and property insurance on the facilities used.

Administrative expenses and interest shall be excluded from the computation of costs. In the event that facilities used in providing the necessary services are also used for other purposes by the processor, only that portion of the maintenance, depreciation, property taxes, and property insurance of such facilities properly apportionable to the necessary service shall be allowed.

The Director of the area office may permit the use of the lowest rate charged by a public utility or carrier for comparable service in lieu of the costs incurred by the processor in furnishing the necessary service in the event that the costs incurred therefor cannot be accurately determined.

In determining the f.o.b. mill price of raw sugar sold or processed in Puerto Rico, equivalent selling and delivery expenses as approved by the Director of the area office shall be computed as follows:

(1) If the processor delivers 20 percent or more of the total quantity of raw sugar produced by the mill to mainland refiners, the allowable per hundredweight selling and delivery expenses to be applied to such total quantity shall be the average of the admissible selling and delivery expenses as approved by the Director of the area office for that quantity of raw sugar produced by the mill which was delivered to mainland refiners.

(2) If the processor delivers less than 20 percent of the total quantity of raw sugar produced by the mill to mainland refiners, the allowable per hundredweight selling and delivery expenses to be applied to such total quantity shall be an amount equal to the average of the admissible selling and delivery expenses approved by the Director of the area office for all 1971–72 crop raw sugar produced in Puerto Rico which was delivered to mainland refiners; except that such average of

all selling and delivery expenses shall be increased (or reduced as appropriate) by an amount representing the difference between the estimated per hundredweight inland transportation costs which would have been incurred by the processor had all such 1971–72 crop raw sugar been delivered to the bulk sugar terminal to which the area office determines the sugar could have been transported at the lowest inland transportation costs, and the average per hundredweight of all admissible inland transportation costs for all 1971–72 crop raw sugar that was delivered to the mainland. The average of the admissible selling and delivery expenses shall, as provided above, be increased when the estimated inland transportation costs are greater than such average, and be reduced when the estimated inland transportation costs are less than such average.

The statement as required by section 877.27 of the determination shall include the following certification:

CERTIFICATION

I hereby certify that as a result of the audit performed on the books of Central ---------- as of ----------, the deductions as set forth herein are properly chargeable as selling and delivery expenses for sugar in accordance with the determination of fair and reasonable prices for the 1971–72 crop of Puerto Rican sugarcane.

SCHEDULE C

ADMISSIBLE DEDUCTIONS FOR SELLING AND DELIVERY EXPENSES FOR MOLASSES

Admissible deductions for selling and delivery expenses in connection with the molasses payment provided in section 877.24 of the 1971–72 price determination are limited to the sum of the following expenses actually incurred at each mill operated by a processor, net of any receipts which reduce such expenses:

(1) Operation of pumps to deliver molasses from mill tank to shipside or other delivery point;

(2) Freight incurred or which would have been incurred on direct shipment from tanks located at the mill to shipside, or to a waterfront tank facility, or to local buyers when such molasses is sold on a delivered price basis;

(3) Operation of tank barges, tugs, or other marine equipment used in delivering molasses to shipside;

(4) Weighing and testing;

(5) Wharfage, including charges arising from utilization of waterfront facilities such as pipelines (including fees paid for right of way privileges), pumps, and tanks (a) to store molasses in anticipation of shipment; and (b) to deliver such molasses within the hold of the ship;

(6) Shore risk insurance (limited in coverage from mill to shipside);

(7) Freight demurrage resulting from causes beyond the control of the shipper;

(8) Brokerage paid to a bona fide broker.

When any of the necessary services included in items (1) through (8) above are furnished by the processor, costs incurred may include for each of the services rendered:

(1) Direct and immediate supervisory labor;

(2) Maintenance labor and supplies required for facilities used;

(3) Taxes and insurance assessed or charged to the processor on such labor and a proportionate share of retirement and pensions, bonuses and vacation expenses properly allocable to such labor;

(4) Fuel, energy or direct supplies; and

(5) Depreciation (at rates allowed by the taxing authorities), property taxes and property insurance on the facilities used.

Administrative expenses and interest shall be excluded from the computation of costs. In the event that facilities used in providing the necessary services are also used for other purposes by the processor, only that portion of the maintenance, depreciation, property taxes, and property insurance of such facilities, properly apportionable to the necessary service, shall be allowed.

The Director of the area office may permit the use of the lowest rate charged by a public utility or carrier for comparable service in lieu of the cost incurred by the processor in furnishing the necessary service in the event that the costs incurred therefore cannot be accurately determined.

The statement as required by section 877.27 of the determination shall include the following certification:

CERTIFICATION

I, hereby certify that, as the result of the audit performed on the books of Central ---------- as of ----------, the gross proceeds from the sales of molasses as herein stated are true and correct and the deductions set forth herein are properly chargeable as selling and delivery expenses for molasses in accordance with the determination of fair and reasonable prices for the 1971–72 crop of Puerto Rican sugarcane.

[FR Doc.72-4261 Filed 3-20-72;8:47 am]

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

[Amdt. 1]

PART 945—POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREG.

Limitation of Shipments

Correction

In F.R. Doc. 72-4037 appearing at page 5483 in the issue of Thursday, March 16, 1972, the introductory text of subdivision (iv) of § 945.330(a)(2) should read as follows:

(iv) When 50 pound containers (except master containers) of long varieties of potatoes are marked with a count, size or similar designation, they must meet the weight, count and average count ranges for the count designation listed below:

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PROHIBITION OF SITE PREPARATION AND RELATED ACTIVITIES

On December 1, 1971, the Atomic Energy Commission published in the FEDERAL REGISTER (36 F.R. 22848) proposed amendments to its regulations in 10 CFR Parts 30, 40, 50, and 70, which would redefine the "commencement of construction," as that term is applied to production or utilization facilities subject to Appendix D of Part 50, and would provide for Commission environmental review prior to "commencement of construction" (as that term would be defined under these amendments) of plants and facilities in which activities will be conducted which are subject to the materials licensing requirements of Parts 30, 40, and 70 and to Appendix D of Part 50.

Interested persons were invited to submit written comments and suggestions for consideration in connection with the proposed amendments within 60 days after publication of the notice of proposed rule making in the FEDERAL REGISTER. After consideration of the comments received and other factors involved, the Commission has adopted the proposed amendments with certain modifications, in the form set forth below.

Significant differences from the amendments published for comment are:

(1) With respect to specified facilities subject to materials licensing, additional amendments to Parts 30, 40, and 70 have been adopted to provide for Commission authorization by specific exemption, upon consideration and balancing of certain specified environment factors, for the continuation of site preparation and construction activities begun prior to the effective date of these amendments, and for the conduct of such activities to be undertaken after that date. Activities authorized under the exemption provisions would have to be conducted in such a manner as to minimize their environmental impact.

(2) Section 70.21 has been amended to conform the time for filing an application for a license to possess and use special nuclear material in a plutonium processing and fuel fabrication plant before commencement of construction of the plant to that required of other materials license applications under these amendments (9 months).

The amendments to Part 50 redefine the "commencement of construction" as that term is applied to production or utilization facilities subject to Appendix D of Part 50 (i.e., nuclear power reactors, testing facilities, fuel reprocessing plants, and such other production or utilization facilities determined by the Commission to have a significant impact on the environment). "Commencement of construction" is defined to include any clearing of land, excavation or other substantial action that would adversely affect the natural environment of a site and construction of nonnuclear facilities (such as turbogenerators and turbine buildings), but would not include (1) changes desirable for the temporary use of the land for public recreational uses, necessary borings to determine foundation conditions, or other preconstruction monitoring to establish background information related to the suitability of the site or to the protection of environmental values; or (2) procurement or manufacture of components of the facility. Among the activities that continue to be permitted prior to the issuance of a construction permit are geologic, seismic, hydrologic, and meteorologic investigations and such clearing and building of

roads and physical structures as are reasonably necessary, and in general conformity with the standard practices of the industry, for the purpose of determining site suitability and for preconstruction environmental monitoring. It is expected that such activities will be conducted in a manner which will keep their environmental impact to a minimum. For example, appropriate erosion control measures should be employed; roads should be located to minimize or reduce environmental impact; and the natural vegetation should be disturbed only to the extent reasonably necessary to enable safe and proper conduct of the foregoing activities. These same general principles also apply with respect to activities deemed desirable for the purpose of making the land temporarily available for public recreational purposes.

In view of the fact that persons may have already begun activities that were permitted pursuant to § 50.10(b) prior to the adoption of these amendments, but which are now prohibited by these amendments, provision has been made whereby the Commission may authorize continuation of those activities upon consideration and balancing of certain specified environmental factors. During the review period and following, if continuation is authorized, such activities are to be conducted so as to minimize or reduce their environmental impact. In making this relief generally available only to those persons who have commenced actual site preparation activities prior to the effective date of these amendments, the Commission realizes that in individual cases, particularly those instances where plants are in an advanced stage of development, but where no site preparation work has yet been started, undue hardship may be incurred. In those situations, relief may be sought by requesting a specific exemption under § 50.12. Although it is expected that specific exemptions will be used only sparingly for this purpose, appropriate relief may be granted in particular cases where the facts so warrant and a favorable determination can be made with respect to the specified environmental considerations listed in the new § 50.12(b).

Section 50.12 has also been amended to require persons presently authorized, under specific exemptions, to conduct certain activities prior to the issuance of a construction permit for a facility subject to Appendix D to Part 50 to show cause why, with reference to specified environmental considerations, the exemptions should not be revoked. As noted earlier, in the event that any exemption under § 50.12 is issued after the effective date of these amendments, it will be only after appropriate conclusions with respect to the specified environmental considerations listed in the new § 50.12(b) have been reached. In addition, any activities conducted under any exemption are to be carried out in such a way as to minimize or reduce their environmental impact.

Amendments to Parts 30, 40, and 70 of the Commission's regulations in Title 10 of the Code of Federal Regulations provide for Commission environmental review prior to commencement of construction of plants and facilities in which activities subject to materials licensing requirements and to Appendix D of Part 50 will be conducted. "Commencement of construction" is defined in the same manner as for facility license cases.

A provision similar in some respects to that contained in the new § 50.10(d) has been added to Parts 30, 40, and 70, so that Commission authorization may be obtained for continuation of activities already begun, but which are now, in effect, precluded by these amendments until the environmental review is complete. Appropriate clarification has been included in footnotes to §§ 30.11(a), 40.14(a), and 70.14(a) to indicate that those persons who have not effected commencement of construction with respect to proposed facilities as of the effective date of these amendments may also seek this exemptive form of relief. It is expected, however, that specific exemptions will be used only sparingly in such cases. Any site preparation or construction activities authorized to be carried out under the amendments to Parts 30, 40, and 70 must be conducted in such a manner as to minimize or reduce their environmental impact.

Applications for the following types of materials licenses are presently subject to the foregoing requirements: (a) Licenses for possession and use of special nuclear materials for processing and fuel fabrication, scrap recovery and conversion of uranium hexafluoride; (b) licenses for possession and use of source material for uranium milling and production of uranium hexafluoride; and (c) licenses authorizing commercial radioactive waste disposal by land burial.

In order to assure that an opportunity is provided for full consideration of environmental effects before site preparation is begun, these amendments require that applications for such materials licenses be filed at least nine months prior to commencement of construction of plants or facilities in which the licensed activities will be conducted. The amendments also add, as a condition of issuance of such licenses, that before construction of such plants and facilities may be commenced, the Director of Regulation must reach a favorable conclusion with respect to environmental considerations after completion of the environmental review required by Appendix D to 10 CFR Part 50.

As stated in the notice of proposed rule making published in the FEDERAL REGISTER on December 1, 1971, the Commission considers these amendments to be consistent with the direction of the Congress, as expressed in section 102 of the National Environmental Policy Act of 1969, that, to the fullest extent possible, the policies, regulations and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in that Act. Since site preparation constitutes a key point, from the standpoint of environmental impact, in connection with the licensing of nuclear facilities and materials, these amendments will facilitate consideration and balancing of a broader range of realistic alternatives and provide a more significant mechanism for protecting the environment during the earlier stages of a project for which a facility or materials license is being sought.

The Commission has found that because of the provisions in §§ 30.11(b), 40.14(b), 50.10(d), and 70.14(b), advance notice of the amendments would be contrary to the public interest in that such notice might tend to defeat their purpose; therefore, good cause exists for making the amendments effective without the customary 30-day notice. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 30, 40, 50, and 70 are published as a document subject to codification to be effective upon publication in the FEDERAL REGISTER (3-21-72).

PART 30—RULES OF GENERAL APPLICABILITY TO LICENSING OF BYPRODUCT MATERIAL

1. A new paragraph (w) is added to § 30.4 of 10 CFR Part 30 to read as follows:

§ 30.4 Definitions.

* * * * *

(w) "Commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the natural environment of a site but does not include changes desirable for the temporary use of the land for public recreational uses, necessary borings to determine site characteristics or other preconstruction monitoring to establish background information related to the suitability of a site or to the protection of environmental values.

2. Section 30.11 of 10 CFR Part 30 is amended to read as follows:

§ 30.11 Specific exemptions.[1]

(a) The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part and Parts 31–36 of this chapter as it determines are authorized by

[1] Issuance of an exemption by the Atomic Energy Commission for export of byproduct material contained in materials or products does not relieve any person from complying with the licensing requirements and regulations of the Department of Commerce applicable to the export of the materials or the products containing such byproduct materials.

law and will not endanger life or property or the common defense and security and are otherwise in the public interest.[3]

(b) (1) Each person subject to the provisions of §§ 30.32(f) and 30.33(a)(5), who, prior to (effective date of these amendments), has effected commencement of construction of a plant or facility in which the activity for which a license is sought will be conducted, may furnish to the Commission within 30 days after (effective date of these amendments) or such later date as may be approved by the Commission upon good cause shown, a written statement of any reasons, with supporting factual submission, why, with reference to the factors stated in subparagraph (2) of this paragraph (b), the activities should be continued, pending the completion of the environmental review specified in § 30.33(a)(5). If such written statement has been submitted within the time stated, such activities may continue to be conducted, notwithstanding §§ 30.32(f) and 30.33(a)(5), pending Commission action pursuant to subparagraph (2) of this paragraph (b).

(2) Upon submission of a statement of reasons pursuant to subparagraph (1) of this paragraph (b), the Commission may grant an exemption from the provisions of §§ 30.32(f) and 30.33(a)(5), upon consideration and balancing of the following factors:

(i) Whether continuation of the activities will give rise to a significant adverse impact on the environment and the nature and extent of such impact, if any;

(ii) Whether redress of any adverse environmental impact from continuation of the activities can reasonably be effected should such redress be necessary;

(iii) Whether continuation of the activities would foreclose subsequent adoption of alternatives; and

(iv) The effect of delay in conducting such activities on the public interest.

Pending Commission action pursuant to this subparagraph (2) and during the period of any exemption granted pursuant to this paragraph (b), any activities conducted shall be carried out in such a manner as will minimize or reduce their environmental impact.

3. Paragraph (f) of § 30.32 of 10 CFR Part 30 is amended to read as follows:

§ 30.32 Applications for specific licenses.

* * * * *

(f) An application for a license to receive and possess byproduct material for commercial waste disposal by land burial or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment shall be filed at least 9 months prior to commencement of construction of the plant or facility in which the activity will be conducted and shall be accompanied by any Environmental Report required pursuant to Appendix D of Part 50 of this chapter.

4. In § 30.33 of 10 CFR Part 30, paragraph (a)(5) is amended to read as follows:

§ 30.33 General requirements for issuance of specific licenses.

(a) An application for a specific license will be approved if:

* * * * *

(5) In the case of an application for a license to receive and possess byproduct material for commercial waste disposal by land burial or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment, the Director of Regulation or his designee, before commencement of construction of the plan or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Appendix D of Part 50 of this chapter, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion may be grounds for denial of a license to receive and possess byproduct material in such plant or facility.

* * * * *

PART 40—LICENSING OF SOURCE MATERIAL

5. A new paragraph (n) is added to § 40.4 of 10 CFR Part 40 to read as follows:

§ 40.4 Definitions.

* * * * *

(n) "Commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the natural environment of a site but does not include changes desirable for the temporary use of the land for public recreational uses, necessary borings to determine site characteristics or other preconstruction monitoring to establish background information related to the suitability of a site or to the protection of environmental values.

6. Section 40.14 of 10 CFR Part 40 is amended to read as follows:

§ 40.14 Specific exemptions.

(a) The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulation in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.[1]

(b) (1) Each person subject to the provisions of §§ 40.31(f) and 40.32(e), who, prior to (effective date of these amendments), has effected commencement of construction of a plant or facility in which the activity for which a license is sought will be conducted, may furnish to the Commission within 30 days after (effective date of these amendments) or such later date as may be approved by the Commission upon good cause shown, a written statement of any reasons, with supporting factual submission, why, with reference to the factors stated in subparagraph (2) of this paragraph (b), the activities should be continued, pending the completion of the environmental review specified in § 40.32(e). If such written statement has been submitted within the time stated, such activities may continue to be conducted, notwithstanding §§ 40.31(f) and 40.32(e), pending Commission action pursuant to subparagraph (2) of this paragraph (b).

(2) Upon submission of a statement of reasons pursuant to subparagraph (1) of this paragraph (b), the Commission may grant an exemption from the provisions of §§ 40.31(f) and 40.32(e), upon consideration and balancing of the following factors:

(i) Whether continuation of the activities will give rise to a significant adverse impact on the environment and the nature and extent of such impact, if any;

(ii) Whether redress of any adverse environmental impact from continuation of the activities can reasonably be effected should such redress be necessary;

(iii) Whether continuation of the activities would foreclose subsequent adoption of alternatives; and

(iv) The effect of delay in conducting such activities on the public interest.

Pending Commission action pursuant to this subparagraph (2) and during the period of any exemption granted pursuant to this paragraph (b), any activities conducted shall be carried out in such a manner as will minimize or reduce their environmental impact.

7. Paragraph (f) of § 40.31 of 10 CFR Part 40 is amended to read as follows:

[3] The provisions of paragraph (b) of this section shall not be deemed to preclude any person, who, prior to (effective date of these amendments), has not effected commencement of construction of proposed facilities subject to the licensing requirements of this part and Appendix D of Part 50 of this chapter from requesting an appropriate exemption from the provisions of §§ 30.32(f) and 30.33(a)(5). Any such exemption will be granted only after consideration and balancing of the environmental factors specified in paragraph (b), except that the factors will be considered from the standpoint of conducting new activities rather than the continuation of ongoing activities.

[1] The provisions of paragraph (b) of this section shall not be deemed to preclude any person, who, prior to (effective date of these amendments), has not effected commencement of construction of proposed facilities subject to the licensing requirements of this part and Appendix D of Part 50 of this chapter, from requesting an appropriate exemption from the provisions of §§ 40.31(f) and 40.32(e). Any such exemption will be granted only after consideration and balancing of the environmental factors specified in paragraph (b), except that the factors will be considered from the standpoint of conducting new activities rather than the continuation of ongoing activities.

§ 40.31 Applications for specific licenses.

* * * * *

(f) An application for a license to possess and use source material for uranium milling, production of uranium hexafluoride, commercial waste disposal by land burial or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment shall be filed at least 9 months prior to commencement of construction of the plant or facility in which the activity will be conducted and shall be accompanied by any Environmental Report required pursuant to Appendix D of Part 50 of this chapter.

8. Paragraph (e) of § 40.32 of 10 CFR Part 40 is amended to read as follows:

§ 40.32 Requirements for issuance of specific licenses.

An application for a specific license for purposes other than export will be approved if:

* * * * *

(e) In the case of an application for a license to possess and use source material for uranium milling, production of uranium hexafluoride, commercial waste disposal by land burial or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment, the Director of Regulation or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Appendix D of Part 50 of this chapter, has concluded, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion may be grounds for denial of a license to possess and use source material in such plant or facility.

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

9. In § 50.10 of 10 CFR Part 50, a sentence is added to paragraph (b) and new paragraphs (c) and (d) are added to read as follows:

§ 50.10 License required.

* * * * *

(b) * * * This paragraph does not apply to production or utilization facilities subject to paragraph (c) of this section.

(c) Notwithstanding the provisions of paragraph (b) of this section, and subject to paragraph (d) of this section, no person shall effect commencement of construction of a production or utilization facility subject to the provisions of Appendix D on a site on which the facility is to be operated until a construction permit has been issued. As used in this paragraph, the term "commencement of construction" means any clearing of land, excavation or other substantial action that would adversely affect the natural environment of a site and construction of nonnuclear facilities (such as turbogenerators and turbine buildings) for use in connection with the facility, but does not mean:

(1) Changes desirable for the temporary use of the land for public recreational uses, necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site or to the protection of environmental values;

(2) Procurement or manufacture of components of the facility; and

(3) With respect to production or utilization facilities, other than testing facilities, required to be licensed pursuant to section 104a or section 104c of the Act, the construction of buildings which will be used for activities other than operation of a facility and which may also be used to house a facility. (For example, the construction of a college laboratory building with space for installation of a training reactor is not affected by this paragraph.)

(d) (1) Each person subject to the provisions of paragraph (c) of this section, who is, on (effective date of these amendments), conducting activities permitted pursuant to paragraph (b) of this section in effect prior to (effective date of these amendments), may furnish to the Commission within 30 days after (effective date of these amendments) or such later date as may be approved by the Commission upon good cause shown, a written statement of any reasons, with supporting factual submission, why, with reference to the factors stated in subparagraph (2) of this paragraph (d), the activities should be continued, pending the issuance of a construction permit, notwithstanding the provisions of paragraph (c) of this section. If such written statement has been submitted within the time specified, such activities may continue to be conducted pending Commission action pursuant to subparagraph (2) of this paragraph (d).

(2) Upon submission of a statement of reasons pursuant to subparagraph (1) of this paragraph (d), the Commission may authorize the continued conduct of activities permitted by paragraph (b) of this section in effect prior to (effective date of these amendments), upon consideration and balancing of the following factors:

(i) Whether continuation of the activities will give rise to a significant adverse impact on the environment and the nature and extent of such impact, if any;

(ii) Whether redress of any adverse environmental impact from continuation of the activities can reasonably be effected should such redress be necessary;

(iii) Whether continuation of the activities would foreclose subsequent adoption of alternatives; and

(iv) The effect of delay in conducting such activities on the public interest, including the power needs to be served by the proposed facility, the availability of alternative sources, if any, to meet those needs on a timely basis, and delay costs to the applicant and to consumers.

(3) Activities permitted to be continued pursuant to this paragraph (d) shall be conducted in such a manner as will minimize or reduce their environmental impact.

10. The present text of § 50.12 of 10 CFR Part 50 is designated paragraph (a) and a new paragraph (b) is added to read as follows:

§ 50.12 Specific exemptions.

(a) The Commission may, upon application by any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.[1]

(b) Each person who, on (effective date of these amendments), pursuant to an exemption granted under paragraph (a) of this section, is authorized to conduct activities prior to the issuance of a construction permit for a facility subject to the provisions of Appendix D shall show cause to the Commission within 30 days after (effective date of these amendments) or such later date as may be approved by the Commission why, with reference to the matters in subparagraphs (1) through (4) of this paragraph (b), the exemption should not be revoked:

(1) Whether conduct or continuation of the activities will give rise to a significant adverse impact on the environment and the nature and extent of such impact, if any;

(2) Whether redress of any adverse environmental impact from conduct or continuation of the activities can reasonably be effected if necessary;

(3) Whether conduct of continuation of the activities would foreclose subsequent adoption of alternatives; and

(4) The effect of delay in conducting the activities on the public interest, including the power needs to be served by the proposed facility, the availability of alternative sources, if any, to meet those needs on a timely basis, and delay costs to the applicant and to consumers.

Upon consideration and balancing of those factors, the Commission may continue the exemption. Continuation of such an exemption shall not be deemed to constitute a commitment to issue a construction permit. In addition, any activities authorized under such an exemption shall be conducted in such a manner as will minimize or reduce their environmental impact.

11. Paragraph (f) of § 50.30 of 10 CFR Part 50 is amended to read as follows:

§ 50.30 Filing of applications for licenses, oath or affirmation.

* * * * *

[1] In acting upon an application for an exemption permitting the conduct of activities prior to the issuance of a construction permit prohibited by § 50.10, the Commission will consider and balance the environmental factors described in paragraph (b) of this section.

(f) *Environmental report.* An application for a construction permit or an operating license for a nuclear power reactor, testing facility, fuel reprocessing plant, or such other production or utilization facility whose construction or operation may be determined by the Commission to have a significant impact on the environment shall be accompanied by any Environmental Report required pursuant to Appendix D.

PART 70—SPECIAL NUCLEAR MATERIAL

12. A new paragraph (s) is added to § 70.4 of 10 CFR Part 70 to read as follows:

§ 70.4 Definitions.

* * * * *

(s) "Commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the natural environment of a site but does not include changes desirable for the temporary use of the land for public recreational uses, necessary borings to determine site characteristics or other preconstruction monitoring to establish background information related to the suitability of a site or to the protection of environmental values.

13. Section § 70.14 of 10 CFR Part 70 is amended to read as follows:

§ 70.14 Specific exemptions.

(a) The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security and are otherwise in the public interest.[1]

(b) (1) Each person subject to the provisions of §§ 70.21(f) and 70.23(a)(7), who, prior to (effective date of these amendments), has effected commencement of construction of a plant or facility in which the activity for which a license is sought will be conducted, may furnish to the Commission within 30 days after (effective date of these amendments) or such later date as may be approved by the Commission upon good cause shown, a written statement of any reasons, with supporting factual submission, why, with reference to the factors stated in subparagraph (2) of this paragraph (b), the activities should be continued, pending the completion of the environmental review specified in § 70.23 (a)(7). If such written statement has been submitted within the time stated, such activities may continue to be conducted notwithstanding §§ 70.21(f) and 70.23(a)(7), pending Commission action pursuant to subparagraph (2) of this paragraph (b).

(2) Upon submission of a statement of reasons pursuant to subparagraph (1) of this paragraph (b), the Commission may grant an exemption from the provisions of §§ 70.21(f) and 70.23(a)(7), upon consideration and balancing of the following factors:

(i) Whether continuation of the activities will give rise to a significant adverse impact on the environment and the nature and extent of such impact, if any;

(ii) Whether redress of any adverse environmental impact from continuation of the activities can reasonably be effected should such redress be necessary;

(iii) Whether continuation of the activities would foreclose subsequent adoption of alternatives; and

(iv) The effect of delay in conducting such activities on the public interest.

Pending Commission action pursuant to this subparagraph (2) and during the period of any exemption granted pursuant to this paragraph (b), any activities conducted shall be carried out in such a manner as will minimize or reduce their environmental impact.

14. In § 70.21 of 10 CFR Part 70, paragraph (g) is deleted, the first sentence of paragraph (a), and paragraph (f) are amended to read as follows:

§ 70.21 Filing.

(a) Applications for licenses should be filed in sextuplicate, provided that 25 copies of an application for a license to possess and use special nuclear material in a plutonium processing and fuel fabrication plant shall be filed, with the Director, Division of Material Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545; except that applications for export licenses should be filed with the Director, Division of State and Licensee Relations. * * *

* * * * *

(f) An application for a license to possess and use special nuclear material for processing and fuel fabrication, scrap recovery or conversion of uranium hexafluoride, commercial waste disposal by land burial or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment shall be filed at least 9 months prior to commencement of construction of the plant or facility in which the activity will be conducted, and shall be accompanied by an Environmental Report required under Appendix D of Part 50 of this chapter.

* * * * *

15. In § 70.23 of 10 CFR Part 70, the prefatory language and subparagraph (7) are amended to read as follows:

§ 70.23 Requirements for the approval of application.

(a) An application for a license, other than a license for export, will be approved if:

* * * * *

(7) Where the proposed activity is processing and fuel fabrication, scrap recovery, conversion of uranium hexafluoride, commercial waste disposal by land burial, or any other activity which the Commission determines will significantly affect the quality of the environment, the Director of Regulation or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Appendix D of Part 50 of this chapter, has concluded, after weighing the environmental, economic, technical, and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion may be grounds for denial of a license to possess and use special nuclear material in such plant or facility.

* * * * *

(Sec. 102, 83 Stat. 853; secs. 101, 161, 185, 68 Stat. 936, 948, 955, as amended; 42 U.S.C. 2131, 2201, 2235)

Dated at Germantown, Md., this 14th day of March 1972.

For the U.S. Atomic Energy Commission.

W. B. McCool,
Secretary of the Commission.

[FR Doc.72-4345 Filed 3-20-72;8:51 am]

Title 21—FOOD AND DRUGS

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

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

ANTIOXIDANTS AND/OR STABILIZERS FOR POLYMERS

The Commissioner of Food and Drugs, having evaluated the data in a petition (1B2587) filed by Geigy Industrial Chemicals, Division of Geigy Chemical Corp., Ardsley, N.Y. 10502, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use of tetrakis [methylene (3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane as

[1] The provisions of paragraph (b) of this section shall not be deemed to preclude any person, who, prior to (effective date of these amendments), has not effected commencement of construction of proposed facilities subject to the licensing requirements of this part and Appendix D of Part 50 of this chapter from requesting an appropriate exemption from the provisions of §§ 70.21(f) and 70.23(a)(7). Any such exemption will be granted only after consideration and balancing of the environmental factors specified in paragraph (b), except that the factors will be considered from the standpoint of conducting new activities rather than the continuation of ongoing activities.

an antioxidant and/or stabilizer in certain polymers authorized for use in the manufacture of articles or component of articles intended for food contact use, as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2566(b) is amended by adding an additional limitation to the item, tetrakis [methylene (3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane as follows:

§ 121.2566 Antioxidants and/or stabilizers for polymers.

* * * * * * *

(b) List of substances:

	Limitations
* * *	* * *
Tetrakis [methylene (3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane.	For use only: 1. * * * 2. * * * 3. At levels not to exceed 0.5 percent by weight of the following polymers when used in articles that contact nonalcoholic food: polystyrene and rubber-modified polystyrene complying with § 121.2510; ethylene-acrylic acid copolymers complying with § 121.2564; ethylene-vinyl acetate copolymers complying with § 121.2570; ethylene-methacrylic acid copolymers, ethylene-methacrylic acid-vinyl acetate coploymers, and their partial salts complying with § 121.2582; isobutylene polymers complying with § 121.2590; and styrene butadiene copolymers used in compliance with regulations in this subpart.
* * *	* * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (3–21–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: March 14, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–4280 Filed 3–20–72;8:48 am]

PART 121—FOOD ADDITIVES

Subpart G—Radiation and Radiation Sources Intended for Use in the Production, Processing, and Handling of Food

IODINE 125

The Commissioner of Food and Drugs, having evaluated data in a petition (FAP OM2510) filed by Anyl-Ray Corp., 7910 North Tamiami Trail, Sarasota, Fla. 33580, and other relevant material, concludes that the food additive regulations should be amended as set forth below to provide for the safe use of the radioactive isotope iodine 125 as a source in a control device for determining the fat content of meat.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.3001 is amended by revising paragraph (a)(2) as follows:

§ 121.3001 Sources of radiation used for inspection of food, for inspection of packaged food, and for controlling food processing.

* * * * *

(a) * * *

(2) Sealed units producing radiations at energy levels of not more than 2.2 million electron volts from one of the following isotopes: Americium-241, cesium-137, cobalt-60, iodine-125, krypton-85, radium-226, and strontium-90.

* * * * *

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (3–21–72).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1))

Dated: March 13, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72–4258 Filed 3–20–72;8:47 am]

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER E—ALCOHOL, TOBACCO AND OTHER EXCISE TAXES

[T.D. 7176]

PART 201—DISTILLED SPIRITS PLANTS

Conversion of Specially Denatured Alcohol

On October 15, 1971, a notice of proposed rule making to amend 26 CFR Part 201, with respect to conversion of denatured alcohol, was published in the FEDERAL REGISTER (36 F.R. 20045). In accordance with the notice, interested persons were afforded an opportunity to submit written comments or suggestions pertaining thereto. No comments or suggestions were received within the 30-day period prescribed in the notice and the amendments as published in the FEDERAL REGISTER are hereby adopted.

This Treasury decision shall become effective on the first day of the first month which begins not less than 30 days after the date of its publication in the FEDERAL REGISTER (3–21–72).

(Sec. 7805, Internal Revenue Code, 68A Stat. 917; 26 U.S.C. 7805)

JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: March 15, 1972.

FREDERIC W. HICKMAN,
Acting Assistant Secretary of the Treasury.

In order to liberalize the requirements respecting conversion of specially denatured alcohol to other formulas, § 201.411 of regulations in 26 CFR Part 201 is amended to read as follows:

§ 201.411 Conversion of specially denatured alcohol.

(a) *Conversion to Formula No. 1.* Any specially denatured alcohol, except Formulas No. 3–A and No. 30, may be converted to specially denatured alcohol, Formula No. 1, in accordance with the formulation prescribed in § 212.16 of this chapter or in accordance with other formulations as may otherwise be provided for by the Director under the provisions of § 212.65 of this chapter.

(b) *Conversion to Formula No. 29.* Any specially denatured alcohol may be converted to specially denatured alcohol, Formula No. 29, by the addition of acetaldehyde or ethyl acetate, in accordance with the formulations prescribed in § 212.39(a) of this chapter.

(c) *Conditions governing conversion and use.* The quantities of denaturants required for conversions authorized in paragraphs (a) and (b) of this section shall be determined on the basis of the alcohol in the formulations. Specially denatured alcohol resulting from such conversions shall be manufactured into articles or used in processes by the proprietor who converted it, or by his controlled or wholly owned subsidiaries (as defined in § 201.206), unless its use by another manufacturer or user (as defined in Part 211 of this chapter) is authorized by the Director. Specially denatured alcohol converted to Formula No. 29 may be used as authorized in § 212.39(b) of this chapter except that it shall not be used in the manufacture of vinegar, drugs, or medicinal chemicals, and the conditions governing use provided in § 212.39(c) of this chapter shall apply.

(d) *Conversion to completely denatured alcohol.* Any specially denatured alcohol not containing methanol or wood alcohol may be converted to any one of the completely denatured alcohol formulas, prescribed in Part 212 of this chapter, by adding the required denaturants.

(72 Stat. 1369; 26 U.S.C. 5242)

[FR Doc.72–4264 Filed 3–20–72;8:47 am]

[T.D. 7175]

PART 211—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Miscellaneous Amendments

On September 25, 1971, a notice of proposed rule making to amend 26 CFR Part 211 was published in the FEDERAL REGISTER (36 F.R. 19033). In accordance with the notice, interested persons were afforded an opportunity to submit written comments or suggestions pertaining thereto. After consideration of all relevant matter presented and further study of the proposed amendments, the regulations in 26 CFR Part 211 as so published, are hereby adopted, subject to the clarifying change below:

PARAGRAPH 1. Paragraph 9 is changed by deleting the heading of paragraph (b) of § 211.265 and by inserting in lieu thereof a new heading to read, *"Persons using specially* denatured spirits for other purposes."

This Treasury decision shall become effective on the first day of the first month which begins not less than 30 days after the date of its publication in the FEDERAL REGISTER.

(Sec. 7805, Internal Revenue Code, 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] JOHNNIE M. WALTERS,
Commissioner of Internal Revenue.

Approved: March 15, 1972.

FREDERIC W. HICKMAN,
Acting Assistant
Secretary of the Treasury.

In order to (1) provide for the production of rubbing alcohol base, the shipment thereof, and the production of rubbing alcohol therefrom, (2) reduce the number of samples of articles and perfume oils to be submitted to the Director, (3) make less restrictive the requirement pertaining to the maximum alcohol content of solvents made from a special industrial solvent, and (4) make it clear that users of specially denatured spirits producing products not containing specially denatured spirits in the finished product shall keep the records specified in 26 CFR 211.265, the regulations in 26 CFR Part 211 are amended as follows:

PARAGRAPH 1. Section 211.11 is amended to insert, in alphabetical order, a definition for rubbing alcohol base. The new definition in § 211.11 reads as follows:

§ 211.11 Meaning of terms.

* * * * *

Rubbing alcohol base. An article which, except for the addition of water, is manufactured with specially denatured alcohol in accordance with the formulas for rubbing alcohol provided in this part.

* * * * *

PAR. 2. Section 211.23 is amended to authorize the assistant regional commissioner to approve formulas for rubbing alcohol base. As amended, § 211.23 reads as follows:

§ 211.23 Formulas and processes.

Except as otherwise provided in this section, the Director is authorized to approve all formulas and processes submitted on Form 1479–A. The assistant regional commissioner is authorized to approve all formulas for rubbing alcohol and rubbing alcohol base submitted on Form 1479–A.

(72 Stat. 1372; 26 U.S.C. 5273)

PAR. 3. Section 211.102 is amended to provide for the submission of quantitative formulas by permittees producing rubbing alcohol base and by persons producing rubbing alcohol from such base. As amended, § 211.102 reads as follows:

§ 211.102 Formulas for rubbing alcohol.

A person desiring to produce rubbing alcohol or rubbing alcohol base shall submit a quantitative formula on Form 1479–A to the assistant regional commissioner for each such product to be produced by him. The label to be used on bottles of rubbing alcohol shall be attached to each copy of the Form 1479–A.

(72 Stat. 1372; 26 U.S.C. 5273)

PAR. 4. Section 211.107 is amended to provide that samples of rubbing alcohol base need not be submitted with Form 1479–A covering its proposed manufacture, and to reduce the number of samples of various articles and ingredients submitted to the Director. As amended, § 211.107 reads as follows:

§ 211.107 Samples of articles and ingredients.

In connection with the submission of Form 1479–A covering the proposed manufacture of an article (except a rubbing alcohol, a rubbing alcohol base, a proprietary solvent, or a special industrial solvent) containing specially denatured spirits, the applicant shall submit to the Director an 8-ounce sample of the article (except that a 4-ounce sample will be sufficient for a perfume which contains more than 6 ounces of perfume oils per gallon). For all toilet preparations containing specially denatured spirits, the applicant shall also submit a 1-ounce sample of the perfume oils (or of purchased mixtures consisting of perfume oils with other ingredients) to be used. The Director may at any time require the submission of samples of (a) any ingredients included in a formula, and (b) proprietary antifreeze solutions containing completely denatured alcohol.

(72 Stat. 1372; 26 U.S.C. 5273)

PAR. 4a. Section 211.169 is amended to include a reference to "rubbing alcohol base." As amended, § 211.169 reads as follows:

§ 211.169 General.

Uses of specially denatured spirits shall be as authorized under Part 212 of this chapter. Specially denatured spirits shall not be used until Form 1479–A showing the intended use, process, formula, or article has been approved, as required by Subpart G of this part: *Provided,* That Form 1479–A will not be required to cover the use of specially denatured alcohol Formulas No. 3–A and No. 30, by a permittee on his permit premises, exclusively for laboratory purposes not involving the development of a product and for mechanical purposes, if the quantity to be so used during a 12-month period will not exceed 60 gallons. Specially denatured spirits shall not be used in the manufacture of medicinal preparations or flavoring extracts for internal human use where any of the spirits remain in the finished product. Liquid products containing specially denatured spirits shall be unfit for beverage or internal human use. The essential oils and chemicals used in their manufacture shall make the finished products conform to the samples and formulas for such products submitted by the applicant with Form 1479–A and approved by the Director or, in the case of rubbing alcohol or rubbing alcohol base, by the assistant regional commissioner. Whenever the assistant regional commissioner has reason to believe that the spirits in any articles

are being reclaimed or diverted to beverage or internal human use, the permittee shall be directed to appear on a day named and show cause why the authorized formula and article should not be so changed and modified as to prevent such reclamation or diversion. In the event the permittee should fail to appear, or appearing should fail to prove to the satisfaction of the assistant regional commissioner that the spirits in the authorized article are not reclaimable and are not being diverted to beverage or internal human use, he shall, at the direction of the assistant regional commissioner, discontinue the use of the formula until it has been modified and again approved.

(72 Stat. 1372; 26 U.S.C. 5273)

PAR. 5. Section 211.182 is amended to increase to 50 percent the maximum alcohol content that may be present in a solvent made from a special industrial solvent. As amended, § 211.182 reads as follows:

§ 211.182 Use in manufacturing articles for sale.

When a special industrial solvent is used in the manufacture of an article for sale, sufficient ingredients shall be added to definitely change the composition and character of the special industrial solvent; such an article shall not be manufactured until a Form 1479–A covering its production has been submitted to, and approved by, the Director. The formulation letter (see § 211.180) of the special industrial solvent to be used shall be stated in the Form 1479–A. Special industrial solvents shall not be reprocessed into other solvents intended for sale where the other solvent would contain more than 50 percent alcohol by volume.

PAR. 6. Section 211.186 is amended to make it clear that a person making an alcohol rub from a rubbing alcohol base shall be deemed to be the manufacturer thereof. As amended, § 211.186 reads as follows:

§ 211.186 General.

All preparations which are to be labeled or represented to be alcohol rubs, without any qualification as to type of alcohol contained therein, shall be manufactured with specially denatured alcohol in accordance with § 211.187. The labeling of a preparation as "Rubbing Alcohol" or with a substantially similar name, without such a qualification, is held to connote that it was manufactured with specially denatured alcohol. Accordingly, an alcohol rub produced from any other material (such as isopropyl alcohol) shall not be labeled "Rubbing Alcohol" or with a name substantially similar thereto, unless such name is appropriately modified to effectively inform the public that the preparation was not made with specially denatured alcohol. Alcohol rubs made with specially denatured alcohol shall be packaged and labeled only by the manufacturer who made the product and shall not be repackaged or relabeled by any other person. For the purposes of this section and of § 211.188, the person making an alcohol rub from a rubbing alcohol base shall be deemed to be the manufacturer who made the product. Such alcohol rubs shall be packaged in containers not exceeding one pint in capacity.

PAR. 7. Section 211.188 is amended to provide requirements relating to the labeling of rubbing alcohol by a person not holding an industrial use permit and to clarify requirements regarding approval of labels. As amended, § 211.188 reads as follows:

§ 211.188 Labeling.

The manufacturer shall label each container of rubbing alcohol with a brand label showing:

(a) The brand name (if any) of the product;

(b) The words "Rubbing Alcohol" (in letters of the same color and size);

(c) His name and address; or his industrial use permit number and the name and address of the particular wholesale or retail druggist for whom he packaged the product: *Provided*, That for rubbing alcohol produced and bottled under § 211.190d by a manufacturer not holding an industrial use permit, the label shall show the permit number of the permittee who manufactured the rubbing alcohol base, and the words "Bottled by" followed by the bottler's name and address;

(d) The legend "Contains 70 percent alcohol by volume", "Contains 70 percent ethyl alcohol by volume", or "Contains 70 percent absolute alcohol by volume"; and

(e) The warning "For external use only. If taken internally, will cause serious gastric disturbances."

The manufacturer may include additional statements on the brand label, or on a separate label appearing in conjunction with the brand label, if such statements do not contradict, or obscure the meaning of, the required labeling. The labels shall not contain any statement which may give the impression that the product is pure alcohol or that it is susceptible of beverage use. No label shall be used on any container of rubbing alcohol made with specially denatured alcohol unless it has first been submitted to the assistant regional commissioner in accordance with § 211.102 and approved by him.

PAR. 8. To authorize, and provide procedures for, the manufacture, shipment, and use of rubbing alcohol base, a new center heading and new §§ 211.190a through 211.190e are inserted, immediately following § 211.190, to read as follows:

RUBBING ALCOHOL BASE

§ 211.190a Manufacture of rubbing alcohol base.

Persons qualified under Subpart D of this part to use specially denatured alcohol may, pursuant to an approved formula, produce rubbing alcohol base from specially denatured alcohol Formula No. 23–H by adding thereto, except for water, the ingredients authorized in Formula A or B as provided in § 211.187. A quantitative formula to cover the manufacture of the rubbing alcohol base shall be filed on Form 1479–A with the assistant regional commissioner of the region in which the permittee is located. The formula shall describe the manufacturing process, and shall also show the kind and quantity of each ingredient to be added to Formula No. 23–H, and the quantity of water needed to complete the formulation.

§ 211.190b Removals.

Rubbing alcohol base may be shipped only in bulk conveyances or in packages having a capacity of 50 gallons or more, and only to persons holding permits to use specially denatured alcohol, or to manufacturing and wholesale druggists and pharmaceutical supply houses holding applications on Form 2622 approved by the assistant regional commissioner. There shall be shown on each container, or on a label attached thereto, the words "rubbing alcohol base," the permit number and the name and address of the producer, the contents of the container in wine gallons, and the date of removal or shipment. The label for bulk conveyances shall be affixed to a route board or other suitable device. Bulk conveyances shall be sealed at the time of filling by the consignor with railroad or other appropriate seals dissimilar in marking from cap seals used by the Internal Revenue Service.

§ 211.190c Premises and equipment.

Persons receiving rubbing alcohol base shall have premises and equipment which are, in the opinion of the assistant regional commissioner, suitable for the business to be conducted and adequate for the protection of the revenue.

§ 211.190d Application to procure and reprocess rubbing alcohol base.

Persons holding permits to use specially denatured alcohol, and manufacturing and wholesale druggists and pharmaceutical supply houses desiring to procure the rubbing alcohol base described in § 211.190a, and to produce, and then bottle, rubbing alcohol from such base, may be authorized to do so pursuant to an application on Form 2622 filed with and approved by the assistant regional commissioner of the region in which the operations will be conducted. Formulas and labels shall be submitted to the assistant regional commissioner as provided in § 211.102. The applicant's formula shall show the date of approval of the supplier's formula under which the rubbing alcohol base was produced, and shall describe the process to be followed in finishing the rubbing alcohol, giving the quantity of water and the kind and quantity of each other ingredient, if any, to be added.

§ 211.190e Records.

Persons holding approved applications, Form 2622, to receive rubbing alcohol base and complete the formulation for rubbing alcohol, shall keep records of the receipt of rubbing alcohol base, the production and bottling of rubbing alcohol, and the disposition of the finished product in such manner as will enable internal revenue officers to verify and trace each operation or transaction to ascertain whether there has been compliance with law and regulations. Persons required to keep such records shall

retain copies of invoices applicable thereto. Rubbing alcohol produced from rubbing alcohol base shall be disposed of in accordance with the provisions of § 211.190.

PAR. 9. Paragraph (b) of § 211.265 is amended to make it clear that users of specially denatured spirits producing products not containing specially denatured spirits in the finished product shall keep the records specified in this section. As amended, § 211.265(b) reads as follows:

§ 211.265 Records of users of specially denatured spirits.

* * * * *

(b) *Persons using specially denatured spirits for other persons.* Permittees using specially denatured spirits for other purposes (i.e., other than in the manufacture of those products specified in § 211.191 which contain specially denatured spirits) shall keep records which accurately and clearly reflect the details of all specially denatured spirits received, used, and recovered, and of articles recovered. Such records shall contain all data necessary (1) to enable the permittee to prepare Form 1482, and (2) to enable any internal revenue officer to verify and trace each operation or transaction, to verify claims, and to ascertain whether there has been compliance with law and regulations. The records shall include the following information:

(i) The quantity of each formula of specially denatured spirits received, and the name and address of the consignor;

(ii) The quantity, by formula and code number, of specially denatured spirits used and each purpose for which used (if used in the manufacture of an article, the name of each such article and the quantity used in its manufacture);

(iii) The quantity of each article manufactured; and

(iv) Details of the disposition of each article, showing names, addresses, and quantities.

Where the estimated average monthly requirement of specially denatured spirits as stated on the withdrawal permit does not exceed 25 gallons, the records required by this paragraph (b) need not be maintained.

* * * * *

(72 Stat. 1373; 26 U.S.C. 5275)

[FR Doc.72-4263 Filed 3-20-72;8:48 a.m.]

Title 30—MINERAL RESOURCES

Chapter I—Bureau of Mines, Department of the Interior

SUBCHAPTER O—COAL MINE HEALTH AND SAFETY

PART 80—NOTIFICATION, INVESTIGATION, REPORTS AND RECORDS OF ACCIDENTS

Miscellaneous Amendments

Pursuant to the authority vested in the Secretary of the Interior under section 508 of the Coal Mine Health and Safety Act of 1969 (Public Law 91-173), and in accordance with the provisions of section 111 of the Act, there was published in the FEDERAL REGISTER for February 10, 1972 (37 F.R. 2968 and 2969), a notice of proposed rule making to revise and amend Part 80, Subchapter O, Chapter I, Title 30, Code of Federal Regulations, by revising §§ 80.1, 80.22(a)(1), 80.23, 80.24, 80.31, 80.32, 80.35, and by deleting §§ 80.33 and 80.34. These proposed revisions, deletions and amendments will reduce recordkeeping by mine operators and provide the Bureau of Mines with current and timely information on accidents, and are also designed to avoid duplication in reporting pursuant to the Occupational Safety and Health Act of 1970.

Interested persons were afforded a period of 30 days from the date of publication of the notice in which to submit written comments, suggestions, or objections to the proposed amendment. All comments, suggestions, and objections which were submitted were given careful consideration. The following changes have been made:

(1) Section 80.31(c) has been revised to provide that the Accident, Injury, and Illness Report Form is to be completed promptly after an accident or injury occurs, or an occupational illness occurs or is diagnosed, by either the principal officer in charge of health and safety at the mine after consultation with the immediate supervisor of the injured or ill person, or of the area of the mine where the accident, injury, or illness occurs, or by the immediate supervisor of the injured or ill person or of the area of the mine where the accident, injury, or illness occurs.

(2) Section 80.31(d) (5) and (6) have been clarified to provide that the procedures to be followed and the information to be furnished refer to the time when the injured or ill person returns to "his regular job." As proposed, an injured or ill person might "return to work" but not perform "his regular job."

Part 80 of Chapter I of Subchapter O of Title 30 of the Code of Federal Regulations is amended and revised as set forth below and these amendments and revisions shall become effective on April 1, 1972:

1. Section 80.1 is amended by amending and revising paragraph (c) and by adding a new paragraph (h) as follows:

§ 80.1 Definitions.

As used in this Part 80:

* * * * *

(c) "Injury" means any "fatal injury," "nonfatal injury," or "other injury" as defined in paragraphs (d), (e), and (g) of this § 80.1 or occupational illness suffered by a person which arises out of and in the course of his work.

* * * * *

(h) "Occupational illness" means any abnormal condition or disorder, other than one resulting from an occupational injury, caused by exposure to environmental factors associated with employment. It includes acute and chronic illnesses or diseases which may be caused by inhalation, absorption, ingestion, or direct contact, and which fall within the listing under the heading "Occupational Illness" on Form No. 6-347.

2. Section 80.22, paragraph (a), subparagraph (1) is revised to read as follows:

§ 80.22 Written record.

(a) The written record of each investigation of an accident shall contain:

(1) An identification of, and correlation with, the record or records of the accident, injury, or occupational illness reported and required to be maintained by § 80.31.

* * * * *

3. Section 80.23 is revised to read as follows:

§ 80.23 Maintenance of records.

The written records of investigation of accidents required by this Subpart C shall be maintained at the mine for a period of 5 years from the date of the accident and shall be open for inspection by interested persons. A copy of the written record of each investigation of an accident made under § 80.22 shall be furnished to the Bureau of Mines upon request by a Coal Mine Health and Safety District Manager.

4. Section 80.24 is revised to read as follows:

§ 80.24 Reporting of accident, injury, occupational illness.

A report of the accident, injury, or occupational illness investigated as required by this Subpart C shall be made to the Bureau of Mines in the manner and at the times prescribed in Subpart D of this part.

5. Section 80.31 is revised to read as follows:

§ 80.31 Coal Accident, Injury, and Illness Report.

(a) The operator of a coal mine shall maintain at the mine office a Coal Accident, Injury, and Illness Report (Form 6-347) on which there shall be entered and recorded specified information with respect to each accident, and each resultant injury by date of occurrence, and each occupational illness by date of diagnosis or occurrence. The Coal Accident, Injury, and Illness Report is organized to facilitate the recording and compilation of information for each occurrence. The operator's copy (white) shall be maintained at the mine for a period of 5 years from the date of occurrence or diagnosis, whichever is applicable, and shall be open for inspection by interested persons.

(b) The Coal Accident, Injury, and Illness Report shall consist of a set of three cards: An original (white) operator's copy, and two carbon copies (one pink and one green), which shall be maintained, filled in, and disposed of in accordance with the provisions of this Subpart D.

(c) Promptly after an accident or injury occurs, or an occupational illness occurs or is diagnosed, one set of cards for each accident, injury, or occupational illness shall be filled out by either the principal officer in charge of health and

safety at the mine after consultation with the immediate supervisor of the injured or ill person or of the area of the mine where the accident, injury, or illness occurs, or by the immediate supervisor of the injured or ill person or of the area of the mine where the accident, injury, or illness occurs. A single accident, injury, or illness shall be included and recorded on one set of cards. Where more than one person is injured in the same accident, or is affected simultaneously with the same occupational illness, a separate and additional set of cards shall be used and completed for each person injured or affected.

(d) Coal Accident, Injury, and Illness Reports shall be retained, completed and information recorded, disposed and distributed and mailed to the Bureau of Mines as follows:

(1) Promptly after the occurrance of an accident, injury, or illness, the operator shall record the information required, and upon completion of the recording of the information shall retain the original (white) card for the operator's records and files.

(2) If an accident does not result in injury to any person, the operator, after recording the information required upon the original (white) card and the carbon copy (pink and green) cards, shall discard the pink card copy and promptly mail the properly filled in and completed green card copy to the Bureau of Mines.

(3) If an occupational illness occurs, the operator shall record the required information and complete one set of cards for each illness. The operator shall—

(i) Enter the date of the initial diagnosis of the illness; or

(ii) Enter the date of the first day of absence of the employee in connection with which the illness was diagnosed if the absence occurs before the diagnosis is made; and

(iii) Proceed in accordance with subparagraphs (4), (5), and (6) of this paragraph.

(4) If an accident results in a personal injury or if an illness occurs or is diagnosed, the operator shall retain the pink and green cards for a period of time not to exceed 72 hours after the occurrence of the injury or illness, or diagnosis of an illness, pending the return to work of the person affected. Depending on whether the person affected does, or does not, return to work within the period of 72 hours the operator shall proceed in accordance with subparagraphs (5) or (6) of this paragraph.

(5) If the injured or ill person returns to his regular job within 72 hours following an accident, or occurrence or diagnosis of an occupational illness, the operator shall enter the "Total number of lost work days," the "Number lost from regular job," the "Date returned to work," and other relevant data on the white and green cards, and promptly mail the green card to the Bureau of Mines, and discard the pink card.

(6) If the injured or ill person has not returned to his regular job within 72 hours following an accident, or occurrence or diagnosis of an occupational illness, the operator shall leave blank the spaces designated "Total number of lost work days," "Number lost from regular job," "Date return to work," and also those spaces for other relevant but unknown data or information, and promptly upon the expiration of the period of 72 hours the operator shall mail the green card to the Bureau of Mines. Thereafter, when the person returns to his regular job, the operator shall enter the total number of lost work days, the number of days lost from regular job, the date the person returned to work, and complete and record all other relevant data or information in the spaces provided on the white and pink cards, and mail the pink card to the Bureau of Mines.

6. Section 80.32 is amended and revised to read as follows:

§ 80.32 Monthly Coal Employment and Production Report.

On or before the 15th day of each month, the operator of a coal mine in which one or more men are employed on any calendar day of the month shall file with the Bureau of Mines a Monthly Coal Employment and Production Report (Form 6–348). Monthly Coal Employment and Production Reports shall be made by all mines for each month, or portion thereof, in which the mine is in operation even though the mine may be idle for all or a portion of the month. No report will be required from a mine which has been permanently closed or abandoned, except for the portion of a month during which the mine may have been in operation.

§§ 80.33, 80.34 [Revoked]

7. Sections 80.33 and 80.34 are revoked in their entirety.

8. Section 80.35 is redesignated § 80.33, and amended and revised to read as follows:

§ 80.33 Place to file reports; initial supply; additional forms.

All reports required by this Subpart D shall be mailed to the address printed on the green copy of Form 6–347, and on the copy of Form 6–348, and on envelopes to be supplied by the Bureau of Mines for the mailing of the pink copy of Form 6–347. An initial supply of the Coal Accident, Injury, and Illness Report (Form 6–347) and the Monthly Coal Employment and Production Report (Form 6–348) and preaddressed envelopes will be mailed to each operator. Additional report forms and envelopes may be obtained as needed, upon request, from the Coal Mine Health and Safety District or Subdistrict Offices of the Bureau of Mines of the District or Subdistrict in which the mine is located.

Dated: March 17, 1972.

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

[FR Doc.72–4311 Filed 3–20–72;8:51 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 101—Federal Property Management Regulations

SUBCHAPTER F—TELECOMMUNICATIONS AND PUBLIC UTILITIES

PART 101–35—TELECOMMUNICATIONS

Subpart 101–35.2—Major Changes and New Installations

DEFINITION OF MAJOR CHANGES

This amendment adds a new subparagraph to the definition of major changes in local telephone service.

Section 101–35.202 is amended by the addition of a new paragraph (a)(10) as follows:

§ 101–35.202 Definition of major changes.

* * * * * *

(a) * * *

(10) Installation of 100 or more station lines to any PBX where that PBX is directly connected to the FTS intercity voice network.

* * * * * *

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

Effective date. This regulation is effective upon publication in the FEDERAL REGISTER (3–21–72).

Dated: March 14, 1972.

ROD KREGER,
Acting Administrator of General Services.

[FR Doc.72–4309 Filed 3–20–72;8:51 am]

Title 50—WILDLIFE AND FISHERIES

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

PART 33—SPORT FISHING

Long Lake National Wildlife Refuge, N. Dak.

The following special regulation is issued and is effective on date of publication in the FEDERAL REGISTER (3–21–72).

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

NORTH DAKOTA

LONG LAKE NATIONAL WILDLIFE REFUGE

Sport fishing on the Long Lake National Wildlife Refuge, N. Dak., is permitted only on the areas designated by signs as open to fishing. These open areas are delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal

Building, Fort Snelling, Twin Cities, Minn. 55111. Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge extends from May 6, 1972 through September 15, 1972, daylight hours only.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Part 33, and are effective through September 15, 1972.

LOUIS S. SWENSON,
Refuge Manager, Long Lake National Wildlife Refuge, Moffit, N. Dak.

MARCH 13, 1972.

[FR Doc.72-4238 Filed 3-20-72;8:45 am]

Proposed Rule Making

DEPARTMENT OF THE INTERIOR

Bureau of Mines

[30 CFR Part 75]

MANDATORY SAFETY STANDARDS, UNDERGROUND COAL MINES

Fire Suppression Devices and Fire-Resistant Hydraulic Fluids on Underground Equipment

In accordance with the provisions of section 311(e) of the Federal Coal Mine Health and Safety Act of 1969 and pursuant to the authority vested in the Secretary of the Interior under section 301(d) of the Act, there was promulgated in the FEDERAL REGISTER on Friday, October 8, 1971 (36 F.R. 19583), §§ 75.1107–1 through 75.1107–15 of Part 75, Subchapter O, of Chapter I, Title 30, Code of Federal Regulations, which set forth specifications for fire suppression devices required to be installed on attended and unattended underground equipment and designated suitable fire-resistant hydraulic fluids approved by the Secretary for use in hydraulic systems of such equipment. Due to a work stoppage which was in effect in numerous coal mines when the standards were promulgated their effective date was extended from November 22, 1971, to December 31, 1971, by a notice published in the FEDERAL REGISTER December 9, 1971 (36 F.R. 23370).

During the interim, meetings were held with representatives of manufacturers of fire protection equipment designed for use in mines and representatives of the coal mining industry pursuant to section 101(c) of the Act. These meetings disclosed that the standards as promulgated would preclude use of several innovative fire protection devices, systems, and methods which would provide equivalent or superior fire protection to those required under the standards. It was determined that more time was required to fully investigate other fire protection devices, systems and methods and to develop improved standards to permit use of devices, systems, and methods of equivalent or superior protection which would have been precluded under those which had been promulgated but which had not yet become effective. Accordingly, the effective date of the standards was extended to April 29, 1972, by a notice published in the FEDERAL REGISTER of January 4, 1972 (37 F.R. 17).

The investigations, studies, and consultations have resulted in the development of improved standards which are set forth below. Pursuant to section 101 of the Act it is proposed to revoke §§ 75.1107–1 through 75.1107–15 as promulgated on October 8, 1971, and substitute in lieu thereof new §§ 75.1107–1 through 75.1107–16 as set forth below.

Interested persons may within a period of 30 days following publication of this notice in the FEDERAL REGISTER, submit written data, comments, suggestions, or objections regarding the proposals. Communications should be addressed to Director, Bureau of Mines, Department of the Interior, Washington, D.C. 20240.

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

MARCH 16, 1972.

Part 75, Subchapter O of Chapter I, Title 30, Code of Federal Regulations will be amended by adding the following §§ 75.1107–1 through 75.1107–16:

§ 75.1107–1 Fire-resistant hydraulic fluids and fire suppression devices on underground equipment.

(a) (1) Unattended electrically powered equipment used underground which uses hydraulic fluid shall use approved fire-resistant hydraulic fluid.

(2) Except as provided in subparagraph (3) of this paragraph (a), within 24 hours after being installed unattended electrically powered equipment used underground shall be equipped with a fire suppression device which meets the applicable requirements of §§ 75.1107–3 through 75.1107–16.

(3) Unattended enclosed motors, controls, transformers, rectifiers, and other similar noncombustible electrically powered equipment containing no flammable fluids may be protected:

(i) By an approved fire suppression device, or

(ii) Be located at least 2 feet from coal or other combustible materials, or

(iii) Be separated from the coal or combustible materials by a 4-inch thick masonry firewall or equivalent; and be mounted on a minimum 4-inch thick noncombustible surface, platform or equivalent. The electrical cables at such equipment shall conform with the requirements of Part 18, Title 30, Code of Federal Regulations (Schedule 2G) or be in metal conduit.

(b) Attended electrically powered equipment used underground which uses hydraulic fluid shall use approved fire-resistant hydraulic fluid unless such equipment is protected by a fire suppression device which meets the applicable requirements of §§ 75.1107–3—75.1107–16.

(c) For purpose of §§ 75.1107—75.1107–16 the following underground equipment shall be considered attended equipment:

(1) Any machine or device operated by a miner regularly assigned to operate such equipment;

(2) Any machine or device which is mounted in the direct line of sight of a jobsite which is located within 500 feet of such machine or device and which jobsite is regularly occupied by a miner assigned to perform job duties at such jobsite during each production shift.

(d) Machines and devices described under paragraph (c) of this section must be inspected for fire and the input powerline deenergized when workmen leave the area for more than 30 minutes.

§ 75.1107–2 Approved fire-resistant hydraulic fluids; minimum requirements.

Fire-resistant hydraulic fluids and concentrates required to be employed in the hydraulic system of underground equipment in accordance with the provisions of § 75.1107–1 shall be considered suitable only if they have been produced under an approval, or any modification thereof, issued pursuant to Part 35, Subchapter I of Chapter I, of this title (Bureau of Mines Schedule 30), or any revision thereof.

§ 75.1107–3 Fire suppression devices; approved components; installation requirements.

(a) The components of each fire suppression device required to be installed in accordance with the provisions of § 75.1107–1 shall where appropriate be listed as approved by Underwriters Laboratories, Inc., or by Factory Mutual Laboratories, Inc., or other nationally recognized agencies. Where used, pressure vessels shall conform with the requirements of sections 3603, 3606, 3607, 3707, 3708, and 3711 of Code No. 22 of the National Fire Codes (1970–71), or any revision thereof.

(b) Hose of fire suppression devices, if used on the protected equipment, shall meet the flame resistant requirements of Part 18, Subchapter D of Chapter I, of this title (Bureau of Mines Schedule 2G).

(c) Fire suppression devices required to be installed in accordance with the provisions of § 75.1107–1 shall where appropriate be installed in accordance with the manufacturer's specifications.

(d) All attended electrically powered equipment shall be equipped with a portable fire extinguisher.

§ 75.1107–4 Automatic fire sensors and manual actuators; installation; minimum requirements.

(a) (1) Where fire suppression devices are installed on unattended underground equipment, one or more point-type sensors or equivalent shall be installed for each 50 square feet of top surface area, or fraction thereof, of such equipment, and each sensor shall be designed to activate the fire suppression system and disconnect the electrical power source to the equipment protected, and, except where sprinklers are used, there shall be in addition, a manual actuator installed to operate the system.

Where sprinklers are used, provision shall be made for manual application of water to the protected equipment in lieu of a manual actuator.

(2) Two or more manual actuators, where practicable, shall be installed, as provided in subdivisions (i) and (ii) of this subparagraph (2), to activate fire suppression devices on attended equipment purchased on or after June 30, 1972. At least one manual actuator shall be used on equipment purchased prior to June 30, 1972:

(i) Manual actuators installed on attended equipment regularly operated by a miner, as provided in § 75.1107(c)(1), shall be located at different locations on the equipment, and at least one manual actuator shall be located within easy reach of the operator's normal operating position.

(ii) Manual actuators to activate fire suppression devices on attended equipment not regularly operated by a miner, as provided in § 75.1107-1(c)(2), shall be installed at different locations, and at least one manual actuator shall be installed so as to be easily reached by the miner at the jobsite or by persons approaching the equipment.

(b) Sensors shall, where practicable, be installed in accordance with the recommendations set forth in "Local Protective Signaling Systems," National Fire Code No. 72.

(c) On unattended equipment the fire-suppression device shall operate independently of the power to the main motor (or equivalent) so it will remain operative if the circuit breakers (or other protective device) actuates. On attended equipment powered through a trailing cable the fire suppression device shall operate independently of the electrical power provided by the cable.

(d) Point-type sensors (such as thermocouple, bimetallic strip, or rate of temperature rise) located in ventilated passageways shall be installed downwind from the equipment to be protected.

(e) Sensor systems shall include a device or method for determining their operative condition.

§ 75.1107-5 Electrical components of fire suppression devices; permissibility requirements.

The electrical components of each fire suppression device used on permissible equipment inby the last open crosscut or on equipment in the return airways of any coal mine shall be permissible and such components shall be maintained in permissible condition.

§ 75.1107-6 Capacity of fire suppression devices; location and direction of nozzles.

(a) Each fire suppression device shall be:

(1) Adequate in size and capacity to extinguish potential fires in or on the equipment protected; and

(2) Suitable for the atmospheric conditions surrounding the equipment protected (e.g., air velocity, type, and proximity of adjacent combustible material); and

(3) Rugged enough to withstand rough usage and vibration when installed on mining equipment.

(b) The extinguishant-discharge nozzles of each fire suppression device shall, where practicable, be located so as to take advantage of mine ventilation air currents. The fire suppression device may be of the internal injection, inundating, or combination type. Where fire control is achieved by internal injection, or combination of internal injection and inundation, hazardous locations shall be enclosed to minimize runoff and overshoot of the extinguishing agent and the extinguishing agent shall be directed onto:

(1) Cable reel compartments and electrical cables on the equipment which are subject to flexing or to external damage; and

(2) All hydraulic components on the equipment which are exposed directly to or located in the immediate vicinity of electrical cables which are subject to flexing or to damage.

§ 75.1107-7 Water spray devices; capacity; water supply; minimum requirements.

(a) Where water spray devices are used on unattended underground equipment the rate of flow shall be at least 0.25 gallon per minute per square foot over the top surface area of the equipment and the supply of water shall be adequate to provide the required flow of water for 10 minutes.

(b) Where water spray devices are used for inundating attended underground equipment the rate of flow shall be at least 0.18 gallon per minute per square foot over the top surface area of the equipment (excluding conveyors, cutters, and gathering heads), and the supply of water shall be adequate to provide the required flow of water for 10 minutes.

(c) Where water is used for internal injection on attended equipment the total quantity of water shall be at least 4.5 gallons times the number of hazardous locations; however, the total minimum amount of water shall not be less than the following:

Type of equipment:	*Water in gallons*
(1) Cutting machines	36
(2) Continuous miners	36
(3) Haulage vehicles	22.5
(4) All other attended equipment	18.0

The rate of flow shall be not less than 7 gallons per minute.

(d) Where water is used in a combination internal injection and inundation system on attended equipment the rate of flow shall be at least 0.12 gallon per minute per square foot over the top surface area of the equipment (excluding conveyors, cutters, and gathering heads), and the supply of water shall be adequate to provide the required flow of water for 10 minutes.

(e) On equipment provided with a cable reel and an internal injection or combination-type system, the amount of water discharged into the cable reel compartments shall be approximately 25 percent of the amount required to be discharged by the system, however, such quantity need not exceed 10 gallons.

(f) Liquid chemicals may be used in self-contained fire suppression devices. The quantity of liquid chemical required shall be proportionately less based on equivalency ratings made by the Underwriter's Laboratories, Inc., or Factory Mutual Laboratories, Inc., or other nationally recognized agencies, or the Secretary. Such liquid chemicals shall be nontoxic and when applied to a fire shall not produce excessive toxic compounds.

§ 75.1107-8 Fire suppression devices; extinguishant supply systems.

(a) Fire suppression systems using water of liquid chemical to protect attended equipment shall:

(1) Be maintained at a pressure consistent with the pipe, fittings, valves, and nozzles used in the system.

(2) Be located so as to be protected against damage during operation of the equipment protected.

(3) Employ liquid which is free from excessive sediment and noncorrosive to the system.

(4) Include strainers equipped with flush-out connections or equivalent protective devices and a rising stem or other visual indicator-type shutoff valve.

(b) Water supplies for fire suppression devices installed on underground equipment may be maintained in mounted water tanks or by connection to water mains. Such water supplies shall be continuously connected to the fire suppression device whenever the equipment is connected to a power source, except for a reasonable time for changing hose connections to hydrants while the machine is stopped in a ventilated passageway.

§ 75.1107-9 Dry chemical devices; capacity; minimum requirements.

(a) Dry chemical fire extinguishing systems used on underground equipment shall be of the multipurpose powder-type and shall include the following:

(1) The system including all hose and nozzles shall be protected against the entrance of moisture, dust, or dirt;

(2) The system shall be guarded against damage during operation of the equipment protected;

(3) Hose and pipe shall be as short as possible; the distance between the chemical container and furthest nozzle shall not exceed 50 feet;

(4) Hose, piping, and fittings between the actuator and the chemical container shall have a bursting pressure of 500 pounds per square inch (gage) or higher; the hose, piping and fittings between the chemical container and the nozzles shall have a bursting pressure of 300 pounds per square inch (gage) or higher; and

(5) The system shall discharge in 1 minute or less, for quantities less than 50 pounds (nominal) [1] and in less than 2

[1] Many dry chemical systems were originally designed for sodium bicarbonate before all-purpose chemical (ammonium phosphate) was shown to be more effective. Sodium bicarbonate is denser than ammonium phosphate; hence, for example, a 50-pound system designed for the sodium bicarbonate will hold slightly more by weight than all-purpose dry chemical (ammonium phosphate) by weight. The word "nominal" is used in § 75.1107-9 to express the approximate weight in pounds of all-purpose dry chemical.

minutes for quantities more than 50 pounds;

(b) On unattended underground equipment, the number of pounds of dry chemical employed by the system shall be not less than 1 pound per square foot of top surface area of the equipment; however, the minimum amount in any system shall be 20 pounds (nominal). The discharge shall be directed into and on potentially hazardous locations of the equipment.

(c) On attended underground equipment, the number of pounds (nominal) employed by the system shall equal five times the total number of hazardous locations; however, the minimum amount in any system shall not be less than the following, except that systems on haulage vehicles installed prior to June 30, 1972, may contain 20 pounds (nominal).

Type of equipment:	*Dry chemical pounds (nominal)*
(1) Cutting machines	40
(2) Continuous miners	40
(3) Haulage vehicles	30
(4) All other attended equipment	20

(d) The amount of dry chemical discharged into the cable reel compartments of attended underground equipment shall be approximately 25 percent of the total amount required to be discharged by the system; however, the quantity discharged into cable reel compartments need not exceed 10 pounds.

§ 75.1107–10 High expansion foam devices; minimum capacity.

(a) On unattended underground equipment the amount of water delivered as high expansion foam for a period of approximately 20 minutes shall be not less than 0.06 gallon per minute per square foot of surface area of the equipment protected; however, the minimum total rate for any system shall be not less than 3 gallons per minute.

(b) On attended underground equipment, foam may be delivered by internal injection, inundation, or combination-type systems. Each system shall deliver water as foam for a minimum of 10 minutes. For internal injection, the rate of water application as high expansion foam shall be not less than 0.5 gallon per minute per hazardous location; however, the minimum total rate shall be not less than 2 gallons per minute. For inundation, the rate of water application as high expansion foam shall be not less than 0.05 gallon per minute per square foot of top surface area of the equipment protected; however, the minimum total rate shall be not less than 5 gallons of water per minute.

(c) In combined internal injection and inundation systems the rate of water applied as foam shall not be less than 0.035 gallon per minute per square foot of top surface area of the equipment protected; however, the minimum total rate shall not be less than 3.5 gallons of water per minute.

(d) Where internal injection is employed, the amount of water discharged as high expansion foam into the cable reel compartments of underground equipment regularly operated by a miner shall be approximately 25 percent of the total amount required to be discharged by the system; however, the quantity of water discharged as foam into the cable reel compartment need not exceed 1.5 gallons.

§ 75.1107–11 Extinguishing agents; requirements on mining equipment employed in low coal.

On mining equipment no more than 32 inches high, the quantity of extinguishing agent required under the provisions of §§ 75.1107–7, 75.1107–9, and 75.1107–10 may be reduced by one-fourth if space limitations on the equipment require such reduction.

§ 75.1107–12 Inerting of mine atmosphere prohibited.

No fire suppression device designed to control fire by total flooding shall be installed to protect unattended underground equipment except in enclosed dead-end entries or enclosed rooms as defined in National Fire Code No. 17.

§ 75.1107–13 Approval of other fire suppression devices.

Notwithstanding the provisions of §§ 75.1107–1 through 75.1107–12 the District Manager for the District in which the mine is located may approve any other fire suppression system or device which provides substantially equivalent protection as would be achieved through compliance with those sections: *Provided*, That no such system or device shall be approved which does not meet the following minimum criteria:

(a) Components shall, where appropriate, be listed as approved by the Underwriters' Laboratories, Inc., or Factory Mutual Laboratories, Inc., or other nationally recognized agency.

(b) The fire suppression equipment shall be designed to withstand the rigors of the mine environment. Where used, pressure tanks shall meet the specifications of sections 3603, 3606, 3607, 3707, 3708, and 3711 of Code No. 22 of the National Fire Codes (1970–71).

(c) Hose of fire suppression devices, if used on the protected equipment, shall meet the flame-resistant requirements of Part 18, Subchapter D of Chapter I, of this title (Bureau of Mines Schedule 2G).

(d) Extinguishing agents shall not create a serious toxic or other hazard to the miners.

(e) The electrical components of the fire suppression device shall meet the requirements for electrical components of the mining machine.

(f) Where used, manual actuators for initiating the operation of the fire suppression device shall be readily accessible to the machine operator. On unattended equipment, an automatic as well as a manual actuator shall be provided.

(g) On unattended equipment the fire suppression device shall operate independently of the power to the main motor (or equivalent) so it will remain operative if the circuit breakers (or other protective device) actuates. On attended equipment powered through a trailing cable the fire suppression device shall operate independently of the electrical power provided by the cable.

(h) On unattended equipment, the sensor system shall have a means for checking its operative condition.

(i) The fire suppression agent shall be directed at locations where the greatest potential fire hazard exists. Cable reel compartments shall receive approximately twice the quantity of extinguishing agent as each other hazardous location.

(j) The rate of application of the fire suppression agent shall minimize the time for quenching and the total quantity applied shall be sufficient to quench a fire in its incipient stage.

(k) The effectiveness of the quenching agent, together with the total quantity of agent and its rate of application shall provide equivalent protection to the water, dry powder, or foam systems described in §§ 75.1107–7, 75.1107–9, and 75.1107–10.

(l) The fire suppression device shall be operable at all times electrical power is connected to the mining machine, except during tramming when the machine is in a ventilated passageway, the waterhose if used, may be switched from one hydrant to another in a reasonable time and except in systems meeting the minimum special criteria set forth in paragraph (m) of this section.

(m) Systems for attended equipment which are not continuously connected to a water supply shall not be approved unless they meet the following minimum criteria:

(1) The machine shall be equipped with a firehose at least 50 feet in length which is continuously connected to the machine mounted portion of the system.

(2) Hydrants in proximity to the area where the machine is to be used shall be equipped with sufficient hose to reach the machine at any time it is connected to a power source.

(3) The machine shall only be used where the operator (or other person) will always be in intake air while extending the machine-mounted hose to connect with the hydrant-mounted hose.

(4) The machine and hydrant hoses shall meet the requirements of § 75.1100–1(f) and shall be readily accessible so that the connection between the machine-mounted hose and hydrant hose can be made and the water turned on in not more than 2 minutes under actual mining conditions for any location of the machine while power is connected.

(5) The rate of water flow at the machine shall provide a minimum of 0.12 gallon of water per minute per square foot of top surface area (excluding conveyors, cutters, and gathering heads). The water shall discharge to all hazardous locations on the machine and also inundate the entire machine.

(6) In addition to the firehose located at the hydrant (which is intended to be connected to the firehose on the machine) the firefighting equipment as required in § 75.1100–2(a) shall be maintained.

(7) A sufficient number of trained miners shall be kept on the section where the machine is in use to connect the machine hose to the hydrant hose and water turned on in not more than 2 minutes.

§ 75.1107–14 Guards and handrails; requirements where fire suppression devices are employed.

All unattended underground equipment provided with fire suppression devices which are mounted in dead-end entries, enclosed rooms or other potentially hazardous locations shall be equipped with adequate guards at moving or rotating components. Handrails or other effective protective devices shall be installed at such locations where necessary to facilitate rapid egress from the area surrounding such equipment.

§ 75.1107–15 Fire suppression devices; hazards; training of miners.

Each operator shall instruct all miners normally assigned to the active workings of the mine with respect to any hazards inherent in the operation of all fire suppression devices installed in accordance with § 75.1107–1 and, where appropriate, the safeguards available at each such installation.

§ 75.1107–16 Inspection of fire suppression devices.

All fire suppression devices shall be visually inspected at least once each week by a person qualified to make such inspections and each fire suppression device shall be subjected to a functional maintenance test in accordance with the requirements in the appropriate National Fire Code. A record of these inspections shall be maintained by the operator; the record of the weekly inspections may be maintained at an appropriate location by each fire suppression device.

[FR Doc.72–4304 Filed 3–20–72;8:51 am]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 5a]

FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Equal Employment; Labor Standards for Ratios of Apprentices and Trainees to Journeymen

Pursuant to section 1 of the National Apprenticeship Act of 1937 (29 U.S.C. 50), Reorganization Plan No. 14 of 1950 (64 Stat 1267; 3 CFR 1949–53 Comp., p. 1007), the Copeland Act (40 U.S.C. 276c), 5 U.S.C. 301, and the statement by the President on "Combating Construction Inflation and Meeting Future Construction Needs" (6 Weekly Comp. of Pres. Doc. 376 (1970)), it is proposed to amend 29 CFR Part 5a to indicate the equal employment obligations applicable to Federal and federally assisted construction.

Interested persons are invited to submit written comments regarding the proposal to the Secretary of Labor, U.S. Department of Labor, Washington, D.C. 20210, within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

The proposal is to add a paragraph (d) to § 5a.1, to read as follows:

§ 5a.1 Purpose and scope.

* * * * *

(d) The utilization of apprentices, trainees, and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended; 29 CFR Part 30 and State plans approved by the U.S. Department of Labor pursuant thereto; and 29 CFR Part 31.

Signed at Washington, D.C., this 10th day of March 1972.

J. D. HODGSON,
Secretary of Labor.

[FR Doc.72–4239 Filed 3–20–72;8:45 am]

DEPARTMENT OF AGRICULTURE

Consumer and Marketing Service

[7 CFR Part 1046]

MILK IN LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

Notice of Proposed Suspension of a Certain Provision of the Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of a certain provision of the order regulating the handling of milk in the Louisville-Lexington-Evansville marketing area is being considered for the months of April through August.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 3 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

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

The provision proposed to be suspended is as follows:

In paragraph (b) of § 1046.51, the provision, "and for the months of April through August such price less 10 cents."

The proposed suspension would maintain the Class II price, during the April–August period, at the price paid for manufacturing grade milk by plants in Minnesota and Wisconsin.

The suspension was requested by Dairymen, Inc., a cooperative representing a majority of the producers on the market. The cooperative states that producer milk not needed for Class I use should be priced no lower than is necessary for the orderly disposition of such milk. They state that such milk can be disposed of readily at the Minnesota-Wisconsin price.

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

JOHN C. BLUM,
Deputy Administrator, Regulatory Programs.

[FR Doc.72–4296 Filed 3–20–72;8:50 am]

Office of Plant and Operations

[41 CFR Part 4–7]

CONTRACT CLAUSES

Proposed Service Contract Clauses; Correction

On March 11, 1972, a document was issued regarding proposed service contract clauses (37 F.R. 5255). The document was signed on March 8, 1972, by T. M. Baldauf, Director of Plant and Operations.

The third paragraph of this document is corrected to read as follows:

In most Service Contracts of the Department of Agriculture, it may be necessary to terminate the contract for failure to perform without delay in order to meet the requirements of the program being served. The new "Termination For Default—Damages For Delay-Time Extensions" clause permits contract terminations for default with less than a 10-day cure notice period for the contractor. In administering contracts under this clause, Contracting Officers will be expected to give the Contractors whatever cure notice time that the program requirements will permit.

The original provision for submission of statements, data, views and arguments remains unchanged.

Signed in Washington, D.C., this 15th day of March 1972.

T. M. BALDAUF,
Director of Plant and Operations.

[FR Doc.72–4262 Filed 3–20–72;8:47 am]

Rural Electrification Administration

[7 CFR Part 1701]

RURAL TELEPHONE FACILITIES

Proposed Specification for Buried Plant Housings

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue a revision of REA Bulletin 345–26 to announce a revision of REA Specification PE–35 for buried plant housings. On issuance of REA Bulletin 345–26, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the revised specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions

made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the revised REA Specification PE–35 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of REA Bulletin 345–26 announcing the issuance of the revised specification is as follows:

REA BULLETIN 345–26

SUBJECT: REA Specification for Buried Plant Housings

I. *Purpose.* To announce a revision of REA Specification PE–35 for Buried Plant Housings.

II. *General.* The revised housing specification will replace three existing housing specifications: PE–35 (Specification for Galvanized Steel Housing); PE–51 (Specifications for Fiberglass Housings); and PE–53 (Specification for Dome Type Housings). The primary changes in the specification involve combining the requirements for the different type housings into a single specification. The revised specification becomes effective 6 months after the date of issuance of this bulletin. All housings furnished for REA projects bid or on orders placed by REA borrowers after that date shall comply in all respects with the revised REA Specification PE–35 dated March 1972. This does not preclude the adoption of the revised specification by manufacturers prior to the effective date.

III. *Availability of specification.* Copies of the revised PE–35 will be furnished by REA upon request.

Dated: March 15, 1972.

E. F. RENSHAW,
Assistant Administrator—Telephone.

[FR Doc.72–4299 Filed 3–20–72;8:50 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34–9529; File No. 57–432]

SECURITIES LISTED OR TRADED ON EXCHANGES

Proposal Regarding Quotations of Specialists and Over-the-Counter Market Makers

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to adopt Rule 17a–14 (17 CFR 240.17a–14) under the Securities Exchange Act of 1934 requiring every registered national securities exchange, with respect to quotations for securities traded on such exchange, to make available to vendors of market information ("vendors") quotations of specialists registered thereon. The rule would also require every registered national securities association, with respect to over-the-counter quotations in securities listed or traded on exchanges, to make available to vendors quotations of over-the-counter market makers. The proposed rule would require that quotations of specialists and over-the-counter market makers be released to vendors on a current and continuing basis.

On February 2, 1972, the Commission issued a general statement of policy on the future structure of the securities market. In that report, the Commission concluded that in order to maximize the depth and liquidity of the nation's markets action must be taken to create a central market system for listed securities. The Commission pointed out that an essential step toward formation of such a central market system is to make information on prices, volume and quotes for all securities in all markets available to all investors and their broker-dealers, to help assure that every investor may receive the best possible execution of his order.

Paragraph (b) of the proposed rule provides that every member of a registered national securities exchange or association shall make and promptly report to the exchange or association of which it is a member data required by such self-regulatory organization in order to fulfill its requirements under the rule.

Paragraph (c) of the proposed rule is designed to cover over-the-counter transactions in listed securities by those relatively few broker-dealers who are not members of any exchange or the NASD.

The Commission is granted under paragraph (d) of the proposed rule discretion to exempt from the provisions of the rule, either unconditionally or on specified terms and conditions, any exchange, association, broker or dealer or specified type of security.

For purposes of the rule, vendors of market quotation information include any publication or electronic communication network which is used by brokers or dealers to obtain quotations on a real-time basis but do not include communication systems regulated by the Federal Communications Commission that are used only in the traditional way that the telephone and telegraph systems have been used. Specialists are defined as members of exchanges who are registered as specialists or market makers under rules of the exchange. Over-the-counter market makers are defined in the rule as dealers who, with respect to a security which is traded on a national securities exchange, hold themselves out as willing to buy and sell for their own account on a continuous basis in the over-the-counter market.

The Commission is also issuing for comment today a proposed rule to require the dissemination of information as to completed transactions in listed securities. (Securities Exchange Act Release No. 34–9530)

TEXT OF PROPOSED RULE

The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, and particularly sections 17(a) and 23(a) thereof, hereby proposes to amend Part 240 of Title 17 of the Code of Federal Regulations by adopting § 240.17a–14 as follows:

§ 240.17a–14 Dissemination by securities exchanges and associations, and broker-dealers, of quotations by specialists and by over-the-counter market makers in securities registered or traded on national securities exchanges.

(a) Every registered national securities exchange shall, with respect to quotations for securities registered on a national securities exchange or admitted to unlisted trading privileges on such an exchange, make available to vendors of market quotation information ("vendors") all quotations of specialists registered with such exchange, and every registered national securities association shall, with respect to over-the-counter quotations in such securities, make available to vendors quotations of over-the-counter market makers. The quotations shall be released to vendors on a current and continuing basis.

(b) Every member of a registered national securities exchange or national securities association shall make and keep current, and promptly transmit to the national securities exchange or national securities association of which it is a member, information and records required by such exchange or association in order to satisfy its obligations under paragraph (a) of this section.

(c) Every over-the-counter market maker who is not a member of a registered national securities exchange or association shall, with respect to quotations in securities registered on a national securities exchange or admitted to unlisted trading privileges on such an exchange but which are not reported to vendors by such an exchange or association, make publicly available to vendors on a current and continuing basis its quotations in such securities.

(d) The Commission may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any national securities exchange, national securities association, broker, dealer, or specified type of security if, in the opinion of the Commission, it is not necessary in the public interest or for the protection of investors to subject that particular exchange, association, broker, dealer, or specified type of security to the provisions of this section.

(e) For purposes of this section:

(1) "Vendors of market quotation information" shall include any publication or electronic communication network or other device which is used by brokers or dealers to obtain quotations on a current and continuing basis.

(2) "Specialist" shall include any member of a national securities exchange who is registered as a specialist or market maker with an exchange pursuant to its rules and regulations.

(3) "Over-the-counter market maker" shall mean a dealer who, with respect to a particular security which is registered on a national securities exchange or admitted to unlisted trading privileges on such exchange, holds himself out as being willing to buy and sell for his

own account on a continuous basis otherwise than on a national securities exchange.

All interested persons may submit comments on the above proposals in writing to the Securities and Exchange Commission, 500 North Capitol Street, Washington, DC 20549 on or before May 8, 1972. All communications with respect to the proposed rule should refer to File No. S7–432 and all such communications will be considered available for public inspection.

(Sec. 17(a), 48 Stat. 897, as amended, 49 Stat. 1379, sec. 4, 52 Stat. 1076, sec. 5, 15 U.S.C. 78q; sec. 23(a), 48 Stat. 901, as amended, 49 Stat. 1379, sec. 8, 15 U.S.C. 78w.)

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

MARCH 8, 1972.

[FR Doc.72–4266 Filed 3–20–72;8:50 am]

[17 CFR Part 240]

[Release No. 34–9530; File No. S7–433]

SECURITIES REGISTERED ON EXCHANGES

Proposal Regarding Prices and Volume of Completed Transactions

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to adopt Rule 17a–15 (17 CFR 240.17a–15) under the Securities Exchange Act of 1934 requiring national securities exchanges, national securities associations and broker-dealers who are not members of such organizations to make available to vendors of market transaction information daily reports of prices and volume of completed transactions with respect to securities registered on exchanges. As a condition of receiving such information, the vendors must agree to make available on a current and continuing basis through a composite tape or recall system reports of prices and volume of transactions in listed securities from all reporting markets.

On February 2, 1972, the Commission issued a general statement of policy on the future structure of the securities markets. In that report, the Commission concluded that in order to maximize the depth and liquidity of the nation's markets action must be taken to create a central market system for listed securities. The Commission pointed out that an essential step toward formation of such a central market system is to make information on prices, volume and quotes for all securities in all markets available to all investors and their broker-dealers, to help assure that every investor may receive the best possible execution of his order.

The proposed rule would require that every registered national securities exchange and national securities association, with respect to transactions in listed securities executed by its members, file with the Commission on or before June 15, 1972 a plan with respect to such exchange or association for the dissemination by vendors of price and volume data with respect to completed transactions in listed securities. The plans must provide that as a condition of receiving such information each such vendor must agree to make available to the public on a current and continuing basis through a composite tape or a recall system reports of prices and volume of completed transactions in any listed security from all reporting markets, including the third market. Each such plan must be declared effective by the Commission. It is proposed that after August 1, 1972 no national securities exchanges or national securities associations may release any information relating to completed transactions in listed securities unless such self-regulatory organization has filed an appropriate plan with the Commission and such plan has been declared to be effective.

Paragraph (b) of the rule sets forth the responsibility of exchange and NASD members to keep appropriate records and transmit the data promptly to their respective self-regulatory organization.

An additional provision in the proposed rule is designed to cover over-the-counter transactions in listed securities by those relatively few broker-dealers who are neither members of an exchange nor the NASD. Paragraph (d) of the rule makes such broker-dealers subject to the reporting requirements as to their transactions in listed securities if the transactions have not been elsewhere reported under the rule. Such broker-dealers must file a plan with the Commission stating by what means they will make details of such transactions publicly available.

Paragraph (e) grants the Commission discretion, either unconditionally or on specified terms and conditions, to exempt from the provisions of the rule in appropriate cases any exchange, association, broker or dealer or specified type of security.

The definition of vendor in the proposed rule is not intended to include communication systems regulated by the Federal Communications Commission that are used only in the traditional way that the telephone and telegraph systems have been used.

The Commission is also issuing for comment today a proposed rule requiring the dissemination of information with respect to quotations for listed securities. (Securities Exchange Act Release No. 34–9529)

TEXT OF PROPOSED RULE

The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, and particularly Sections 17(a) and 23(a) thereof, hereby proposes to amend Part 240 of Title 17 of the Code of Federal Regulations by adopting § 240.17a–15 as follows:

§ 240.17a–15 Dissemination by securities exchanges and associations, and broker-dealers, of price and volume data on completed transactions in securities registered or traded on national securities exchanges.

(a) Every registered national securities exchange shall, with respect to transactions executed through such exchange, and every national securities association shall, with respect to over-the-counter transactions in listed securities executed by its members, file with the Commission on or before June 15, 1972 a plan, with respect to such exchange or association, for the dissemination by vendors of market transaction information ("vendors") of the information referred to in this Section. Such plan shall not become effective unless the Commission, having due regard for the maintenance of fair and orderly markets, the public interest and the protection of investors, declares the plan, with whatever changes are deemed necessary or appropriate by the Commission to be effective. In declaring any such plan effective, the Commission may impose such terms and conditions relating to the provisions of the plan and amendments thereto as it may deem necessary or appropriate. After August 1, 1972, information relating to transactions in such listed securities executed through any exchange or in the over-the-counter market shall not be released to such vendors by such an exchange or national securities association unless such self-regulatory organization has filed with the Commission a plan meeting the reporting requirements of this section and such plan has been declared to be effective. Plans for the dissemination of such transaction information shall provide that as a condition of receiving such information each such vendor must agree to make available to subscribers on a current and continuing basis, through a composite tape or a recall system, reports of prices and volume of completed transactions in any such listed security from all reporting markets. "Vendors of market transaction information" shall mean any organization engaged in the business of distributing to brokers and dealers, on a real-time or other current and continuing basis, reports from more than one market of transactions in the same listed security through an electronic communications network or other device.

(b) Every member of a registered national securities exchange or national securities association shall make and keep current, and promptly transmit to the national securities exchange or national securities association of which it is a member, information and records required by such exchange or association pursuant to the plan declared effective under paragraph (a) of this section.

(c) The information required to be disclosed pursuant to this section shall be furnished in respect of every security which is registered on a national securities exchange or admitted to unlisted trading privileges on such an exchange.

(d) Every broker or dealer who is not a member of a registered national securities exchange or association and who effects transactions in securities referred to in paragraph (c) of this section, which transactions are not reported to vendors by such an exchange or association, shall file a plan meeting the requirements of paragraph (a) of this section, and such plan shall become effective in the manner specified in paragraph (a) of this section.

(e) The Commission may exempt from the provisions of this Section, either unconditionally or on specified terms and conditions, any national securities exchange, national securities association, broker, dealer or specified type of securities if the Commission determines that it is not necessary in the public interest or for the protection of investors that such exchange, association, broker, dealer or type of security be subject to the provisions of this section.

All interested persons may submit comments on the above proposals in writing to the Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, on or before May 8, 1972. All communications with respect to the proposed rule should refer to File No. S7-433 and all such communications will be considered available for public inspection.

(Sec. 17(a), 48 Stat. 897, as amended 49 Stat. 1379, sec. 4, 52 Stat. 1076, sec. 5, 15 U.S.C. 78q; sec. 23(a), 48 Stat. 901, as amended, 49 Stat. 1379, sec. 8, 15 U.S.C. 78w)

By the Commission.

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

MARCH 8, 1972.

[FR Doc.72-4267 Filed 3-20-72;8:50 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 72-SO-19]

TRANSITION AREA

Proposed Alteration and Revocation

Correction

In F.R. Doc. 71-3645 appearing at page 5132 in the issue for Friday, March 10, 1972, the latitude designation in the 15th line of the description of the Lakeland, Fla., transition area (§ 71.181), now reading "latitude 28°03'04" N.," should read "latitude 28°03'40" N."

Notices

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Order 123]

ASSISTANT COMMISSIONER (STABILIZATION) ET AL.

Delegation of Authority Regarding Stabilization of Prices, Rents, Wages, and Salaries

The authority delegated to the Commissioner of Internal Revenue by Treasury Department Order No. 150–77 in connection with the administration of the Economic Stabilization Act of 1970, as amended, is hereby redelegated to the following officials:

Assistant Commissioner (Stabilization).
Regional Commissioners.
Assistant Regional Commissioners (Appellate).
Assistant Regional Commissioners (Stabilization).
Regional Inspectors.
District Directors.
Director of International Operations.

The authority delegated herein may be redelegated only by the officials specified in this order and may not be redelegated by those officials to whom the specified officials redelegate.

The authority delegated in this order is effective as of December 22, 1971, except as otherwise provided in Treasury Department Order No. 150–77 and Pay Board Order No. 4.

Issued: March 14, 1972.

[SEAL] JOHNNIE M. WALTERS,
Commissioner.

[FR Doc.72–4288 Filed 3–20–72;8:50 am]

[Cost of Living Council Ruling 1972–31]

DETERMINING WHETHER RESIDENCE IS REHABILITATED

Cost of Living Council Ruling

Facts. Lessor L purchased a dwelling for $10,000 on June 1, 1965. He subsequently spent $2,000 for capital improvements to this dwelling and rented it. In February of 1972 he completed a renovation of the structure which cost $5,000. He offered it for rent in its renovated condition on March 1, 1972. The fair market value for the dwelling immediately before the renovation was $14,000. Between June 1, 1965, and February 1, 1972, L had taken depreciation on the dwelling of $2,500.

Issue. Is the rental of this residence exempt from the coverage of the economic stabilization program because it is a rehabilitated dwelling under Economic Stabilization Regulations, 6 CFR 101.33(2)(iii), 37 F.R. 2678 (February 4, 1972)?

Ruling. No; this residence is not a rehabilitated dwelling. § 101.33(2)(iii) defines a rehabilitated dwelling to be one for which, "The cost of rehabilitation exceeds one-half of either the undepreciated cost or the fair market value of the dwelling preceding the rehabilitation." A dwelling or residence must be benefited by capital improvements to be considered rehabilitated. A capital improvement means a permanent improvement or betterment the use of which will continue beyond a 12-month period beginning with the completion of the improvement, and the improvement must be subject to an allowance for depreciation under the provisions of the Internal Revenue Code of 1954. Furthermore, the cost of the improvement must be more than one-half of either the fair market value immediately prior to the rehabilitation or the undepreciated cost of the residence.

The fair market value is the price a willing buyer and a willing seller would agree upon in an arm's length sale of the residence immediately prior to the rehabilitation where both parties have comparable knowledge about that residence and its physical attributes.

The undepreciated cost of the dwelling is considered to be its initial cost and the cost of prior capital improvements before the most recent improvements which could constitute the rehabilitation. The initial cost and the cost of prior capital improvements are not reduced by depreciation subsequently taken against those costs.

In this case the cost of the capital improvements which might constitute a rehabilitation is $5,000. The fair market value of the residence immediately prior to the construction of these improvements is $14,000. The undepreciated cost of the residence is its $10,000 initial cost plus the $2,000 cost of previous capital improvements. The $5,000 cost of the renovation is not more than one half of either the $14,000 fair market value or the $12,000 undepreciated cost. Therefore, the residence is not a rehabilitated dwelling under § 101.33(a)(2)(iii) of the regulations.

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

Dated: March 16, 1972.

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

Approved: March 16, 1972.

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

[FR Doc.72–4273 Filed 3–20–72;8:49 am]

[Price Commission Ruling 1972–112]

DEFINITION—RETAILER AND WHOLESALER

Price Commission Ruling

Facts. A distributor, D, conducts the business of renting, selling, and servicing a multiple line of new and used construction, mining, logging, and road maintenance equipment. In addition, D sells an assortment of tools and supplies for "do-it-yourself" homeowners. D conducts its business from a large warehouse. In the main entryway to the warehouse, there is a counter and display cases where customers can place orders or purchase merchandise.

D sells a portable cement mixer and several wheelbarrows to a construction company, C. C uses the items in its business. D also sells a tool set and tool box to a homeowner, H. H uses the tools in odd jobs around his home.

Issue. Whether D is a retailer or wholesaler for the purposes of the Economic Stabilization Regulations?

Ruling. Section 300.5 defines wholesaler as 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 user. 6 CFR 300.5, 37 F.R. 3913 (February 24, 1972). To the extent that D sells to a retailer for resale, or an industrial, commercial, institutional, or professional business user, it is a wholesaler. Thus, in the sale to C, D is considered a wholesaler.

Section 300.5 defines retailer as 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. To the extent that D sells to ultimate consumers who are not retailers, or industrial, commercial, institutional, or professional business users, it is a retailer. Thus, in the sale to H, D is considered a retailer.

To the extent that Price Commission Ruling 1972–46, 37 F.R. 3063 (February 11, 1972) which concerned the definition of a retailer is inconsistent with this ruling after February 24, 1972, this ruling controls.

This ruling has been approved by the General Counsel of the Price Commission.

Dated: March 14, 1972.

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

Approved: March 14, 1972.

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

[FR Doc.72–4274 Filed 3–20–72;8:49 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ARIZONA

Notice of Filing of Plats of Survey

MARCH 13, 1972.

1. Plat of survey of the land described below, accepted March 13, 1972, will be officially filed in the Arizona State Office on the date of publication in the FEDERAL REGISTER.

GILA AND SALT RIVER MERIDIAN, ARIZONA

T. 1 N., Ranges 13 and 14 E.,
Tracts 40 and 41.

2. The above survey was made to provide for an exchange of land within the Tonto National Forest, Serial No. A 6396, and therefore the lands will not be open to entry.

CHARLES G. BAZAN, Jr.,
Chief, Branch of
Records and Data Management.

[FR Doc.72-4265 Filed 3-20-72;8:47 am]

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

ARIZONA ELECTRIC POWER COOPERATIVE, INC.

Draft Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a change of purpose for use of REA funds previously loaned to Arizona Electric Power Cooperative, Inc., of Benson, Ariz., to finance construction of 73 miles of 230 kv. transmission line between Cochise and Santo Tomas, Ariz., plus 18 miles of related 115 kv. transmission line and substation facilities.

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

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

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

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

Dated at Washington, D.C., this 15th day of March 1972.

DAVID A. HAMIL,
Administrator,
Rural Electrification Administration.

[FR Doc.72-4297 Filed 3-20-72;8:50 am]

TRI-STATE GENERATION AND TRANSMISSION ASSOCIATION, INC.

Draft Environmental Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Draft Environmental Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a loan application from Tri-State Generation and Transmission Association, Inc., 10520 Melody Drive, Northglenn, CO. This loan application includes financing for the construction of 80 miles of 230 kv. transmission line from Midway to Limon, Colo., and a 230/115 kv. substation at Limen.

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

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

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

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

Dated at Washington, D.C., this 15th day of March 1972.

DAVID A. HAMIL,
Administrator, Rural
Electrification Administration.

[FR Doc.72-4298 Filed 3-20-72;8:50 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

BIO-RAD LABORATORIES

Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 2B2755) has been filed by Bio-Rad Laboratories, 32d and Griffin Avenue, Richmond, Calif. 94804, proposing the issuance of a food additive regulation (21 CFR Part 121) to provide for the safe use of acrylamide-*N,N'*-methylenebisacrylamide copolymer as a filtration medium intended for use in food processing.

Dated: March 14, 1972.

VIRGIL O. WODICKA,
Director, Bureau of Foods.

[FR Doc.72-4281 Filed 3-20-72;8:48 am]

[Docket No. FDC-D-446]

PFIZER, INC.

Dihydrostreptomycin Solution and Procaine Penicillin G in Oil; Withdrawal of Approval of New Animal Drug Applications

In the FEDERAL REGISTER of July 1, 1970 (35 F.R. 10698, DESI 0024NV) and in the FEDERAL REGISTER of August 25, 1970 (35 F.R. 13536, DESI 0019NV), the Commissioner of Food and Drugs announced the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group on Dihydrostreptomycin Sulfate Crystalline Solution and Sterile Penicillin G Procaine in Sesame Oil marketed by Pfizer Agricultural Division, Pfizer, Inc., 235 East 42d Street, New York, N.Y. 10017.

Pfizer, Inc., advised the Commissioner that they did not intend to pursue the requested revisions and updating suggested by said announcements. They notified the Commissioner that they waive an opportunity for a hearing on the above-named products.

Based on the grounds set forth in said announcements and the firm's responses, the Commissioner of Food and Drugs concludes that the antibiotic applications for the above-named products should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343–51; 21 U.S.C. 360b) and under the authority delegated to the Commissioner (21 CFR 2.120), approval of the antibiotic applications for the above products is hereby withdrawn effective on the date of publication of this document.

Dated: March 13, 1972.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.72-4257 Filed 3-20-72;8:47 am]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 72-56N]

ELIZABETH RIVER, NORFOLK HARBOR, VA.

Security Zone

By virtue of the authority vested in the Commandant, U.S. Coast Guard, by Executive Order 10173, as amended (33 CFR Part 6), section 6(b)(1), 80 Stat. 937, 49 U.S.C. 1655(b)(1), 49 CFR 1.46(b) and the redelegation of authority to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters as contained in the FEDERAL REGISTER of September 30, 1971 (36 F.R. 19160), I hereby affirm for publication in the FEDERAL REGISTER the order of H. E. Steel, Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads Area, who has exercised authority as Captain of the Port, such order reading as follows:

PORTION OF THE ELIZABETH RIVER, NORFOLK HARBOR, VIRGINIA CLOSED TO NAVIGATION DURING TRANSIT OF THE USS AMERICA

SECURITY ZONE

Under the present authority of section 1 of Title II of the Espionage Act of June 15, 1917, 40 Stat. 220, as amended, 50 U.S.C. 191, Executive Order 10173, as amended, I declare that from 0800R 27 March 1972 until 1030R 27 March 1972, the following area is a Security Zone and I order it be closed to any person or vessel due to transit of the U.S.S. America.

The waters of the Elizabeth River, Norfolk Harbor, Va., within the area between Elizabeth River Channel lighted buoy 14 LL 2952 at latitude 36°55'08" north and the Norfolk and Portsmouth Beltline Railroad Bridge which crosses the southern branch of the Elizabeth River at latitude 36°48'41" north.

No person or vessel shall remain in or enter this security zone without permission of the Captain of the Port, 393 9611, Ext. 220.

The Captain of the Port, Hampton Roads Area, shall enforce this order. In the enforcement of this order, the Captain of the Port may utilize, by appropriate agreement, personnel and facilities of any other Federal agency, or of any state or political subdivision thereof.

For violation of this order, section 2 of title II of the Espionage Act of June 15, 1917 (40 Stat. 220 as amended, 50 U.S.C. 192), provides:

If any owner, agent, master, officer, or person in charge, or any member of the crew of any such vessel fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or obstructs or interferes with the exercise of any power conferred by this chapter, the vessel, together with her tackle, apparel, furniture, and equipment, shall be subject to seizure and forfeiture to the United States in the same manner as merchandise is forfeited for violation of the customs revenue laws; and the person guilty of such failure, obstruction, or interference shall be punished by imprisonment for not more than 10 years and may, in the discretion of the court, be fined not more than $10,000.

(a) If any other person knowingly fails to comply with any regulation or rule issued or order given under the provisions of this chapter, or knowingly obstructs or interferes with the exercise of any power conferred by this chapter, he shall be punished by imprisonment for not more than 10 years and may, at the discretion of the court, be fined not more than $10,000.

Dated: March 17, 1972.

J. M. AUSTIN,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc.72-4371 Filed 3-20-72;9:05 am]

CIVIL AERONAUTICS BOARD

[Docket No. 24283, etc.]

AIR CARRIER REORGANIZATION INVESTIGATION

Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above entitled matter is assigned to be held on May 10, 1972, at 10 a.m., local time, in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Examiner E. Robert Seaver.

In order to facilitate the conduct of the conference parties are instructed to submit to the Examiner and other parties (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before April 25, 1972, and the other parties on or before May 5, 1972. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights.

Dated at Washington, D.C., March 14, 1972.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.72-4292 Filed 3-20-72;8:50 am]

[Docket No. 23954]

POLSKIE LINIE LOTNICZE "LOT" (POLISH AIRLINES)

Notice of Hearing Regarding Application for Foreign Air Carrier Permit Authorizing Service at New York, N.Y., or Chicago, Ill.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on March 28, 1972, at 10 a.m., local time, in Room 805, Universal Building, 1825 Connecticut Avenue, NW., Washington, DC, before Examiner Merritt Ruhlen.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., March 15, 1972.

[SEAL] MERRITT RUHLEN,
Hearing Examiner.

[FR Doc.72-4293 Filed 3-20-72;8:50 am]

[Docket No. 23073]

REA AIR FREIGHT FORWARDING, CONTROL, AND INTERLOCKING RELATIONSHIPS INVESTIGATION

Notice of Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that public hearing in the above-entitled matter now assigned to be held on March 20, 1972 (37 F.R. 3470, February 16, 1972), is hereby postponed due to serious illness in Examiner Newmann's family. A time and place for hearing in this proceeding will be designated by further notice.

Dated at Washington, D.C., March 16, 1972.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.72-4275 Filed 3-20-72;8:49 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF DEFENSE

Notice of Title Change in Noncareer Executive Assignment

By notice of March 9, 1968, F.R. Doc. 68-2898 the Civil Service Commission authorized the Department of Defense to fill by noncareer executive assignment the position of Assistant to the Assistant Secretary of Defense (International Security Affairs), Office of the Secretary of Defense. This is notice that the title of this position is now being changed to Assistant for POW/MIA and Economic Affairs, OASD (International Security

Affairs), Office of the Secretary of Defense.

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

[FR Doc.72-4286 Filed 3-20-72;8:49 am]

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Associate Director, Office of Oil and Gas, Office of the Secretary, Office of the Assistant Secretary for Mineral Resources.

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

[FR Doc.72-4283 Filed 3-20-72;8:49 am]

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary, Mineral Resources (Energy Programs), Office of the Secretary.

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

[FR Doc.72-4284 Filed 3-20-72;8:49 am]

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Notice of Title Change in Noncareer Executive Assignment

By notice of June 5, 1970, F.R. Doc. 70-6997 the Civil Service Commission authorized the U.S. Arms Control and Disarmament Agency to fill by noncareer executive assignment the position of Deputy Assistant Director, Economic Bureau. This is notice that the title of this position is now being changed to Deputy Assistant Director, Economic Affairs Bureau.

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

[FR Doc.72-4287 Filed 3-20-72;8:49 am]

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the U.S. Army Control and Disarmament Agency to fill by noncareer executive assignment in the excepted service the position of Disarmament Adviser, Disarmament Advisory Staff.

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

[FR Doc.72-4285 Filed 3-20-72;8:49 am]

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the U.S. Arms Control and Disarmament Agency to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Director, Economics Bureau.

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

[FR Doc.72-4282 Filed 3-20-72;8:49 am]

ENVIRONMENTAL PROTECTION AGENCY

MOTOR VEHICLE POLLUTION CONTROL

Suspension Request; Notice of Public Hearing; Procedures Therefor

Section 202(b)(5)(A) of the Clean Air Act, as amended, provides that at any time after January 1, 1972, any automobile manufacturer may file with the Administrator an application requesting the suspension for 1 year only of the effective date, with respect to that manufacturer, of the carbon monoxide or hydrocarbon (or both) emission standards applicable to light duty vehicles manufactured beginning with the model year 1975. Section 202(b)(5)(D) provides that the Administrator shall make his determination with respect to any such application within 60 days.

If the Administrator determines that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles manufactured during model year 1975. Section 202(b)(5)(C) provides that such interim standards shall reflect the greatest degree of emission control which the Administrator determines is available, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers.

Section 202(b)(5)(D) provides that the Administrator shall issue a decision granting such suspension after a public hearing and only if he determines that (1) such suspension is essential to the public interest or the public health and welfare of the United States, (2) all good faith efforts have been made to meet the established standards, (3) the applicant has established that effective control technology, processes, operating methods or other alternatives are not available or have not been available for a sufficient period of time to achieve compliance prior to the effective date of such standards, and (4) the study and investigation of the National Academy of Sciences and other information available to him have not indicated that technology, processes, or other alternatives are available to meet such standards.

On March 13, 1972, Volvo, Inc., filed with the Administrator an application for a 1-year suspension with respect to that company, of the effective date of the 1975 emission standards. A public hearing on this application will be held in Washington, D.C., commencing at 10 a.m. on April 10, 1972. A subsequent FEDERAL REGISTER notice will specify the location of the public hearing.

The public hearing is intended to provide an opportunity for interested persons to state their views or arguments, or to provide pertinent information concerning the action requested of the Administrator by the applicant. Any person desiring to make an oral statement at the hearing should file a notice of such intention and, if practicable, five copies of his proposed statement with the Director, Mobile Source Enforcement Division, Environmental Protection Agency, Room 3609, 401 M Street SW., Washington, DC 20460, not later than April 5, 1972. Written statements and information may be submitted to the Director, Mobile Source Enforcement Division, at the above address for inclusion in the record of the hearing at any time prior to completion of the hearing.

The hydrocarbon and carbon monoxide emission standards for model year 1975 light duty vehicles subject to suspension are contained in 40 CFR Part 85.21(a). The application and such portions of the applicant's supporting documentation as may properly be made public will be available for public inspection in the Office of Public Affairs, Environmental Protection Agency, Room 3241, 401 M Street SW., 20460. Any person may obtain copies of public portions of the applications as provided for by 40 CFR Part 2.

Procedures. Since the public hearing is designed to give all interested members of the public an opportunity to participate in this proceeding, participants may present data, views, arguments, or other pertinent information concerning the action requested of the Administrator and may submit written questions to be propounded to the applicant by the hearing panel to the extent practicable. Appropriate representatives of the applicant will be required to attend the hearing and respond to questions propounded by the hearing panel. Questions submitted by the public to be propounded to Volvo, Inc., must be received by the Director, Mobile Source Enforcement Division no later than April 5, 1972. The panel may limit the length of oral presentations, may exclude irrelevant or redundant material or questions, and may direct that corroborative material be submitted in writing rather than presented orally.

Presentations by participants shall be addressed exclusively to the following considerations:

1. Whether the requested suspension is essential to the public interest or the public health and welfare of the United States.

2. Whether the applicant has made all good faith efforts to meet the standard or standards for which suspension is sought.

3. Whether the applicant has shown that there is not available effective control technology, processes, operating methods, or other alternatives that would enable the applicant to achieve compliance prior to the effective date of such standards.

4. Whether the study conducted by the National Academy of Sciences and other information indicate that technology, processes, or other alternatives are available for any manufacturer to meet such standards.

5. What interim standards for the 1975 model year would reflect the greatest degree of emission control achievable by available technology, giving appropriate consideration to the cost of applying such technology within the period of time available to manufacturers.

A verbatim transcript of the proceeding will be made and copies will be available from the reporter at the expense of any person requesting them.

Dated: March 16, 1972.

WILLIAM D. RUCKELSHAUS,
Administrator.

[FR Doc.72-4337 Filed 3-20-72;8:51 am]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Supplemental Statement in Connection With Final Promulgation

I. EPA published Standards of Performance for New Stationary Sources in final form, prefaced by a "concise general statement of their basis and purpose" as required by section 4(c) of the Administrative Procedure Act, 5 U.S.C. 553(c), on December 23, 1971. 36 F.R. 24876. Petitions for review of certain of these standards were filed on January 21 and 24 by the Essex Chemical Corp. et al., the Portland Cement Association, and the Appalachian Power Co. et al. (U.S. Court of Appeals for the District of Columbia, Nos. 72-1072, 72-1073, and 72-1079).

On February 18, 1972, almost 2 months after EPA published the New Stationary Source Standards, the U.S. Court of Appeals for the District of Columbia Circuit handed down its decision in "Kennecott Copper Corp. v. Environmental Protection Agency" (C.A.D.C. No. 71-1410), which concerned a national secondary ambient air quality standard promulgated by EPA pursuant to section 109(b) of the Clean Air Amendments of 1970, 42 U.S.C. 1857C-4(b). The court there held that although the "concise general statement" prefacing the standard involved satisfied the requirements of section 4(c) of the Administrative Procedure Act, it would nonetheless remand the cause to the Administrator for a more specific explanation of how he had arrived at the standard.

In light of the decision in "Kennecott Copper," and in the interest of a speedy judicial determination of the validity of the Standards of Performance for New Stationary Sources, we have prepared this statement of the basis of the Administrator's decision to promulgate the standards to supplement that appearing as the preface to the final standards as published in December 1971. Although if the point were raised it might ultimately be determined that this statement was not necessary to satisfy the doctrine expressed by the "Kennecott Copper" opinion, EPA considers it fundamental to the national policy embodied in the Clean Air Amendments of 1970 to expedite all steps of promulgation and enforcement of standards and implementation plans to bring about clean air. The speedy eradication of any uncertainty as to the validity of the standards for new stationary sources is an important part of this process. Accordingly, considering the particular sequence of events and pressures of time involved here, we think it most appropriate to include this supplementary statement in the record now, thereby ensuring the rapid conclusion of judicial review of the validity of the standards.

II. 1. *The Particulate Test Method.* Particulate emission limits were proposed for steam generators, incinerators, and cement plants, based on measurements made with the full EPA sampling train, which includes a dry filter as well as impingers, which contain water and act as condensers and scrubbers. In the impingers the gases are cooled to about 70° F. before metering.

There were objections to the use of impingers in the EPA sampling train, with suggestions that the particulate standards be based either on the "front half" (probe and filter) of the EPA sampling train or on the American Society of Mechanical Engineers test procedure. Both of these methods measure only those materials that are solids or liquids at 250° F. and greater temperatures.

It is the opinion of EPA engineers that particulate standards based either on the front half or the full EPA sampling train will require the same degree of control if appropriate limits are applied. Analyses by EPA show that the material collected in the impingers of the sampling train is usually although not in every case a consistent fraction of the total particulate loading. Nevertheless, there is some question that all of the material collected in the impingers would truly form particulates in the atmosphere under normal dispersion conditions. For instance, gaseous sulfur dioxide may be oxidized to a particulate form—sulfur trioxide and sulfuric acid—in the sampling train. Much of the material found in the impingers is sulfuric acid and sulfates. There has been only limited sampling with the full EPA train such that the occasional anomalies cannot be explained fully at this time. In any case, the front half of the EPA train is considered a more acceptable means of measuring filterable particulates than the ASME method in that a more efficient filter is required and the filter has far less mass than the principal ASME filter in relation to the sample collected. The latter position was reinforced by a recommendation of the Air Pollution Control Association.

Accordingly, we determined that, for the three affected source categories, steam generators, incinerators, and cement plants, particulate standards should be based on the front half of the EPA sampling train with mass emission limits adjusted as follows:

	Originally proposed particulate standards, full EPA train	Recommended particulate standards revised sample method (front half only)
Steam Generators—pounds per million Btu heat input	0.20	0.10
Incinerators—grains per standard cubic foot at 12 percent CO_2	0.10	0.08
Cement Kilns—pounds per ton feed	0.30	0.30
Cement Coolers—pounds per ton feed	0.10	0.10

The adjusted standards are based on EPA sampling results and are designed to provide the same degree of control as the originally proposed standards. In the case of steam generators, the installations which were found to be best controlled showed reasonably large concentrations (about 50 percent) of materials in the impingers. The five incinerator

tests which showed compliance with the originally proposed standard all indicated impinger catches of 20 to 30 percent. All five of these tests indicate compliance with the original and the revised standard.

In the case of cement plants, holding to the same allowable emission rate while changing the sampling method results in a slight relaxation of the standard. This permits an electrostatic precipitator as well as a fabric filter to meet the emission standard.

2. *The Sulfur Dioxide Standard for Steam Generators of 1.2 Pounds Per Million B.T.U. Heat Input.* The Administrator took into account the following facts in determining that there has been adequate demonstration of the achievability of the standard.

There are at present three SO_2 removal systems in operation at U.S. power stations. Moreover, a total of 13 electric power companies have contracted for the construction of seventeen additional units, most of which will become operational in the next 2 years. Most of these employ lime or limestone scrubbing, but magnesium oxide and sodium hydroxide scrubbing and catalytic oxidation also will be used. In addition, seven units will be equipped with water scrubbers for fly ash collection in the anticipation that they may be converted to SO_2 removal in the future. Eight different firms are designing the installations. One of the installations, a sodium hydroxide scrubber, is guaranteed by the designer to achieve 90 percent or better SO_2 removal. Four others are guaranteed at 80 percent or better. Table I summarizes information about these installations. Generally, the standard of 1.2 pounds of sulfur dioxide per million B.t.u. input can be met by the removal of 70–75 percent of the sulfur dioxide formed in the burning of coal of average sulfur content (i.e., 2.8–3 percent).

A 125-megawatt unit now operated by the Kansas Power and Light Co. at Lawrence, Kans., was put into operation in December 1968. Several problems were experienced originally and appreciable revisions have been made to improve the system. The most successful operation of the scrubber has occurred during 1971.

In some respects the plant is atypical in that it is not required to burn coal continually. Natural gas is available much of the time, and the station also has a supply of fuel oil that can be burned in emergencies when natural gas is not available. Kansas Power and Light has used this flexibility to advantage in the operation of the scrubber. It frequently switches the unit from coal to natural gas, bypassing the scrubber, so that they can inspect the internals for possible malfunction. The generating unit was seldom operated longer than 4 weeks on coal firing without making such inspections. In most instances, little or no maintenance was required during the outage, and the company then merely inspected the scrubber.

TABLE I—SULFUR DIOXIDE REMOVAL SYSTEMS AT U.S. STEAM-ELECTRIC PLANTS

Power station	Unit size	Designer SO_2 system	New or retrofit	Scheduled startup	Anticipated efficiency of SO_2 removal
Limestone Scrubbing:	*MW*				
1. Union Electric Co., Meramec No. 2.	140	Combustion Engineer.	R	September 1968	Operated at 73% efficiency during EPA test.
2. Kansas Power & Light, Lawrence Station No. 4.	125	Combustion Engineer.	R	December 1968	Do.
3. Kansas Power & Light, Lawrence Station No. 5.	430	Combustion Engineer.	N	December 1971	Will start at 65% and be upgraded to 83%.
4. Kansas City Power & Light, Hawthorne Station No. 3.	100	Combustion Engineer.	R	Late 1972	Guaranteed 70%.
5. Kansas City Power & Light, Hawthorne, Station No. 4.	100	Combustion Engineer.	R	Late 1972	Do.
6. Kansas City Power & Light, Lacygne Station.	800	Babcock & Wilcox	N	Late 1972	80% as target.
7. Detroit Edison Co., St. Clair Station No. 3.	180	Peabody	R	Late 1972	90% as target.
8. Detroit Edison Co., River Rouge Station No. 1.	265	Peabody	R	Late 1972	Do.
9. Commonwealth Edison Co., Will County Station No. 1.	175	Babcock & Wilcox	R	February 1972	Guaranteed 80%.
10. Northern States Power Co., Sherburne County Station, Minn., No. 1.	700	Combustion Engineer.	N	1976	
11. Arizona Public Service, Cholla Station Co.	115	Research Cottrell	R	December 1973	
12. Tennessee Valley Authority, Widow's Creek Station No. 8.	550	Undecided	R	1974–75	
13. Duquesne Light Co., Philips Station.	100	Chemico	R	March 1973	Do.
14. Louisville Gas & Electric Co., Paddy's Run Station.	70	Combustion Engineer.	R	Mid-late 1972	Do.
15. City of Key West, Stock Island.[1]	37	Zurn	N	Early 1972	Guaranteed 85% removal.
16. Union Electric Co., Meramec No. 1.	125	Combustion Engineer.	R	Spring 1973	80% as target.
Sodium Hydroxide Scrubbing Installations:					
1. Nevada Power Co., Reed Gardner Station.	250	Combustion Equipment Associates.	R	1973	Guaranteed 90% SO_2 while burning 1% S coal.
Magnesium Oxide Scrubbing Installations:					
1. Boston Edison Co., Mystic Station No. 6.[2]	150	Chemico	R	February 1972	90% target.
2. Potomac Electric Power, Dickerson No. 3.	195	do	R	Early 1974	90%.
Catalytic Oxidation:					
1. Illinois Power, Wood River [2]	100	Monsanto	R	June 1972	Guaranteed 85% SO_2 removal.

[1] Oil-fired plants (remainder are coal-fired).
[2] Partial EPA funding.

All water from the pond is recycled back to the scrubber. Blowdown from cooling towers constitutes makeup water. The sludge oxidizes to sulfate in the pond. Eventually, sulfate may be removed from the system and taken with the ash to landfills.

The limestone system for the new 430-megawatt steam-electric unit at the Lawrence station is essentially the same as the smaller unit. It has been operated only on a limited basis to date. The company plans to operate at 65 percent SO_2 removal, then upgrade to 80 percent or more based on experience with the 125-megawatt unit. With the new system sulfate crystallization will be accomplished in tanks. The company plans to run clarified liquor from the crystallizers directly back to the scrubbers. A solids content of 6–10 percent will be maintained in the recycle liquor to prevent scaling in exposed surfaces.

Combustion engineering pilot studies. Pilot studies conducted by the Combustion Engineering Co. on a 1 mw. equivalent stream showed 95 percent SO_2 removal with continuous crystallization and 100 percent water recycle from crystallizers. The studies form the basis upon which CE is guaranteeing that its new installations will remove at least 70 percent of SO_2.

Battersea scrubber. The principle of alkaline scrubbing has been demonstrated at the Battersea Power Station in England, where a scrubber has been in use since 1932. A multiple stage process is employed. Alkaline river water is used in the first stage and lime-neutralized liquor in subsequent stages. The steam generator is of 3,500 million B.t.u. rating. Reports indicate that the efficiency of this system exceeds 90 percent when the boiler is fired with 0.8 to 1 percent sulfur coal. Similar systems are in operation on two 150-mw. oil-fired boilers at the Bankside Power Station in England.

Swansea scrubber. Lime scrubbing processes were installed on coal-fired units at the Swansea Power Station and the Fulham Power Station in England prior to World War II. The system at the Fulham Station reportedly operated successfully until shut down for security reasons early during World War II. It was not reactivated after the war. The Swansea installation was operated for about 2 years on a coal-fired power boiler

and is not now in service. Unlike the Battersea and Bankside operations, these units utilized a continuous liquid recycle. The systems were reported to operate at SO_2 efficiencies of 90 percent or greater.

Bahco lime scrubbing. The two-stage system has been demonstrated at about 98 percent SO_2 removal over a 6-month period on a 7-mw. oil-fired steam generator in Sweden. The process is now being offered under license in the United States by Research Cottrell. None of the Bahco systems have yet been installed on coal-fired boilers. Nevertheless, the two-stage scheme appears to offer definite advantages over single-stage processes in achieving high removal efficiencies.

Wellman power gas sulfite scrubbing. The sulfite-bisulfite system has been installed on two oil-fired boilers in Japan. The combined capacity is about 650 million B.t.u. per hour. Since it was put into operation in June 1971, removal efficiencies of 95 percent have been reported with exit levels of about 0.2 pounds SO_2 per million B.t.u. The system has not been operated on a coal-fired boiler. However, since precipitators have been shown to remove particulates down to the same level as oil-fired units, application of the sulfite system to coal-fired boilers should be feasible.

A principal difficulty in operating lime based scrubbing systems has been the tendency to form scale on scrubber surfaces. Union Electric, TVA, and to a lesser extent Kansas Power and Light have reported scaling problems. The experience of Kansas Power and Light and European and Japanese installations show that scaling can be held to a tolerable level. Present designs probably will be revised to optimize cost versus scaling. The use of two or more stages would appear desirable for high sulfur coals.

In all probability, there will be some scale formation in all closed circuit lime scrubbing systems for SO_2 abatement. At the Bahco installation as at the Kansas Power and Light installation in the United States, this is minimized by keeping the solution pH in the acid region. In addition to this, a Mitsubishi Heavy Industries pilot plant in Japan has employed seed crystals and a delay tank and was reportedly able to operate for 500 hours without any sign of scaling (i.e., the scaling took place on the seed crystals).

In addition to operating at an acid pH, the Bahco system employs a wide open scrubber that can tolerate appreciable scale deposits. It was reported that the installation of additional spray heads to more thoroughly wash the wetted surfaces at the Bischaff installation in West Germany helped to prevent scale formations.

All three installations cited above have reported successful periods of operation while employing the above-mentioned techniques. The most successful of these is the Bahco unit which has had no serious operational difficulties since November 1969. These examples show that lime systems can be operated without unscheduled shutdown due to scale problems.

3. *Cost of compliance with steam generator standards.* The economic impact of the new source performance standards and requisite pollution control expenditures have been developed for a typical new coal-fired unit of 600-megawatt (MW) capacity. The investment cost for such a plant would be $120 million plus $18 million for sulfur dioxide and particulate control and $1 million for nitrogen oxide control. The $19 million total can be compared to $3.6 million which would have been expended for particulate control if sulfur dioxide and nitrogen oxide abatement were not required.

On an annualized basis the pollution control costs would be 0.13 cents per kw.-hr. for sulfur dioxide and particulate control plus 0.01 cents per kw.-hr. for nitrogen oxide control. Particulate control alone would cost 0.01 cents per kw.-hr. An average revenue of 1.56 cents per kw.-hr. is assumed. Based on these figures, the cost of pollution control will be about 9 percent of the delivered cost of electricity if all plants operated by the utility in question had to incur a comparable cost. Using a figure of $130 per year as the average residential electric bill, the increased cost of electricity to a residential customer would be about $1 per month if the total cost of control is passed on to the customer.

An indication of the impact of increased electricity cost on industrial consumers may be obtained by examining the relationship of electricity cost to production costs. An upper limit may be approximated by considering the aluminum industry, a large consumer of electrical energy. If the aluminum industry were to incur an increase of nine percent in electricity cost, production costs would increase by about 1.4 percent. Although aluminum smelters usually consume hydroelectric power and would not realize pollution control costs increases, nonetheless, the figures show that even for a large consumer the impact of increased electricity cost is fairly small. In general, the estimated electricity cost increase will have only a minor impact on production costs.

Each year the power industry puts into operation about 49 new steam-electric units. On the average, 29 are fired with coal, seven with oil, and 13 with natural gas. Most of the oil-fired units and a few of the coal-fired units may burn low sulfur fuel. The number requiring flue gas desulfurization is estimated to be between 20 and 30 per year. Most of these, 15 to 20, will be located east of the Mississippi River.

The foregoing cost projections are based on estimated costs of $30 per installed kilowatt for sulfur dioxide scrubbing systems which will also be capable of controlling coal particulate to the level of the standard. Some power distributors have questioned the figure and suggest that the actual cost may be close to $70 per kw. Nevertheless, a review of applicable cost estimates for calcium base SO_2 scrubbing system shows support for the EPA estimate.

The four estimates listed in table II for new plants range from $18.7 to $25.67 per kw. Three of the plants are large—680 to 1,000 mw. All five estimates for retrofitting existing plants show greater cost, ranging from $28.6 to $61.8 per kw. The retrofit estimates tend to cover smaller steam generators, only one of the five being greater than 180 mw. In addition, the retrofit costs tend to reflect unusual circumstances which would not be expected at new plants. All are closed circuit limestone or calcium hydroxide systems except for the small unit at Key West, Fla. In the closed circuit system, all waters are recycled to avoid problems of liquid and solid waste disposal.

TABLE II

COST ESTIMATES FOR EQUIPPING COAL FIRED STEAM-ELECTRIC PLANTS WITH CALCIUM BASE SCRUBBING SYSTEMS (1971 ESTIMATES)

Source of estimate	Size	Capital cost
Zurn Industries (Key West installation).	37 MW (New).	$20.4/kw.
Northern States Power Co.	2-680 MW (New).	$18.7/kw.
Babcock & Wilcox (Hypothetical plant in mid-west).	800 MW (New).	$25.67/kw.
Tennessee Valley Authority.	1000 MW (New).	$19.20/kw.
Do.	550 MW (Retrofit).	$54.5 to $61.8/kw.
Louisville Gas & Electric Co.	70 MW (Retrofit).	$28.6/kw.
Duquesne Light Co.	100 MW (Retrofit).	$35/kw.
Commonwealth Edison Co.	175 MW (Retrofit).	$49/kw.
Detroit Edison Co.	4-180 MW (Retrofit).	$49.6/kw.

Projected capital costs for nitrogen control will range from nil to $3.50 per kw. The greatest cost will be incurred from those units which will use combinations of flue gas recirculation and off-stoichiometric combustion to achieve the standard. Many of these will be gas-fired boilers which will not have to expend any capital for sulfur dioxide or particulate control. The least cost will be for corner-fired coal burning boilers which should be able to meet the standards without any modification. Corner-fired units are sold by only one of the four major U.S. power boiler manufacturers. The other three firms have experience with nitrogen oxide reduction schemes for gas and oil burning but it is uncertain what methods they will employ with coal burning. Consequently, precise costs are uncertain, but it is expected that the nitrogen oxide standard will stimulate interest in combustion techniques which can achieve the required emission levels at little or no increase in cost.

4. *The nitrogen oxide standard for coal-fired steam generators.* The standards set an emission limit of 0.7 pound of nitrogen oxide per million B.t.u. coal-fired steam generators. This is roughly equivalent to a stack gas concentration of 550 parts per million for a bituminous-fired operation. Several electric utilities and three of the four major boiler manufacturers commented that the technology was not fully demonstrated to achieve the standard.

The coal standard is based principally on nitrogen oxide levels achieved with corner-fired boilers which are manufactured by only one company—Combustion Engineering. This firm has confirmed in writing that it will guarantee to meet the nitrogen oxide standard. Investigations by an EPA contractor showed that other types of boilers could meet the standard under modified burning conditions. In fact, two of the three remaining companies have informed EPA they will guarantee that their new installations will meet the EPA standard of 0.7 pound/million B.t.u. on new installations.

5. *Particulate standards for kilns in portland cement plants.* Particulate emission limits of 0.3 pound per ton of feed to the kiln were proposed for cement kilns. This is roughly equivalent to a stack gas concentration of 0.03 grains per standard cubic foot.

The Portland Cement Association, American Mining Congress, a local control agency and the major cement producers commented that the kiln standard was either too strict or it is not based on adequately demonstrated technology, i.e. fabric filters can not be used for all types of cement plants. On the other hand, a comment was received from an equipment manufacturer stating that equipment other than fabric filters also can be used to meet the standard and citing supportive data for electrostatic precipitators. In addition, the AMC, a local agency and cement producers commented that the particulate standards for cement kilns are stricter than those promulgated for power plants and municipal incinerators. Further they objected to the test method to be used to determine compliance.

The proposed standard was based principally on particulate levels achieved at a kiln controlled by a fabric filter. Several other kilns controlled by fabric filters had no visible emissions but could not be tested due to the physical layout of the equipment. After proposal, but prior to promulgation a second kiln controlled by a fabric filter was tested and found to have particulate emissions in excess of the proposed standard. However, based on the revised particulate test method, the second installation showed particulate emissions to be less than 0.3 pound per ton of kiln feed.

The promulgated standard is roughly equivalent to a stack gas concentration of 0.03 grains per standard cubic foot. The power plant standard is equivalent to 0.06 grains per standard cubic foot at normal excess air rates. The incinerators standard is 0.08 grains per standard cubic foot corrected to 12 percent carbon dioxide. Uncorrected, at normal conditions of 7.5 percent carbon dioxide it is equivalent to 0.05 grains per standard cubic foot. The difference between the particulate standard for cement plants and those for steam generators and incinerators is attributable to the superior technology available therefor (that is, fabric filter technology has not been applied to coal-fired steam generators or incinerators).

In sum, considering the revision of the particulate test method, there are sufficient data to indicate that cement plants equipped with fabric filters and precipitators can meet the standard.

6. *Cost of achieving particulate standard for kilns at portland cement plants.* A limit of 0.3 pounds per ton of feed to the kiln was proposed. The limit applies to all new wet or dry process cement kilns.

Three cement producers commented that a well-controlled plant would cost much more than indicated by EPA. A meeting between American Mining Congress and EPA revealed that that association felt the cost of an uncontrolled cement plant as reported by EPA was low by a factor of 1.5 to 2. However, the association agreed that EPA had accurately estimated the cost of the pollution control equipment itself. Accordingly, no change in the standard was warranted on account of cost. Indeed, if the industry is correct in asserting that the cost of an uncontrolled plant is higher than that estimated by EPA, that means that the cost of pollution control expressed as a percentage of total cost is less than the 12 percent figure cited in the background document, APTD–0711, which was distributed by EPA at the time the standards were proposed.

7. *Sulfur dioxide and acid mist standards for sulfuric acid plants.* Sulfur dioxide emission limits of 4 pounds per ton of acid produced and acid mist emission limits of 0.15 pounds per ton of acid produced were proposed for sulfuric acid plants.

Several sulfuric acid manufacturers and the Manufacturing Chemists Association commented that the proposed SO_2 standard is unattainable in day-to-day operation at one of the plants tested or that it is unduly restrictive. They asserted that to meet the standard, the plant would have to be "designed to 2 pounds per ton" to allow for the inevitable gradual loss of conversion efficiency during a period of operation, and that units capable of such performance have not been demonstrated in this country. Essentially, the same parties commented that there is published data showing that due to the vapor pressure of sulfuric acid, the acid mist standard is not attainable.

The proposed standard was based principally on sulfur dioxide levels achieved with dual absorption acid plants and one single absorption plant controlling emissions with a sodium sulfite SO_2 recovery system. There are only three dual absorption plants in this country. Company emission data at one of the plants tested indicates the plant was meeting the proposed standard for a year of operation when the production rate was less than 600 tons per day. The plant is rated at 700 tons per day. At the second U.S. plant, emissions were about 2 pounds per ton about two months after startup. Discussion with foreign dual absorption plant designers and operators indicates normal operation at 99.8 percent conversion or higher for 99 percent of the time over a period of years. This conversion efficiency is equivalent to approximately 2.5 pounds per ton of acid produced.

Complaints from the industry that it cannot meet the acid mist standard appear to be based on experience with other test methods than EPA's. Such other methods measure more sulfur trioxide and acid vapor, in addition to acid mist, than does the EPA method. Tests of several plants with the EPA test method have shown acid mist emissions well below the emission limits as set in the standards.

8. *Cost of achieving sulfur dioxide standard at sulfuric acid plants.* A limit of 4 pounds of sulfur dioxide per ton of acid produced is set by the regulation. The limit applies to all types of new contact acid plants except those operated for control purposes, as at smelters.

The sulfuric acid industry has commented that (1) the cost of achieving the proposed sulfur dioxide standard is about three times the EPA estimate, and (2) promulgation of a standard 60 percent less restrictive than proposed by EPA would reduce the control cost 47 percent.

In developing the parallel cost estimates, both the industry and EPA assume the dual absorption process will be used to control sulfur burning plants and many spent acid plants. The more costly Wellman-Power Gas sulfite scrubbing system will be used with plants which process the most contaminated spent acid feedstocks where capital investment historically is 80 percent greater than sulfur burning plants. The Wellman-Power Gas process would also be used for retrofitting existing plants where appropriate. Both the dual absorption and Wellman-Power Gas processes have been demonstrated on commercial installations. Seventy-six dual absorption plants have been constructed or designed since the first in 1964. Only three, however, are located in this country. One sulfite scrubbing process is now in operation in the United States and four more will be put into service in 1972. All are retrofit installations. Two other such scrubbers are being operated in Japan. These seven installations consist of three acid plants, two claus sulfur recovery plants, an oil-fired boiler, and a kraft pulp mill boiler.

Control costs. EPA engineers have reviewed the industry analysis and find no reason to change their original cost estimate. As summarized in Table III, EPA estimates that the cost of achieving the standard is $1.07 to $1.32 per ton of acid for dual absorption systems and $3.50 per ton for sulfite scrubbing systems. The industry estimate for a sulfur burning dual absorption plant is $2.31 greater than EPA's. We believe the industry's estimate to be excessive for the following reasons.

TABLE III

ESTIMATED COSTS OF CONTROLLING SULFUR DIOXIDE FROM CONTACT SULFURIC ACID PLANTS

	Dual absorption process		Sodium sulfite scrubbing	
	Industry	EPA	Industry	EPA
Sulfur burning plants:				
Direct Investment (Thousands of $)	2,000	550	Not anticipated for new sulfur burning plants.	
Total Added Cost ($/Ton)a)	3.38	1.07		
Spent acid plants:				
Direct Investment (Thousands of $)	3,100	900	2,200	2,300
Total Added Cost ($/Ton)a)	4.45	1.32	4.11	3.50

a) Total added cost includes depreciation, taxes, 16% return on investment after taxes and other allocated costs.

Seventy-two percent of the difference between the Du Pont and EPA estimates is due to direct investment, plant overhead, and operating costs for auxiliary process and storage equipment which Du Pont predicts will be necessary to satisfy the standards. EPA does not believe that such auxiliary equipment will be necessary in practice to meet the standard.

Twenty percent of the difference is due to differences in estimates of the cost and consumption of utilities. Elimination of auxiliary equipment referred to above reduces the consumption rate of both electricity and steam. Eight percent results from the industry's apportionment of "other allocated costs" (Corporate Administration, i.e., sales, research, and development, main office, etc.) in proportion to their estimate of the additional investment required for control. Although an accepted procedure for internal cost accounting, this does not represent a true out-of-pocket cost.

In sum, the EPA analysis shows that meeting the proposed standard with a dual absorption plant requires a substantial investment over an uncontrolled plant but only 30 percent as great as indicated by the industry. Moreover, relaxation of the proposed standard by 60 percent (to the level recommended by the industry) would decrease the cost of control in dual absorption plants only 10 to 15 percent. For sulfur burning plants the cost differential would be $0.10 per ton of acid. For spent acid plants, it would be $0.17.

Economic impact of proposed standard. Most sulfuric acid production is captive to large vertically integrated chemical, petroleum, or fertilizer manufacturers. An increasing volume of production also results from the recovery of sulfur dioxide from stack gases or the regeneration of spent acid instead of its discharge into streams.

Depending on the abatement process selected and the plant size, the direct investment for control can range from 14 to 38 percent of the investment in an uncontrolled acid plant.

The added cost of air pollution control, coupled with the inherent market disadvantage of the small manufacturer, may make future construction of plants of less than 500 tons per day economically unattractive except as a sulfur recovery system for another manufacturing process.

It is estimated that the average market price will increase by $1.07 per ton reflecting the lower end of the cost range. This represents a small increase in the $31 per ton market price and will have little effect on the demand for acid.

The increasing production of recovered and regenerated acid, as a result of abatement efforts, will inhibit the growth of conventional acid production and threaten eventually to displace much of that production.

WILLIAM D. RUCKELSHAUS,
Administrator.

MARCH 16, 1972.

[FR Doc.72-4338 Filed 3-20-72;8:51 am]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and section 11(p)(1) of the Federal Water Pollution Control Act, as amended.

Certificate No.	*Owner/operator and vessels*
01039	Den Norske Amerikalinje A/S (Norwegian America Line): Kongsfjord.
01049	Delos Maritime Co., Ltd.: Black Knight.
01065	Reederei Richard Schroder: Erich Schroder.
01071	Kommanditselskabet AF 19. August 1968 (Komplementar: P.F.S. Heering): Heering Kirse.
01075	Valdemar Skogland A/S: Notos.
01107	N.V. Stoomvaart-Maatschappij "Oostzee" (Curacao) (Steamship Co. "Oostzee" (Curacao), Ltd.: Poinciana.
01108	Hvalfangeraktieselskapet "Rosshavet" & "Vestfold" (Rosshavet" Whaling Co., Ltd. & "Vestfold" Whaling Co., Ltd.: Ross Lake.
01155	Ernst Jacob, Reeder und Schiffsmakler: Steinhoft.
01318	Aug. Nolten, Wm. Miller's Nachfolger: Bell Volunteer.
01323	Manchester Liners, Ltd.: Manchester Port. Manchester Progress. Manchester City. Manchester Renown.
01334	American President Lines, Ltd.: President Polk.
01413	Kinyras Shipping Co., Ltd., of Nicosia, Cyprus: Paphos.
01454	Hunting (Eden) Tankers, Ltd.: Gretafield.
01481	Chios Shipping Co., Ltd.: Chios.
01517	Salamis A/S: Stolt Skaukar.
01530	Herm. Dauelsberg, Bremen: Bellavia. Silvia.
01627	Atlantic Oil Carriers, Ltd.: Eugenie Livanos.
01714	Elios S.p.A.-Palermo: Penelope.
01759	Morania Compania Naviera S.A.: Etolis.
01815	Aug.-Thyssenhutte A.G., Duisburg, as Bareboat Chartered Owners: Francesca.
01844	Nationale Tankvaart Maatschappij N.V.: Forest Hill.
01861	BP Tanker Co., Ltd.: British Sportsman. British Guardian. British Engineer. British Fame.
01919	Aksjeselskapet Pelagos: Pontia.
01935	Interessentskab Mellem Aktieselskabet Dampskibsselskabet Svendborg & Damp . . . AF 1912 Aktieselskab: Caroline Maersk.
01985	Aktiebolaget Svenska Atlant Linien: Sagaholm. Odensholm.
01986	Aktiebolaget Transmarin: Astrid.
01988	Angfartygsaktiebolaget Tirfing: Atland.
02016	A. L. Mechling Barge Lines, Inc.: MBL-18T. JIH 14. JIH 16.
02043	Suomen Tankkilaiva oy Finska Tankfartygs AB: Wisa.
02069	World Dale Corp.: World Dale.
02093	Thor Tanker Corp.: World Majesty.
02094	Lysander Shipping Co.: World Memory.
02095	Urania Tanker Corp.: World Merchaant.
02131	Houlder Line, Ltd.: Oswestry Grange.
02132	South American Saint Line, Ltd.: St. Merriel.
02138	Sioux City & New Orleans Barge Lines, Inc.: Ellis 1301. Ellis 1302. Ellis 1303. UMI 1250. UMI 1251.
02163	Redereit "Ocean" A/S, Copenhagen: Roman Reeder.
02181	James L. Bryan: BBC-2002. BBC-2001.
02194	Compagnie Generale Transatlantique: Carimare.
02202	Humble Oil & Refining Co.: Esso 15.
02264	Dr. Erich Retzlaff: Renate Retzlaff. Emma Retzlaff. Indal Retzlaff.
02270	Enso-Gutzeit Osakeyhtio: Finnhawk. Finneagle. Finnarrow.

Certificate No.	Owner/operator and vessels
02295---	The Great Eastern Shipping Co., Ltd.:
	Green Valrus.
02302---	First Steamship Co., Ltd.:
	Ever Life.
	Ever Success.
02303---	Interessentskapet Seahorse:
	Sunseahorse.
02327---	Weser-Schiffahrts-Agentur G.m.b.H.:
	Antares I.
02366---	Canadian Pacific Railway:
	Empress of Canada.
	Princess Patricia.
	Princess Marguerite.
02393---	Prosperidad Compania Naviera S.A.:
	Orient Captain.
02429---	G & C Towing, Inc.:
	Thomas W. Hines.
02458---	The China Navigation Co., Ltd.:
	Tsingtao.
02496---	United States Steel Corp.:
	Hughes 144.
	Hughes 115.
	B. F. Fairless.
02498---	Chevron Oil Co.:
	LTS–S–26.
02501---	Standard Oil Co. of California:
	M. E. Lombardi.
02551---	Ellerman Lines, Ltd.:
	City of Colombo.
02662---	Partenreederei MS "Kalliope" Korrespondentreeder Hans Kurger G.m.b.H.:
	"Kalliope".
02707---	Ernst Komrowski Reederei:
	Heluan.
02732---	Kapitaen Hans Trueper:
	Unitas.
02872---	States Marine International, Inc.:
	Keystone State.
02889---	Showa Kaiun K.K.:
	Fuyo Maru.
	Nikkyu Maru.
02921---	Ultramar Shipping Co.:
	Santa Cruz.
02892---	Meljoy Transportation Co., Inc.:
	MOS 101.
	MOS 103.
02958---	Kawasaki Kissen K.K.:
	Masashima Maru.
02959---	Kokuyo Kaiun Kabushiki Kaisha:
	Tsukikawa Maru.
03067---	Vickers Towing Co., Inc.:
	Nita Vickers.
03128---	Global Seas, Inc.:
	First Lady.
03137---	The Cunard Steam-Ship Co., Ltd.:
	Mangla.
	Masirah.
	Mathura.
03155---	Leo Navigation Corp.:
	Aris.
03157---	"Scorpio" Navigation Corp.:
	Tolmiros.
03158---	Aquarius Navigation Corp.:
	Stolt Edla.
03159---	Tavros Navigation Corp.:
	Tavros.
03160---	Libra Navigation Corp.:
	Nimar.
03314---	Gulf Oil Corp.:
	Gulfbeaver.
	Gulfbear.
03322---	Daiichi Chuo Kisen Kabushiki Kaisha:
	Hakusui Maru.
	Bintan Maru.
03346---	Asiatic Navigation, Inc.:
	Atlas Navigator.
03397---	Hilmar Reksten:
	Hadrian.
03406---	Afromar, Inc.:
	Cap Ortegal.
	Cap Frio.
03428---	Hachiuma Kisen K.K.:
	Eishin Maru.
03434---	Holo Suisan K.K.:
	Katata Maru.
03442---	Haikata Gyogyo Seisan-Kumiai:
	Kachi-Kaikata Maru.
03445---	Kawasaki Kinkai Kisen K.K.:
	Nagisa Maru.
03505---	Showa Yusen Kabushiki Kaisha:
	Olympia Maru.
03315---	Tofuku Kisen K.K.:
	Oikaze Maru.
03657---	Overseas Bulktank Corp., New York:
	Overseas Audrey.
03667---	Darius Tanker Corp.:
	Coral Sea.
03674---	City Ice & Fuel of Point Pleasant, Inc.:
	OR–135.
03841---	American Export Isbrandtsen Lines, Inc.:
	Exporter.
03861---	Far East Shipping Co., Inc.:
	Akiko.
03873---	Saguenay Shipping, Ltd.:
	Sunek.
	Sunrhea.
03917---	Mobil Shipping Co., Ltd.:
	T.B.N. (Hull 4268).
	T.B.N. (Hull 4269).
03923---	Shinwa Kaiun Kaisha, Ltd.:
	Tosho Maru.
03959---	The Knox Shipping Co., Ltd.:
	World Fuji.
03980---	Moran Towing & Transportation Co., Inc.:
	Rangely.
	Panhandle.
04000---	J. D. Streett & Co., Inc.:
	St. Louis Zephyr.
04004---	Koninklijke Java-China-Paketvaart Lijnen N.V.:
	Tjiluwah.
04188---	Rendsburger Schiffahrtsgesellschaft m/b/H. & Co.:
	Breitenburg.
	Norburg.
	Mildburg.
04197---	Gulf Atlantic Towing Corp.:
	Gatco 95.
	Gatco 106.
04221---	Lusteeor Shipping Corp.:
	Capital Trader.
04276---	Rivtow Straits, Ltd.:
	Straits Traveller.
04289---	Dixie Carriers, Inc.:
	TTC–1.
04298---	Utah Construction & Mining Co.:
	San Joaquin.
04357---	Koninklijke Nedlloyd N.V.:
	Overijsel.
	Dahomeykust.
	Rotti.
	Abbekerk.
	Ampenan.
	Karimata.
	Radja.
04363---	Ship Channel Management, Ltd.:
	Island Cement.
04394---	Philippine President Lines, Inc.:
	President Magsaysay.
04429---	Heiner Braasch Seereederei Gesellschaft:
	Cape Verde.
04433---	Allied Chemical Corp.:
	JN 103.
04446---	Universal Marine, Inc.:
	C. R. Clements.
	UMI 1650.
	UMI 1822B.
	UMI 2222B.
	UMI 2223.
	UMI 2407.
	UMI 2408.
	UMI 2521.
04446---	Universal Marine, Inc.—Continued
	UMI 2523.
	UMI 2550.
	UMI 2551.
	UMI 2563.
	UMI 2564.
	UMI 2820.
	UMI 2821.
	UMI 2822B.
04473---	Toto Gyogyo Kabushiki Kaisha:
	Tosuimaru No. 10.
04596---	Pan-Alaska Fisheries, Inc.:
	Mercator.
04622---	Island Tug & Barge, Ltd.:
	Seaspan King.
	Islang King.
	Island Tanker No. 1.
	Island Monarch.
04623---	Vancouver Tug Boat Co., Ltd.:
	P.B. 6.
	P.B. 9.
	P.B. 12.
	P.B. 100.
	P.B. 101.
	V.T. 65.
	V.T. 200.
	V.T. 201.
	V.T. 201.
	Harold A. Jones.
04769---	Texaco Norway A/S:
	Texaco South America.
04794---	Sea King Corp.:
	Grand Yaling.
04936---	Alaska Steamship Co.:
	Iliamna.
05045---	Cie. Generale D'Armements Maritimes:
	Conqueror.
05056---	Ocean Lines, Ltd.:
	Coverdale.
05090---	Esso Petroleum Co., Ltd.:
	Esso Westminster.
05108---	Compania Naviera Pearl, S.A.:
	Billy.
05213---	Americas Navigation Co., S.A.:
	Citizens Una.
05291---	Southern Towing Co. (Delaware):
	H.T. Co. 48.
05293---	Scheepvaart-& Handelmij. "Marico" N.V.:
	ENY–H.
05299---	Waterways Marine of Greenville, Inc.:
	GWG 202.
05401---	Marine Acoustical Services, Inc., a subsidiary of Tracor, Inc.:
	F. V. Hunt.
05405---	Linea Amazonica S.A.:
	Atahualpa.
05413---	Vallum Shipping Co., Ltd.:
	St. Margaret.
	Mabel Warwick.
05471---	Belcher Oil Co. & Wholly Owned Subsidiaries: Belcher Towing Co. & Belcher Towing Co. of Boca Grande:
	Barge No. 17.
05502---	Independent Pioneer Navigation (Liberia), Ltd.:
	Independent Pioneer.
05520---	Union Carbide Corp.:
	Bill 502.
	DXE 2304.
	RC 2006.
	RC 1400.
	KEL 501.
05585---	Freeport Barge Lines, Inc.:
	Hines 32.
	Hines 33.
05801---	Partenreederei MS "Brunseck":
	Brunseck.
05870---	Skibsaksjeselskapet Bratsberg:
	Maraton.
05886---	Hughes Bros., Inc.:
	Hughes No. 200.

Certificate No.	Owner/operator and vessels
05964	Davison Sand & Gravel Co.: Crescent. Barge No. OFS–55. Barge No. OFS–65. Barge No. OFS–52. Barge No. OFS–53. Barge No. OFS–68. Barge No. OFS–71. Barge No. OFS–73. Barge No. 80. Barge No. 81. Barge No. 82. Barge No. 83.
06045	Southern Materials Co.—Division of Lone Star Cement Corp.: Floating Plant No. 18. Work Rig. Conditioning Barge. Floating Plant No. 12. Plant No. 3.
06172	Mercandia Chartering, Copenhagen: Vestlollik.
06250	Valmont Shipping Co.: Valmont.
06324	Tenacity Seafaring Corp.: Tenacity.
06325	Sun Line, Inc.: Stella Maris II.
06385	Regency Transportation Co., Ltd.: Cedros Pacific.
06582	The Delaware Navigation Co.: Amoco Delaware.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.72–4277 Filed 3–20–72;8:48 am]

PACIFIC WESTBOUND CONFERENCE AND WATERMAN STEAMSHIP CORP.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. D. D. Day, Jr., Chairman, Pacific Westbound Conference, 635 Sacramento Street, San Francisco, CA 94111.

Agreement No. 57–95 reflects a request for a change of membership of Waterman Steamship Corp. from that of a regular member to that of an associate member of the Pacific Westbound Conference.

Dated: March 16, 1972.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[F.R. Doc.72–4278 Filed 3–20–72;8:48 am]

[Docket No. 71–98]

SEA-LAND SERVICE, INC.

Order of Investigation and Hearing and Denial of Motion To Dismiss

By Order served December 28, 1971, Sea-Land Service, Inc. (Sea-Land) was directed to show cause why the Commission should not find that Sea-Land's RFP 600, Second Cycle, Military Cargo N.O.S. rate of $11.69 per measurement ton for the North Atlantic Range is unreasonably preferential to shippers of that cargo and unreasonably prejudicial or disadvantageous to commercial shippers in violation of section 16, First of the Shipping Act, 1916; is unjustly discriminatory between shippers and ports in violation of section 17 of the Act; is so unreasonably low as to be detrimental to the commerce of the United States in contravention of section 18(b)(5) of the Act; and why the Commission should not therefore disapprove or alter the Cargo N.O.S. rate on the North Atlantic Range as authorized by sections 17 and 18(b)(5) of the Act. In accordance with the directives of the Commission's order to show cause, Sea-Land has filed its memoranda of law, with affidavits, to which Hearing Counsel and interveners Military Sealift Command (MSC) and American Export Isbrandtsen Lines, Inc. (AEIL) have replied.

Subsequent to the other parties having filed their responses to the Commission's order, Sea-Land filed a Motion to Dismiss the proceeding. In the alternative, Sea-Land requests that either a rulemaking proceeding or a full evidentiary hearing be instituted. Replies to Sea-Land's motion have been submitted by AEIL and Hearing Counsel.

Also before the Commission at this time are requests by Sea-Land and Hearing Counsel that certain documents, submitted by them concurrently with their respective responses to the Commission's order, be withheld from public disclosure and treated as confidential pursuant to Rule 10(a)(a) of the Commission's rules of practice and procedure.

The Commission has for quite some time been seriously concerned about the level of rates on military cargo. Consequently, when Sea-Land, pursuant to MSC's negotiated competitive procurement system, filed a rate for the carriage of military cargo, which, on the basis of information available to the Commission's staff, appeared to be below costs and violative of various provisions of the Shipping Act, 1916, we immediately entered an order directing Sea-Land to establish the lawfulness of such rate.

At the time of the institution of this proceeding we recognized that the time limitations inherent in Sea-Land's military cargo rate required the speedy disposition of the issues raised therein. We had hoped to effect the necessary expedition through the vehicle of the show cause order, to which we believed the questions presented lent themselves. It is now clear, however, as all the parties will to one degree or another admit, that the many factual issues raised in the memoranda of law and supporting affidavits submitted, frustrates the use of the show cause procedure. Although considerable effort has been devoted to attempting to resolve the crucial issues raised in the pleadings of the parties, the Commission simply is unable to make any vaild judgments or determinations on the basis of the present record.

The alternative, however, is not, as Sea-Land suggests, dismissal of the proceeding for many questions remain unanswered, the resolution of which is necessary to the proper disposition of the issues presented as they relate to the lawfulness of Sea-Land's military cargo rate. Foremost among the matters which require further explanation is the basis for the cost justifications offered by Sea-Land itself in support of its challenged rate.

Therefore, in order to allow for the exploration of Sea-Land's cost computations and to otherwise develop the requisite record in this proceeding, we are referring the case for a full evidentiary hearing within the confines of the specific issues set forth in the order to show cause. Because of the continuing urgent nature of the issues and the time element involved in military rates generally, we are directing that the proceeding be expedited and that, upon termination of the hearing, the record be certified to the Commission for issuance of a decision.

In view of our finding herein that the factual matters raised in the parties' pleadings can only be resolved in an adjudicative hearing atmosphere, Sea-Land's Motion to Dismiss must be denied. Likewise rejected is Sea-Land's alternative request that a rulemaking proceeding be instituted.

We see no purpose to considering, at this time, the motions for confidential treatment filed by Sea-Land and Hearing Counsel. These requests, made pursuant to Rule 10(a)(a) of the Commission's rules, can be renewed before the presiding examiner at the appropriate time during the course of the hearing instituted herein.

Therefore it is ordered, That, pursuant to section 22 of the Shipping Act, 1916, an investigation and hearing is hereby instituted to determine the lawfulness

of Sea-Land's RFP 600, Second Cycle, Military Cargo N.O.S. bid rate of $11.69 per measurement ton for the North Atlantic Range under sections 16 First, 17 and 18(b)(5) of the Act; and

It is further ordered, That Sea-Land Service, Inc. be made respondent in the proceeding; and

It is further ordered, That this proceeding be referred for public hearing before an examiner of the Commission's Office of Hearing Examiners, with directions that the proceeding be expedited and that upon completion of the hearing the record developed therein be certified to the Commission; and that the hearing be held at a date and place to be determined and announced by the presiding examiner; and

It is further ordered, That notice of this Order be published in the FEDERAL REGISTER and a copy thereof and notice of hearing be served upon respondent; and

It is further ordered, That any person, other than respondent, who desires to become a party to this proceeding and to participate therein shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, promptly with copies to parties; and

It is further ordered, That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

Finally, it is ordered, That Sea-Land's Motion to Dismiss this proceeding and its alternative Motion for a rule making Proceeding be, and hereby, are denied.

By the Commission.

[SEAL] FRANCIS C. HURNEY, *Secretary.*

[FR Doc.72-4279 Filed 3-20-72;8:48 am]

FEDERAL POWER COMMISSION

[Docket No. CS72-746, etc.]

HARRY AND ROBERT STRIEF ET AL.

Notice of Applications for "Small Producer" Certificates [1]

MARCH 9, 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 April 7, 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.*

Docket No.	Date filed	Name of applicant
CS72-746	2-18-72	Harry and Robert Strief, 3020 Republic Bank Tower, Dallas, Tex. 75201.
CS72-747	2-18-72	E. W. Mudge, Jr. et al., 3414 Republic National Bank Tower, Dallas, Tex. 75201.
CS72-748	2-18-72	R. S. Murray, Jr. et al., 91 Sutton Pl., El Paso, TX 79912.
CS72-749	2-18-72	Malcolm K. Brachman, 3217 Republic Bank Tower, Dallas, Tex. 75201.
CS72-750	2-18-72	W. W. McClure and Dorothy M. McClure, 711 First National Bldg., Tulsa, Okla. 74103.
CS72-751	2-22-72	William G. Webb, 1700 Mercantile Bank Bldg., Dallas, Tex. 75201.
CS72-752	2-22-72	Mountain Petroleum, Ltd., 712 Denver Center Bldg., Denver, Colo. 80203.
CS72-753	2-22-72	Frank A. Schultz, 1700 Mercantile Bank Bldg., Dallas, Tex. 75201.
CS72-754	2-22-72	La Plata Gathering System, Inc., 1700 Mercantile Bank Bldg, Dallas, Tex. 75201.
CS72-755	2-22-72	Champlin Exploration, Inc., 1971 Limited Partnership, Post Office Box 1066, Enid, Okla. 73701.
CS72-756	2-22-72	Royce E. Wisenbaker, 1400 Peoples Bank Bldg., Tyler, Tex. 75701.
CS72-757	2-22-72	Bassett-Birney Oil Corp., Yates Bldg., Artesia, N. Mex. 88210.
CS72-758	2-22-72	Bluford Stinchcomb, Post Office Box 947, Longview, TX 75601.
CS72-759	2-22-72	James W. Steward, 2015 South Q St., Fort Smith, AR 72901.
CS72-760	2-18-72	Del E. Webb, 4263 Forman Ave., North Hollywood, CA 91602.
CS72-761	2-23-72	J. Glenn Turner, Jr., 1700 Mercantile Bank Bldg., Dallas, Tex. 75201.
CS72-762	2-23-72	Fred E. Turner, 1700 Mercantile Bank Bldg., Dallas, Tex. 75201
CS72-763	2-23-72	Thomas H. Harrington, Post Office Box 4026, Station A, Albuquerque, NM 87110.
CS72-764	2-23-72	Robert P. Willett, 604 Johnson Bldg., Shreveport, La. 71101.
CS72-765	2-24-72	Dugan Production Corp., Post Office Box 234, Farmington, NM 87401.
CS72-766	2-24-72	Thomas A. Dugan, Post Office Box 234, Farmington, NM 87401.
CS72-767	2-24-72	Pengo Petroleum, Inc., 2195 2 Shell Plaza, Houston, TX 77002.
CS72-768	2-28-72	Clark Sample, Jr., Post Office Box 1912, Longview, TX 75601.
CS72-769	2-28-72	Fort Collins Consolidated Royalties, Inc., Post Office Box 1363, Cheyenne, WY 82001.
CS72-770	2-28-72	J. A. Whittenburg, III, 1200 Plaza One, Amarillo, TX 79101.
CS72-771	2-28-72	Donald C. Slawson, 120 Bldg., 120 South Market, Wichita, KS 67202.
CS72-772	2-28-72	James A. Hunter, 602 Elmwood St., Shreveport, LA 71104.
CS72-773	2-28-72	Dynamic Exploration, Inc., 2875 Bank of New Orleans Bldg., 1010 Common St., New Orleans, LA 70112.
CS72-774	2-28-72	Cornelia Harris Allaun and William E. Allaun, Jr., Co-Executors—Estate of William E. Allaun and Cornelia H. Allaun, 123 30th St., Newport News, VA 23607.
CS72-775	2-28-72	Donald G. Rynne, Trustee, 30 East 60th St., New York City, NY 10022.
CS72-776	2-28-72	Adobe San Juan Co., 3100 Northwest 42d St., Oklahoma City, OK, 73112.
CS72-777	2-28-72	W.N. Jackson, First State Bank Bldg., Stratford, Tex. 79084.
CS72-778	2-17-72	Louis H. Haring, Jr., 742 Milam Bldg., San Antonio, Tex. 78205.
CS72-779	3-1-72	L W D Exploration Co., Inc., Post Office Box 826, Irvine Road, Richmond, KY 40475.
CS72-780	3-1-72	Milo M. Craig, Box 1662, Enid, OK 73701.
CS72-781	3-1-72	Morueco Corp., Post Office Box 230, Mount Carmel, IL 62863.
CS72-782	3-1-72	Exploration Resources, Inc., 811 Central Bank Bldg., Denver, Colo. 80202.
CS72-783	3-2-72	Elizabeth Turner Calloway, 1700 Mercantile Bank Bldg., Dallas, Tex. 75201.
CS72-784	3-2-72	James E. Beck, Pullman, W. Va. 26421.
CS72-785	3-2-72	F. J. Muller, Post Office Box 52401, Lafayette, LA 70501.
CS72-786	3-2-72	J. H. Bander, 508 Petroleum Bldg., Abilene, Tex. 79601.
CS72-787	3-2-72	Emerald Petroleum Corp., Post Office Box 51325, Lafayette, LA 70501.
CS72-788	3-2-72	Ted Weiner Oil Properties, Post Office Box 12405, Fort Worth, TX 76116.
CS72-789	3-2-72	Dewey S. Kendrick, Jr., Post Office Box 818, Ruston, LA 71270.
CS72-790	3-3-72	Rains & Williamson Oil Co., Inc. (Operator) et al., 1111 Vickers Tower, Wichita, Kans. 67202.

[FR Doc.72-4143 Filed 3-20-72;8:45 am]

FEDERAL RESERVE SYSTEM

FIRST FLORIDA BANCORPORATION

Acquisition of Bank

First Florida Bancorporation, Tampa, Fla., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3))

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

to acquire 90 percent or more of the voting shares of Ormond Beach First National Bank, Ormond Beach, Fla. 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 April 3, 1972.

Board of Governors of the Federal Reserve System, March 13, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-4235 Filed 3-20-72;8:45 am]

FIRST NATIONAL BANCORPORATION, INC.

Proposed Acquisition of Mortgage Banking Division of First National Bank of Denver

The First National Bancorporation, Inc., Denver, Colo., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire the assets of The Mortgage Banking Division of The First National Bank of Denver, Denver, Colo. Notice of the application was published on February 3, 1972, in The Denver Post and the Rocky Mountain News, newspapers circulated in Denver, Greeley, and Colorado Springs, Colo. In addition said notice was published on February 4, 1972, in The Greeley Dailey Tribune, Greeley, Colo., and the Colorado Springs Gazette Telegraph, Colorado Springs, Colo.

Applicant states that the proposed subsidiary would continue to engage in the activities of originating mortgage loans for its own account and for the account of others, warehousing mortgage loans, and servicing loans. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 14, 1972.

Board of Governors of the Federal Reserve System, March 14, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-4300 Filed 3-20-72;8:50 am]

IOWA AGRICULTURE DEVELOPMENT CORP.

Formation of Bank Holding Company

Iowa Agriculture Development Corp., Knoxville, Iowa, 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 Bedford National Bank, Bedford, Iowa. 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 Chicago. 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 April 6, 1972.

Board of Governors of the Federal Reserve System, March 15, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-4301 Filed 3-20-72;8:51 am]

MEI CORP. AND IGI SUCCESSOR, INC.

Formation of Bank Holding Company

MEI Corp. and IGI Successor, Inc., both of Minneapolis, Minn., have 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 bank holding companies through acquisition of approximately 68 percent of the voting shares of First National Bank in Sioux City, Sioux City, Iowa, upon the merger of Investors Growth Industries, Inc., Minneapolis, Minn., the present indirect owner of said shares, into IGI Successor, Inc., a proposed subsidiary of MEI Corp. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)). It is understood that the above formation cannot be consummated until after the divestiture of Olmsted County Bank and Trust Company, Rochester, Minn., by MEI Corp.

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the applications 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 April 3, 1972.

Board of Governors of the Federal Reserve System, March 14, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-4236 Filed 3-20-72;8:45 am]

NORTHWEST BANCORPORATION

Proposed Acquisition of T. G. Evenson & Associates, Inc.

Northwest Bancorporation, Minneapolis, Minn., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of T. G. Evenson & Associates, Inc., Minneapolis, Minn. Notice of the application was published in newspapers and circulated in:

Moorhead, Minn., The Forum, February 7, 1972.
Omaha, Nebr., Omaha Sun, February 10, 1972.
Omaha, Nebr., The Omaha World-Herald, February 6, 1972.
Sioux Falls, S. Dak., The Sioux Falls Argus-Leader, February 4, 1972.
Mason City, Iowa, The Globe Gazette, February 8, 1972.
St. Paul, Minn., St. Paul Dispatch, February 3, 1972.
Minneapolis, Minn., The Minneapolis Star, February 3, 1972.
Minneapolis, Minn., The Minneapolis Tribune, February 3, 1972.
Madison, Wis., Wisconsin State Journal, February 5, 1972.

Applicant states that the proposed subsidiary provides financial advice to State and local governmental units, particularly with respect to the advisability of obtaining long-term capital funds through municipal bond sales. It analyzes existing debt and ability to pay, gathers information needed by prospective investors, prepares and distributes prospectuses to potential investors, solicits bids from bond dealers and other interested bidders, acts as coordinator until consummation of the financing, and advises clients on other financial questions.

Interested persons may express their views on whether such activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto.

Interested persons may also express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Any request for a hearing on these questions should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 3, 1972.

Board of Governors of the Federal Reserve System, March 13, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-4237 Filed 3-20-72;8:45 am]

UNION PLANTERS CORP.

Formation of One-Bank Holding Company

Union Planters Corp., Memphis, Tenn., 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 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Union Planters National Bank of Memphis, Memphis, Tenn. 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 offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than April 10, 1972.

Board of Governors of the Federal Reserve System, March 15, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-4302 Filed 3-20-72;8:51 am]

UNION TRUST BANCORP

Formation of One-Bank Holding Company

Union Trust Bancorp, Baltimore, Md., 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 100 percent of the voting shares of the successor by merger to the Union Trust Company of Maryland, Baltimore, Md. 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 Richmond. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than April 12, 1972.

Board of Governors of the Federal Reserve System, March 15, 1972.

[SEAL] MICHAEL A. GREENSPAN,
Assistant Secretary.

[FR Doc.72-4303 Filed 3-20-72;8:51 am]

POSTAL SERVICE

BUILDINGS AND GROUNDS AND SURPLUS REAL PROPERTY

Management and Disposal; Interim Regulations

In the daily issue of February 1, 1972 (37 F.R. 2471), the Postal Service published a notice adopting certain regulations codified in Title 41, Code of Federal Regulations, as interim regulations of the U.S. Postal Service. Notice is given that § 101-19.313 of Title 41 is likewise adopted as an interim regulation of the Service, effective upon publication in the FEDERAL REGISTER, but only as to the 14 Postal Service facilities listed below. This action necessitates a revision in part of the notice published on February 1, 1972.

Accordingly, the first paragraph of part 1 of the cited notice, which relates to management of buildings and grounds, is amended to read as follows:

1. Part 101-19—Management of Buildings and Grounds, of Title 41, Code of Federal Regulations, except Subpart 101-19.4—Standard Practices for Financing, and § 101-19.313 *Penalties and other law* (except as made applicable hereunder), shall apply, as modified below, to the management of buildings and grounds owned and leased by the Postal Service. Financing of the operation and maintenance of buildings and grounds occupied jointly by the Postal Service and other agencies shall be provided for by agreements between the other occupying agencies, or the General Services Administration, and the Post Service. With respect to the following buildings only, § 101-19.313 of Title 41 is adopted as an interim regulation of the Postal Service, and whoever is found guilty of violating any of the rules and regulations in §§ 101-19.300 through 101-19.312 of Title 41 in any of the following buildings shall be subject to the penalties prescribed in § 101-19.313.

Post Office and Courthouse, Newark, N.J.
Federal Building and Courthouse, Wilkes-Barre, Pa.
Federal Building and Courthouse, Lexington, Ky.
Federal Building and Courthouse, Evansville, Ind.
Federal Building and Post Office, New Orleans, La.
Post Office and Courthouse, Laredo, Tex.
Federal Building and Post Office, Denver, Colo.
Post Office, Wilmington, Del.
New Post Office, Washington, D.C.
Post Office and Courthouse, Terre Haute, Ind.
Federal Building and Courthouse, Lafayette, La.
Post Office and Courthouse, Dallas, Tex.
Post Office and Courthouse, San Antonio, Tex.
Federal Building, 390 Main, San Francisco, Calif.

(39 U.S.C. 401, 410, 2008(c); 40 U.S.C. 318, 318a, 318c, 486; GSA delegation of authority, FPMR Temporary Regulation D-32, February 7, 1972)

LOUIS A. COX,
General Counsel.

[FR Doc.72-4241 Filed 3-20-72;8:45 am]

PRICE COMMISSION

GENERAL REVIEW OF ECONOMIC POLICY

Notice of Public Hearings

Notice is hereby given that the Price Commission will hold public hearings on March 28 and 29, 1972, in Washington, D.C.

The purpose of the hearings is to receive input from various sectors of the Nation, including industry, commerce, labor, consumers, and others. The Commission is seeking a general review of policy; an evaluation of its approach to curbing inflation; comments upon recommended policy changes; identification of specific problem areas; and discussion of the causes of inflation and the application of policies to control it.

The hearings will be held from 9 a.m. to 4 p.m. in the auditorium of the U.S. Civil Service Commission, 1900 E Street NW., Washington, DC.

The public hearings hereby scheduled reflect the Commission's intention to comport with the stated desire of Congress (section 207 of the Economic Stabilization Act of 1970, as amended) for public hearings on matters which have a significantly large impact on the national economy.

Announcement of the public hearings was first made by the Commission on March 1, 1972 (Press Release No. 64-A), in which it was stated that the deadline for submitting requests to make an oral presentation at the hearings was March 13, 1972.

Subsequent to that announcement on March 1, 1972, requests to make an oral presentation at the hearings have been received by the Commission from persons having a substantial interest in the subject of the hearings, and representatives of groups or classes of persons having a substantial interest in the subject of the hearings. As soon as administratively feasible, the Commission will notify all persons who have submitted a request to make an oral presentation whether or not they have been scheduled to make an oral presentation. The Commission reserves the right to select the persons to be heard at the hearings, to schedule and determine the length of their respective presentations, and to establish the procedures governing the conduct of the hearings.

Persons scheduled by the Commission to make an oral presentation may supplement their presentations by written submissions filed with the Commission

before March 24, 1972. In addition, the Commission requests all other interested parties to submit, before March 24, 1972, written comments on the subject of the hearings for Commission consideration.

All written submissions should be sent to Mr. Robert C. Cassidy, Price Commission, 2000 M Street NW., Washington, DC 20508.

Issued in Washington, D.C., on March 16, 1972.

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

[FR Doc. 72-4305 Filed 3-20-72; 8:51 am]

SECURITIES AND EXCHANGE COMMISSION

[File No. 24SF-3513]

AZTEC EXPLORATION AND DEVELOPMENT CO., INC.

Order Temporarily Suspending Exemption

MARCH 15, 1972.

I. Aztec Exploration and Development Co., Inc., 1445 East Thomas Road, Post Office Box 349, Phoenix, AZ 85006 (Aztec), of Florence, Ariz., and 1445 East Thomas Road, Phoenix, AZ, was incorporated under the laws of the State of Arizona on April 8, 1968. Its stated purpose was to conduct exploratory work for commercially mineable ore bodies. Aztec filed a notification under Regulation A with the San Francisco Regional Office on October 21, 1969, for the purpose of obtaining an exemption from registration as required by the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) of the Act and Regulation A promulgated thereunder. The offering commenced on January 14, 1970. Aztec filed a Form 2-A on May 6, 1971 which stated that as of April 1971, 65,000 shares of its common stock had been sold for an aggregate of $65,000.

II. The Commission, on the basis of information provided by its staff, has reasonable cause to believe that:

A. The Offering Circular of Aztec contains untrue statements of material facts and omits to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, particularly with respect to:

1. Aztec's proposed method of exploration;

2. Aztec's actual method of exploration; and

3. Aztec's use of the proceeds of the offering.

B. The offering was made in violation of section 17 of the Securities Act of 1933.

III. It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended,

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption of Aztec Exploration and Development Co., Inc., under Regulation A be, and it hereby is, temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having an interest in the matter may file with the Secretary of the Commission a written request for hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; that, if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the 30th day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will be promptly given by the Commission.

By the Commission.

[SEAL] GLADYS E. GREER,
Assistant Secretary.

[FR Doc.72-4268 Filed 3-20-72; 8:47 am]

[812-3004]

BALDWIN SECURITIES CORP.

Notice of Filing of Application for Order Exempting Proposed Transactions

MARCH 8, 1972.

Notice is hereby given that Baldwin Securities Corp. (Baldwin), 595 Madison Avenue, New York, NY 10022, registered as a closed-end, nondiversified investment company under the Investment Company Act of 1940 (the Act), has filed an application pursuant to section 17(b) of the Act for an order exempting from the provisions of section 17(a) of the Act certain transactions incident to the proposed merger of Baldwin and Beco Industries Corp. (Beco), an affiliated person of, and a company controlled by, Baldwin. This application, including the merger proposed therein, supersedes an earlier application and merger proposal (Investment Company Act Release Nos. 6021, 6046, and 6372). All interested persons are referred to the application, which is on file with the Commission for a statement of the representations therein which are summarized below.

On June 30, 1971, Baldwin, a Delaware corporation which, as noted above, is a registered closed-end investment company, had issued and outstanding 2,896,208 shares of common stock which are listed on the American Stock Exchange. At the same date Beco, also a Delaware corporation, had outstanding 617,161 shares of common stock which are also listed on the American Stock Exchange. At June 30, 1971, Baldwin owned 344,120 shares (55.76 percent) of the outstanding common stock of Beco.

Beco is the successor by merger to Best & Co. Inc., a New York corporation organized in 1879. Beco's assets consist principally of cash, and a substantial amount of U.S. Government obligations. In addition, Beco owns all of the outstanding common stock of Beco Stores of Delaware, Inc. (Stores), a Delaware corporation, which is engaged in the operation of women's and girl's retail apparel and specialty stores in the midwest. At April 30, 1971, Beco's assets on a consolidated basis totaled $20,211,355. Included in the total consolidated assets are $1,075,963 of cash, $13,694,705 of U.S. Treasury obligations, including interest, and $1,224,475 representing the cost of the investment of Stores in 105,000 shares or about 4.5 percent of the outstanding common stock of Kenton Corp.

Beco will be merged into Baldwin which is to be the surviving company. Each issued share of common stock of Baldwin will continue as one share of Baldwin. Each outstanding share of common stock of Beco other than Beco shares held by Baldwin will be converted into 3.9 shares of the common stock of Baldwin unless the holder elects to surrender all (but not less than all) of his Beco shares for a cash payment of $27 a share for each such share. If final elections to receive cash are made in respect of more than 135,000 shares of Beco stock, the merger agreement is to terminate automatically and the merger shall not become effective.

All treasury shares of Beco and all of Baldwin's holdings of Beco stock will be canceled, and no securities of Baldwin will be issued or issuable with respect thereto, except that persons entitled after the effective date of the merger to receive shares of Beco common stock under the latter's Deferred Contingent Compensation Plan will have issued to them, at the times specified in such plan, 3.9 shares of Baldwin's common stock in lieu of each share of Beco common stock which they may become entitled to receive under that plan.

The merger agreement, which has already been approved by the boards of directors of Baldwin and Beco, is to be submitted to the shareholders of such companies for approval. The merger agreement provides that the affirmative vote of the holders of not less than two-thirds of the outstanding shares of common stock of Baldwin and Beco are required for approval of the merger.

As a result of Baldwin's holdings of Beco common stock as noted hereinabove, Baldwin and Beco are each an affiliated person of the other under section 2(a)(3) of the Act. The proposed merger involves a sale by Beco of its assets to Baldwin. Section 17(a) of the Act, in pertinent part, makes it unlawful

for an affiliated person (Beco) of a registered investment company (Baldwin) to sell to such registered company (Baldwin) any security or other property. However, section 17(b) of the Act provides that the Commission upon application, may grant an exemption from the provisions of section 17(a) after finding that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned and that the proposed transaction is consistent with the policy of such investment company and the general purposes of the Act.

The application shows that Kuhn, Loeb & Co. was retained by Beco as its adviser and that Baldwin retained Drexel Firestone, Inc., as its adviser. Copies of reports prepared by each of these investment banking firms with respect to the proposed transactions have been submitted as exhibits to the application. Kuhn, Loeb & Co. states that the proposed exchange ratio and cash offer are fair and equitable to the shareholders of Beco; and Drexel Firestone, Inc., indicates that the proposed transactions are fair and equitable to Baldwin's shareholders.

The application states that the proposed transaction does not involve overreaching on the part of any person concerned; and that it is consistent with the policy of Baldwin as recited in its registration statement and reports filed under the Act and with the general purposes of the Act.

Notice is further given that any interested person may, not later than March 30, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Baldwin at the address stated above. Proof of such service (by affidavit or in the case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It is ordered, That Baldwin shall cause a copy of this notice to be mailed to each stockholder of Baldwin and Beco at each stockholder's last known address prior to March 11, 1972.

By the Commission.

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

[FR Doc.72–4247 Filed 3–20–72;8:46 am]

[811–1952]

CHASE INSTITUTIONAL INVESTORS OF BOSTON, INC.

Notice of Filing of Application for Order Declaring That Company Has Ceased To Be an Investment Company

MARCH 13, 1972.

Notice is hereby given that Chase Institutional Investors of Boston, Inc. (Applicant), 535 Boylston Street, Boston, MA 02116, a Massachusetts corporation registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 (Act) has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that the Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant filed both its notification of registration on Form N–8A under the Act and its registration statement under the Securities Act of 1933 (Securities Act) on October 8, 1969. The Securities Act registration statement was subsequently ordered withdrawn on February 25, 1972.

Applicant represents that it has never offered or sold any of its securities, and that it has never had, and does not presently have any functional operative business activities. Applicant states that pursuant to its articles of incorporation and bylaws, its board of directors has approved the request for withdrawal of its registration under the Act.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may not later than April 3, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the matter herein may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon said proposal shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

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

[FR Doc.72–4248 Filed 3–20–72;8:46 am]

[File No. 500–1]

COATINGS UNLIMITED, INC.

Order Suspending Trading

MARCH 14, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Coatings Unlimited, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period March 16, 1972, through March 25, 1972.

By the Commission.

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

[FR Doc.72–4269 Filed 3–20–72;8:48 am]

[70–5168]

CONSOLIDATED NATURAL GAS CO.

Notice of Proposed Amendments of Certificate of Incorporation To Limit Preemptive Rights of Holders of Common Stock and Order Authorizing Solicitation of Proxies in Connection Therewith

MARCH 13, 1972.

Notice is hereby given that Consolidated Natural Gas Co. (Consolidated), 30 Rockefeller Plaza, New York, NY 10020, a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections

6(a), 7, and 12(e) of the Act and Rule 62 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Consolidated's presently authorized common stock consists of 20 million shares, par value $8 per share, of which 18,918,562 shares are issued and outstanding. By vote of its common stockholders at the annual meeting of stockholders to be held on May 16, 1972, Consolidated proposes to amend its certificate of incorporation to eliminate the preemptive rights of holders of shares of common stock upon the issuance and sale of common stock for cash pursuant to (a) an offering to or through underwriters, security dealers, or brokers who shall have agreed to make a public offering promptly thereof, or (b) for the acquisition of operating properties or an interest therein, or securities, of a public utility or natural gas company. It is represented that the proposed amendment is to provide Consolidated greater flexibility in its common stock financings and to decrease the cost thereof; that limitation of the stockholders' preemptive rights as above proposed will not preclude the possibility of a rights offering; and that if shares are sold in the future by means of an underwritten public offering, a stockholder may maintain his proportionate equity interest by purchasing shares from underwriters or dealers at the offering price, without payment of a broker's commission. The stockholders have heretofore waived their preemptive rights to subscribe for the presently authorized but unissued 1,081,438 shares in the event such shares are used for acquisitions.

Consolidated also proposes to amend its certificate of incorporation to increase the number of shares of authorized common stock, from 20 million shares to 22 million shares. It is stated that Consolidated does not presently anticipate issuing capital stock in 1972, but believes that equity financing will be necessary in the future to acquire part of the capital needed for the Consolidated System's planned expanded gas supply programs. The increase in the number of authorized shares in now sought so that Consolidated will be able to issue and sell its capital stock whenever funds may be required, subject to regulatory authorization.

A favorable vote by the holders of at least a majority of the outstanding 18,918,562 shares of Consolidated's common stock is required for passage of the proposed amendments. Consolidated proposes to solicit proxies from holders of the common stock.

The declaration states that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions, and that no fees or commissions are to be paid in connection therewith.

Notice is further given that any interested person may, not later than March 28, 1972, request in writing that a hearing be held with respect to the proposed amendments of the certificate of incorporation, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective pursuant to Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

It appearing that the declaration, as amended, regarding the proposed solicitation of proxies should be permitted to become effective forthwith pursuant to Rule 62:

It is ordered, That the declaration, as amended, regarding the proposed solicitation of proxies be, and it hereby is, permitted to become effective forthwith pursuant to Rule 62 and subject to the terms and conditions prescribed in Rule 24 under the Act.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-4251 Filed 3-20-72;8:46 am]

[File No. 500-1]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

MARCH 14, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value, of Continental Vending Machine Corp., and the 6 percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period March 16, 1972, through March 25, 1972.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-4249 Filed 3-20-72;8:46 am]

[812-3122]

DECATUR INCOME FUND, INC.

Notice of Filing of Application for an Order Exempting a Proposed Transaction

MARCH 14, 1972.

Notice is hereby given that Decatur Income Fund, Inc. (Applicant), 901 Market Street, Wilmington, DE 19801, a Delaware corporation registered under the Investment Company Act of 1940 (Act) as an open-end, diversified management investment company, has filed an application pursuant to section 6(c) of the Act for an order exempting from the provisions of sections 22(c) and 22(d) of the Act and 22c-1 thereunder a transaction in which Applicant's redeemable securities will be issued at a price other than the current public offering price in exchange for substantially all of the assets of the Wilcox Investment Co. (Wilcox) and at a price other than the price next determined after the receipt of an order to purchase its shares.

All interested persons are referred to the application on file with the Commission for a statement of Applicant's representations which are summarized below.

The predecessor of Wilcox was Wilcox, Crittenden and Company, incorporated in 1906. Until March 1955 it was a manufacturing company. Thereafter, it became an investment company and changed its name to Wilcox Investment Co. Wilcox's place of business is Middletown, Conn. Presently, Wilcox has nine shareholders and is for Federal income tax purposes a personal holding company. Wilcox is exempt from registration under the Act by section 3(c)(1).

Pursuant to the provisions of an Agreement and Plan of Reorganization (Agreement) entered into on January 28, 1972, between Applicant and Wilcox, substantially all of the assets of Wilcox which had total assets of $2,134,136, approximately $30,000 in cash and $2,104,000 in investment securities, as of December 31, 1971, will be transferred to Applicant in exchange for shares of Applicant's capital stock. The shares of Applicant are to be sold at net asset value without sales charge. The number of shares of Applicant to be issued to Wilcox is to be determined by dividing the aggregate market value (subject to certain adjustments set forth in detail in the application) of the assets of Wilcox to be transferred to Applicant by the net asset value per share of Applicant, both to be determined as of the close of the New York Stock Exchange on the valuation date, which will be 1 business day prior to the closing date, the date the assets and shares are to be exchanged. If the valuation under the proposed agreement had

taken place on December 31, 1971, Wilcox would have received 176,610 shares of Applicant's stock.

When received by Wilcox, the shares of Applicant are to be distributed to the Wilcox shareholders upon surrender of their certificates representing shares of capital stock of Wilcox as a step in the complete liquidation and dissolution of Wilcox. Applicant has been advised by the management of Wilcox that the stockholders of Wilcox (with the exception of a single stockholder owning approximately 15.2 percent of Wilcox's outstanding shares of capital stock) have no present intention of redeeming any of Applicant's shares following the proposed transaction.

Applicant may sell a portion of the assets received from Wilcox but it represents that its present intention is to retain not less than 65 percent in dollar value of the securities acquired. Applicant represents that all securities to be acquired are appropriate portfolio investments in view of its investment policies.

The Application states that Wilcox intends to rely on an opinion of Reid & Riege, P.C., its counsel, that the transaction under the plan will constitute a tax-free reorganization within the meaning of section 368(a)(1)(C) of the Internal Revenue Code of 1954, and as a consequence among other things no gain or loss will be recognized by Decatur as a result of the exchange of its shares for the assets of Wilcox, and that Decatur has been further advised by its counsel that the basis to Decatur of the assets acquired from Wilcox will be the same as those assets had in the hands of Wilcox.

Applicant represents that no affiliation exists between Wilcox or its officers, directors, or shareholders and Applicant, its officers or directors, and that the proposed Agreement was negotiated at arm's length by the two companies. Applicant's Board of Directors approved the proposed Agreement as being beneficial to its shareholders because, among other things, Applicant will be able to acquire at one time substantial additions to its portfolio securities without affecting the market in the securities acquired and without incurring brokerage commissions.

Section 22(d) of the Act provides, in pertinent part, that a registered investment company may sell redeemable securities issues by it only at the current public offering price described in the prospectus. The current public offering price of the shares of Applicant as described in the prospectus is net asset value plus a sales charge. Thus, section 22(d) prohibits the proposed sale of Applicant's shares at net asset value without a sales charge.

Section 22(c) of the Act and Rule 22c–1 thereunder, taken together, provide, in pertinent part, that a registered investment company may not issue its redeemable securities except at a price based on the current net asset value of such security which is computed as of the close of trading on the New York Stock Exchange next following receipt of an order to purchase the security. Because the valuation date will precede the closing date by one business day in the proposed transaction, the provisions of section 22(c) and Rule 22c–1 may be deemed to be contravened.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than March 29, 1972, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-4250 Filed 3-20-72;8:46 am]

[70-5170]

MASSACHUSETTS GAS SYSTEM ET AL.

Notice of Proposed Sale and Subsequent Lease of Gas Utility Facilities

MARCH 13, 1972.

Notice is hereby given that Massachusetts Gas System (Mass Gas), a subsidiary holding company of New England Electric System, a registered holding company, its four gas utility subsidiary companies, Lawrence Gas Co. (Lawrence), Lynn Gas Co. (Lynn), Mystic Valley Gas Co. (Mystic Valley), and North Shore Gas Co. (North Shore), 157 Pleasant Street, Malden, MA 02148, and Massachusetts LNG Incorporated (Mass LNG), 20 Turnpike Road, Westborough, MA 01581, a nonutility subsidiary company, have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 2(a)(4), 12(b), and 13 and Rules 45, 86, 88, 89, 90, and 91 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

The proposed transactions relate to a program of Mass Gas to supplement present natural gas supply needs during peak demand periods of its four gas utility subsidiary companies enumerated above through the use of liquefied natural gas. To implement this program, arrangements were made with two nonaffiliated companies, Air Products and Chemicals, Inc. (Air Products) and Pittsburgh-Des Moines Steel Co. (Pittsburgh), to construct facilities located at Lynn and Salem, Mass., for the liquefaction, storage, and vaporization of natural gas. Upon notification by Air Products in April 1971 that it had been unable to arrange for adequate financing, Mass Gas, pursuant to an order of this Commission (Holding Company Act Release No. 17168), created a new wholly owned subsidiary company, Mass LNG, which was authorized to issue and sell up to $16 million of its short-term construction notes to First National Bank of Boston to finance acquisition of the Lynn and Salem facilities, of which $12,465,000 is now outstanding. These notes are guaranteed by Mass Gas.

Mass Gas, Mass LNG, and the four gas utility subsidiary companies now propose to transfer all of their rights under the construction agreements with Air Products and Pittsburgh to Industrial National Leasing Corp. (Industrial), a nonaffiliated company, for an amount equal to the total amount expended under both construction agreements on the day of purchase, plus any related construction expenditures incurred by Mass LNG. Upon completion of each facility, Industrial will make the final payment of all additional amounts due Air Products and Pittsburgh. The total amounts to be paid by Industrial are estimated to be $10,462,450 for the Lynn facility and $4,737,500 for the Salem facility, which amounts may be adjusted a maximum of 10 percent to reflect actual final costs.

It is stated that the term of the lease will be from the dates of completion of the two facilities to June 30, 1997, with rent payable semiannually at an annual rate of not more than 3.77 percent of the cost of the leased facilities. It is stated that Mass LNG will have the right on any rent payment date during the term of the lease to purchase all of the stock of Industrial for a net purchase price of not less than the then net fair market value of the leased facilities.

The terms of the lease also provide that Industrial will assign to Mass LNG all manufacturers' warranties with respect to the facilities, and that Mass

LNG will be responsible for the payment of taxes, and other charges relating to the facilities as well as for the maintenance of certain specified insurance coverage. The lease is terminable by Mass LNG in the event of substantial damage or government appropriation of the facilities subject to the condition that Mass LNG is required to offer to purchase the facilities at a predetermined purchase price. The lease contains provisions for the adjustment of rent or, under certain circumstances, for termination of the lease in the event satisfactory rulings from the Internal Revenue Service are not received. It is stated that this leasing proposal was the most favorable of a number of similar proposals offered to Mass LNG.

Lynn, Mystic Valley, and North Shore propose to execute a guaranty extending to Industrial whereby these subsidiary companies will guaranty jointly and severally payment by Mass LNG of all amounts due under the lease.

Lawrence, Lynn, Mystic Valley, and North Shore propose severally to enter into a service agreement (LNG Service Agreement) with Mass LNG for the term of the lease, pursuant to which Mass LNG will provide liquefaction, storage, and vaporization services to these gas utility companies. In addition, Mass LNG will provide for the four gas utility companies with transportation services by tank truck of the liquefied natural gas and propane gas. The LNG Service Agreement also provides that all charges by Mass LNG to the four companies are to be calculated on a cost basis. As between the four subsidiary companies, charges by Mass LNG will be assumed pro rata on the basis of their respective heating loads.

Mass LNG proposes to enter into an operating agreement with Air Products for the operation of the Lynn facility for the term of the lease. In general, the agreement will provide that Air Products operate and maintain the Lynn facility, and be responsible for the first $50,000 of the cost of direct damage, per occurrence, to the Lynn facility arising out of its operation. Pursuant to the operating agreement, Mass LNG will pay Air Products a fixed operating charge plus a service charge to be based on the volume of LNG liquefied and vaporized during the period. The agreement is terminable by either party upon the material default of either party or, after the tenth year of the agreement, either party may request termination on the basis of a negotiated termination charge. Mass LNG will operate the Salem facility. It is further proposed that Lynn, Mystic Valley, and North Shore will guaranty to Air Products payment by Mass LNG of amounts due under the agreement.

The fees and expenses of special counsel retained by the applicants-declarants in connection with the negotiation and execution of the lease will be provided by amendment. It is stated that no other fees or commissions will be incurred in connection with the proposed transactions; incidental services, estimated at $10,000, will be performed, at cost, by New England Power Service Co., an affiliated service company. It is further stated that the LNG Service Agreement is subject to approval by the Massachusetts Department of Public Utilities, and that no other State commission and no other Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than 12 noon, April 3, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearings (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-4252 Filed 3-20-72;8:46 am]

[File No. 500-1]

MERIDIAN FAST FOOD SERVICES, INC.

Order Suspending Trading

FEBRUARY 15, 1972.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $0.01 par value, of Meridian Fast Food Services, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from March 17, 1972 through March 26, 1972.

By the Commission.

GLADYS E. GREER,
Assistant Secretary.

[FR Doc.72-4271 Filed 3-20-72;8:48 am]

[70-5164]

MIDDLE SOUTH SERVICES, INC., AND LOUISIANA POWER & LIGHT CO.

Notice of Proposed Intrasystem Sale of Electronic Equipment

MARCH 13, 1972.

Notice is hereby given that Middle South Services, Inc. (Services), 225 Baronne Street, New Orleans, LA 70112, and Louisiana Power & Light Co. (Louisiana), 142 Delaronde Street, New Orleans, LA 70114, subsidiary companies of Middle South Utilities, Inc. (Middle South), a registered holding company, have filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 12(f) of the Act and Rule 43 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration which is summarized below, for a complete statement of the proposed transactions.

Services has been authorized by the Commission to operate electronic data processing facilities for the Middle South System (see Holding Company Act Release No. 16044, April 24, 1968), and has established a computer center at Gretna, La., which is serving the Middle South System with a number of commercial and engineering data processing applications. Louisiana owns certain electronic equipment which is presently in use at Services' computer center, which equipment is an integral part of the electronic data processing facilities of the computer center. Services proposes to acquire from Louisiana, and Louisiana proposes to sell to Services, this equipment. It is proposed that the sale be made for a cash consideration to be determined on the basis of depreciated original cost of the equipment on the date of the sale. As of December 31, 1971, Louisiana's original cost (book cost) was $140,401.80 and the accumulated depreciation related thereto was $15,221.13, resulting in a depreciated cost of $125,-180.67. The purchase price is to be adjusted for various changes occurring from December 31, 1971, to the date of the sale, as set forth in the form of purchase agreement. To finance the cost of the acquisition of the electronic equipment, Services will issue and sell to Middle South, and Middle South will acquire from Services, unsecured notes as previously authorized by the Commission (Holding Company Act Release No. 17379, November 30, 1971).

It is stated that no fees, commissions or expenses are anticipated in connection with the proposed transactions. It is also

stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 5, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

RONALD F. HUNT,
Secretary.

[FR Doc.72-4254 Filed 3-20-72;8:47 am]

[70-5162]

MIDDLE SOUTH UTILITIES, INC., AND MIDDLE SOUTH SERVICES, INC.

Notice of Proposed Issue and Sale of Notes by Service Company to Banks To Finance Acquisition of Computer Equipment

MARCH 14, 1972.

Notice is hereby given that Middle South Services, Inc. (Services), 280 Park Avenue, New York, NY 10017, a subsidiary service company of Middle South Utilities, Inc. (Middle South), 225 Baronne Street, New Orleans, LA 70112, a registered holding company, and Middle South have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 (Act) designating sections 6(a), 7(a), 12(b), and 12(f) of the Act and Rule 45 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Services has been authorized by the Commission to operate electronic data processing facilities for the Middle South System (see Holding Company Act Release No. 16044, April 24, 1968), and has established a computer center at Gretna, La., which is serving the Middle South System with a number of commercial and engineering data processing applications. Central processing units, associated control equipment and memory storage units (computer equipment) represent the major components of the electronic data processing equipment at the computer center, and have been rented from others since the establishment of the center. As Services has expanded its operations at the computer center within the scope and character of services authorized under the order of the Commission referred to above, the rental payments to others are stated to have increased significantly. As a result, Services has undertaken studies to review and analyze possible alternative methods of financing the computer equipment, and to determine their relative economic and operational advantages and disadvantages. It is stated that the results of these studies clearly indicate that purchasing the computer equipment at a cost of approximately $3 million would be the most economical and advantageous method of the alternatives considered for the Middle South System.

To finance the cost of the computer equipment, Services proposes to issue and sell, prior to June 30, 1972, up to $3 million principal amount of unsecured notes to the following commercial banks (hereinafter collectively referred to as "the Banks"):

Name	*Amount*
Whitney National Bank of New Orleans (New Orleans, La.)	$1,000,000
Deposit Guaranty National Bank (Jackson, Miss.)	400,000
First National Bank of Jackson Jackson, Miss.)	400,000
The Commercial National Bank of Little Rock (Little Rock, Ark.)	300,000
First National Bank of Little Rock (Little Rock, Ark.)	300,000
The Hibernia National Bank of New Orleans (New Orleans, La.)	300,000
First National Bank of Commerce (New Orleans, La.)	300,000
	3,000,000

It is proposed that such notes will be issued pursuant to a loan agreement (New Loan Agreement) among Services, Middle South and the Banks; will have a maturity date not in excess of 6 years from the date of issuance; and will be prepayable by Services in any amount at any time without penalty. These notes will bear interest at one-half percentum (½%) per annum in excess of the prime commercial rate generally charged from time to time by the principal commercial banks in New York City, N.Y. on short-term commercial loans, with adjustments to be made effective as of the first day of the month next following the month in which any change in such rate occurs. Commencing September 30, 1972, Services will be required to make quarterly payments on the principal of such notes in an amount equal to the depreciation of the computer equipment which will be depreciated over its estimated useful life. The schedule of such payments, which will coincide with the depreciation of the computer equipment, will result in the repayment of the principal amount of the notes by their maturity. Middle South will covenant and agree with the Banks to take any and all such actions as, from time to time, may be necessary to keep Services in a sound financial condition and to place Services in a position to discharge, and to cause Services to discharge, its obligations to the Banks pursuant to the New Loan Agreement or any notes issued thereunder. Any existing or future indebtedness of Services to Middle South will be made subordinate and subject in right of payment to the prior payment in full of any notes issued by Services to the Banks, except that Services may pay interest on such indebtedness to Middle South as and when due so long as Services is not in default in any of its obligations under the New Loan Agreement or under any notes issued thereunder.

Services and Middle South have been requested by certain of the Banks, which are also participating in the financing of the Bulk Power Management System (see Holding Company Act Release No. 17056, dated March 19, 1971), to amend the Loan Agreement, Guaranty and Loan Commitment (Old Loan Agreement) by deleting the guaranty of Middle South contained therein and substituting therefor a covenant and agreement by Middle South to take any and all such action as, from time to time, may be necessary to keep Services in a sound financial condition and to place Services in a position to discharge, and to cause Services to discharge, its obligations to the Banks under the Old Loan Agreement or under any notes issued thereunder. Since Middle South's obligations would remain substantially the same, Middle South is agreeable to such amendment. Therefore, it is proposed to amend the Old Loan Agreement in the manner set forth above. The New Loan Agreement will thus contain the same covenant and agreement by Middle South as will be contained in the Old Loan Agreement, as proposed to be amended.

On a pro forma basis as of December 31, 1971, giving effect to the proposed sale of notes to Banks, 65 percent of Services' total capitalization will consist of notes payable to banks and the balance, 35 percent, will be comprised of its capital stock and subordinated note indebtedness to Middle South.

It is stated that no fees and expenses are to be paid by Services or Middle South in connection with the proposed transactions. It is also stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 5, 1972, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration,

which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-4253 Filed 3-20-72;8:46 am]

NEUWIRTH INCOME DEVELOPMENT CORP. ET AL.

Notice of and Order for Hearing on Application To Permit an Offer of Exchange and for Exemption

MARCH 13, 1972.

Notice is hereby given that Neuwirth Income Development Corp. (Development), Neuwirth Fund, Inc. (Neuwirth), Neuwirth Century Fund, Inc. (Century), Middletown Bank Building, Middletown, N.J., and Neuwirth Securities, Inc. (Securities), 79 Wall Street, New York, NY (collectively referred to as Applicants), have filed an application pursuant to sections 6(c) and 11(a) of the Act for an order of the Commission permitting an offer of exchange and granting an exemption from section 22(d) of the Act, all as described below. Development, Neuwirth, and Century are each registered open-end, diversified management investment companies under the Investment Company Act of 1940 (Act). The investment objective of Development is to obtain the relative price stability of the high grade bond class with as liberal a yield as possible, and the investment objectives of Neuwirth and Century are to seek growth of capital. Shares of Development are offered to the public at net asset value plus a maximum sales charge of 1½ percent. The public offering prices of both Neuwirth and Century shares are their respective net asset value plus a maximum sales charge of 8½ percent. Securities, a registered broker-dealer under the Securities Exchange Act of 1934, is the principal underwriter and distributor for Development, Neuwirth, and Century.

Section 11(a) of the Act provides that it shall be unlawful for a registered open-end investment company or any principal underwriter for such a company to make or cause to be made an offer to a shareholder of such company or of any other open-end investment company to exchange his shares for shares in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act prohibits a registered investment company from selling its shares at a price which differs from the offering price described in the prospectus.

Applicants seek the aforesaid order of the Commission to permit shareholders of Development to exchange all or a part of their shares for shares of Neuwirth or Century at their respective offering prices less the applicable sales charge paid by such shareholder upon the purchase of the Development shares so exchanged (hereinafter referred to as "differential sales charge"). Once the exchange has been effected, the shares received may thereafter be exchanged for shares of any of the other aforesaid funds at their respective net asset values.

Applicants propose that in exchanging Development shares for shares of Neuwirth or Century, the portion of the differential sales charge to be paid by the investor not retained by Securities will be allocated to the dealer who assisted the investor in making the exchange. They state that the amount of such dealer allowance will be governed by the provisions of the dealer agreement in effect between Securities and the dealer effecting the exchange. On any exchange, the Development shareholder will be required to complete a form indicating that he has (a) reviewed the investment objectives and policies of the funds to be acquired and finds them suitable, (b) has received a current prospectus and latest report of the fund to be acquired, (c) understands that Securities and the applicable dealer will receive the sales charge paid on the exchange, and (d) understands that he may be subject to a capital gains tax on the exchange.

In support of the proposed exchange Applicant argues that payment of the differential sales charge to Securities and the related dealer is consistent with the fair recognition of specified services to be provided by the dealer and its staff. These services are described as a determination of suitability of the investment in view of changed economic conditions and changed financial condition of the investor or his changed investment objectives. Applicants state further that the differential charge is necessary to preclude the use of Development as a conduit to Neuwirth or Century by investors who merely wish to avoid the 8½ percent sales load imposed on the sale of either Neuwirth or Century shares. They contend that reallowance of a portion of the differential sales charge imposed on the investor at the time of exchange would not present an opportunity for overreaching on the part of the dealer since he would be required to conform to the suitability provisions required by the rules of Fair Practice of the NASD or the SECO rules under the Securities Exchange Act of 1934. Applicants also represent that failure to compensate the dealer on the exchange would penalize the investor because dealers would have a strong incentive to stress sales of common stock funds or higher load bond funds to the detriment of Development.

It appears to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to the said application.

It is ordered, Pursuant to section 40(a) of the Act, that a hearing on the aforesaid application under the applicable provisions of the Act and the rules of the Commission thereunder be held on April 17, 1972 at 10 a.m., in the offices of the Commission, 500 North Capitol Street, NW., Washington, DC 20549. At such time the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person, other than the applicant, desiring to be heard or otherwise wishing to participate in the proceeding is directed to file with the Secretary of the Commission, on or before 5:30 p.m., on April 4, 1972, his application pursuant to Rule 9(c) of the Commission's rules of practice. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address noted above, and proof of service (by affidavit, or, in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. Persons filing an application to participate or be heard will receive notice of any adjournment of the hearing as well as other actions of the Commission involving the subject matter of these proceedings.

It is further ordered, That any officer or officers of the Commission to be designated by it for that purpose shall preside at said hearing. The officer so designated is hereby authorized to exercise all the powers granted to the Commission under sections 41 and 42(b) of the Act and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation has advised the Commission that it has made a preliminary examination of the application and that upon the basis thereof the following matters are presented for consideration, without prejudice to the specification of additional upon further examination:

(1) Whether, in order to permit the proposed exchange, an exemption from section 22(d) of the Act is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

(2) Whether the terms of the proposed offer of exchange should be approved by the Commission.

It is further ordered, That at the aforesaid hearing attention be given to the foregoing matters.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing copies of this order by certified mail to the applicant and to the persons who have requested a hearing, and that notice to all persons shall be given by publication of this order in the FEDERAL REGISTER; and that a general release of the Commission in respect of this order be distributed to the press and mailed to the mailing list for releases.

By the Commission.

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

[FR Doc.72-4255 Filed 3-20-72;8:47 am]

[812-3118]

PAN AMERICAN SULPHUR CO.

Notice of Filing of Application

MARCH 14, 1972.

Notice is hereby given that Pan American Sulphur Co., 2038 Bank of the Southwest Building, Houston, Tex. 77002 (PASCO), a Delaware corporation, has filed an application pursuant to sections 6(c) and 17(b) and Rule 17d-1 of the Investment Company Act of 1940 (Act) for an order of the Commission exempting from the provisions of section 17(a) of the Act a certain Management Assistance Agreement and transactions contemplated by it, including certain employment relationships involving J. Leonard Townsend (Townsend), and for an order under Rule 17d-1 of the Act permitting such transactions.

All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Azufrera Panamericana, S.A. (Azufrera), is incorporated in Mexico. Its principal business is the exploration for, and the development and production of sulphur in Mexico. Sulphur sales activities are carried on by Pasco International Ltd. (International), a Bahama Islands corporation and wholly owned subsidiary of Azufrera. PASCO formerly owned all of the outstanding shares of Azufrera, but PASCO on June 30, 1967, sold 66 percent of the outstanding Azufrera shares to Mexican interests.

Azufrera and four of its subsidiaries entered into a Management Assistance Agreement (the Management Assistance Agreement) with PASCO in 1967 in connection with the above sale of 66 percent of the outstanding Azufrera shares to Mexican nationals. PASCO is obligated for a period of 5 years (until June 30, 1972) and continuing thereafter until terminated by any party to the Management Assistance Agreement, to render certain services to Azufrera and its subsidiaries, subject to the approval of their Boards of Directors. The services to be provided by PASCO pursuant to the provisions of the Management Assistance Agreement include advice in the employment of key personnel by Azufrera and its subsidiaries, the training of executive and technical personnel employed by Azufrera and its subsidiaries, advice regarding the formulation and execution of the financial programs and budgets of Azufrera and its subsidiaries, the negotiation of certain contracts and the supervision of the shipping of certain items purchased by Azufrera and its subsidiaries. The Management Assistance Agreement provides, in substance, that PASCO shall be reimbursed for, but not in excess of, its expenses and obligations incurred in providing the required services.

Also in connection with the above sale to Mexican interests, Townsend entered into, effective June 30, 1967, 5-year Employment Agreements with both PASCO and International. Townsend is a Vice President of PASCO and International. Such agreements provide, in substance, that Townsend shall be paid an annual salary of $45,000 by PASCO and that any amounts received by Townsend from International shall be remitted by him to PASCO. Over the years PASCO's activities under the Management Assistance Agreement have gradually decreased and are now minimal. It is anticipated that they may terminate completely during 1972. Townsend's Employment Agreements with PASCO and International will terminate on June 30, 1972, and it is not anticipated that both will be renewed.

On July 3, 1967, PASCO filed an application (the 1967 Application) pursuant to sections 3(b)(2) and 6(c) of the Act requesting an order of the Commission declaring PASCO to be primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities through controlled companies conducting similar types of businesses, and, in the alternative, for an order exempting PASCO from all provisions of the Act. By its Order, dated November 1, 1967 (the 1967 Order), the Commission, among other things, exempted transactions contemplated by the Management Assistance Agreement (including Townsend's Employment Agreements with PASCO and International) from the provisions of section 17 of the Act until the Commission should act upon the 1967 Application.

PASCO registered as an investment company under section 8 of the Act on January 31, 1972, and it is assumed that the 1967 Order ceased to be effective at the time of registration. Were it not for the exemption granted by the 1967 Order, the Management Assistance Agreement, the activities of PASCO thereunder and Townsend's Employment Agreements with PASCO and International might be deemed to constitute violations of sections 17(a) and 17(d) and Rule 17d-1 thereunder.

Section 17(a) of the Act provides as here pertinent that it shall be unlawful for any affiliated person of a registered investment company or any affiliated person of such affiliated person acting as principal to purchase from or sell to such registered investment company any securities or other property.

Section 17(b) of the Act provides, in effect, that the Commission may exempt a transaction from section 17(a) of the Act if the evidence establishes that the terms of the transaction are reasonable and fair and do not involve overreaching on the part of any person concerned and that such transaction is consistent with the policy of the registered investment company and the general purposes of the Act.

Section 17(d) of the Act and Rule 17d-1 thereunder provide as here pertinent that it shall be unlawful for any affiliated person of a registered investment company or any affiliated person of such affiliated person acting as principal to effect any transaction in connection with any joint enterprise or joint arrangement in which such registered investment company is a participant unless an application with respect thereto has been filed with and granted by the Commission. In passing upon such application, the Commission will consider whether the participation by the registered company is consistent with the provisions, policies, and purposes of the Act and whether the participation of the registered company is on a basis different from or less advantageous than that of the other participants.

Section 6(c) of the Act provides, in effect, that a transaction or class of transactions may be exempted from any section or rule of the Act by an order issued by the Commission if such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In view of the foregoing, PASCO requests that an order be entered by the Commission exempting (effective as of the date of filing by PASCO of its notification of registration) from the provisions of section 17(a) and permitting under Rule 17d-1 of the Act the Management Assistance Agreement and transactions contemplated by it (including Townsend's Employment Agreements with PASCO and International) until the close of business on December 31, 1972.

Notice is further given that any interested person may, not later than April 4, 1972, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon PASCO at the address stated above. Proof of such service (by affidavit or in case of an attorney at law by certificate) shall be filed contemporaneously with the request. At any time after

said date, as provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GLADYS E. GREER,
Assistant Secretary.

[FR Doc.72-4270 Filed 3-20-72;8:48 am]

[Files Nos. 24W-2965, 24W-3060]

PETERSON'S, INC.

Order Temporarily Suspending Exemption, Statement of Reasons Therefore, and Notice of Opportunity for Hearing

FEBRUARY 28, 1972.

I. Peterson's, Inc., Beach and Anchorage Streets, Wilmington, DE (Peterson's), incorporated in the State of Delaware on June 9, 1958, filed with the Commission on December 2, 1969, a notification on Form 1–A and an Offering Circular (24W–2965) relating to an offering of 300,000 shares of its $0.01 par value common stock at $1 per share for an aggregate offering price of $300,000. This offering commenced June 2, 1970, and was terminated on September 30, 1970. On September 28, 1971, Peterson's filed a second notification on Form 1–A and an Offering Circular (24W–3060) relating to an offering of 400,000 shares of its $0.01 par value common stock at $1.25 per share for an aggregate offering price of $500,000. Both of these filings were for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) thereof and Regulation A promulgated thereunder.

II. The Commission has reasonable cause to believe that:

A. The Offering Circular of Peterson's, Inc. (24W–2965), contains untrue statements of material facts and omits to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, particularly with respect to:

1. The fact that its books and records failed to accurately reflect its financial condition;

2. The fact that its losses for the year ended December 31, 1969, were materially understated;

3. The fact that its profit for the 3 months ended March 31, 1970, was materially overstated; and

4. The dilution per share upon purchase by public investors.

B. The Offering Circular of Peterson's, Inc. (24W–3060), omits to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, particularly with respect to:

1. Disclosure of its past sales of stock in violation of the antifraud provisions of the Federal securities laws; and

2. The contingent liability incurred by reason of its sale of stock in violation of the antifraud provisions of the Federal securities laws.

C. The offering pursuant to file No. 24W–2965 was made in violation of section 17 of the Securities Act of 1933. The offering pursuant to file No. 24W–3060, if made, would be in violation of section 17 of the Securities Act of 1933.

III. It, appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended.

It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, that the exemption under Regulation A be and hereby is temporarily suspended.

It is further ordered, Pursuant to Rule 7 of the Commission's rules of practice, that the issuer file an answer to the allegations contained in this order within 30 days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within 30 days after the entry of this order; that within 20 days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the 30th day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

NOTE: List of persons to be served with this order filed as part of the original document.

By the Commission.

[SEAL] GLADYS E. GREER,
Assistant Secretary.

[FR Doc.72-4272 Filed 3-20-72;8:48 am]

[Files Nos. 7-4111, 7-4115]

BAUSCH & LOMB, INC., AND SUN OIL CO.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MARCH 13, 1972.

In the matter of applications of the Midwest Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Bausch & Lomb, Inc.	7-4111
Sun Oil Co. (Pennsylvania)	7-4115

Upon receipt of a request, on or before March 28, 1972, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

[SEAL] RONALD F. HUNT,
Secretary.

[FR Doc.72-4243 Filed 3-20-72;8:45 am]

[Files Nos. 7-4113, 7-4114]

GULF & WESTERN INDUSTRIES, INC., AND LOEW'S THEATRES, INC.

Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

MARCH 13, 1972.

In the matter of application of the Midwest Stock Exchange for unlisted trading privileges in certain securities.

The above-named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the warrants to purchase common stock of the following companies, which securities are listed and registered on one or more other national securities exchanges:

	File No.
Gulf & Western Industries, Inc., Warrants to purchase common stock	7-4113
Loew's Theatres, Inc., Warrants to purchase common stock	7-4114

Upon receipt of a request, on or before March 28, 1972, from any interested

person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

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

[FR Doc.72-4244 Filed 3-20-72;8:46 am]

[File No. 7-4112]

MATSUSHITA ELECTRIC INDUSTRIAL, LTD.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

MARCH 13, 1972.

In the matter of application of the Midwest Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

	File No.
Matsushita Electric Industrial, Ltd., American Depositary Receipts, for 50 yen par common	7-4112

Upon receipt of a request, on or before March 28, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

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

[FR Doc.72-4225 Filed 3-20-72;8:46 am]

[File No. 7-4110]

REYNOLDS SECURITIES, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

MARCH 13, 1972.

In the matter of application of the Boston Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Reynolds Securities, Inc., File No. 7-4110.

Upon receipt of a request, on or before March 28, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

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

[FR Doc.72-4242 Filed 3-20-72;8:45 am]

[File No. 7-4116]

SUN OIL CO.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

MARCH 13, 1972.

In the matter of application of the Philadelphia-Baltimore-Washington Stock Exchange for unlisted trading privileges in a certain security.

The above-named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the preferred stock of the following company, which security is listed and registered on one or more other national securities exchange:

Sun Oil Co. (Pennsylvania), File No. 7-4116, $2.25 cumulative convertible preferred stock, $1 par value.

Upon receipt of a request, on or before March 28, 1972, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington 25, D.C., not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission (pursuant to delegated authority).

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

[FR Doc.72-4246 Filed 3-20-72;8:46 am]

TARIFF COMMISSION

CONSUMPTION OF BROOMS

Reports to the President

MARCH 16, 1972.

The U.S. Tariff Commission today reported to the President its judgment as to the consumption in the United States of brooms made of broom corn in 1971.

The Commission's report shows that consumption of whiskbrooms of broom corn amounted to 382,331 dozens in 1971. Consumption of other brooms of broom corn amounted to 2,772,403 dozens in 1971.

The report is the fifth in a series of annual reports required under Executive Order 11377, which provides that the Tariff Commission shall annually report to the President its judgment as to the consumption of brooms of broom corn, together with the basis thereof. The report contains data for 1971 on production, imports, and exports of such brooms.

Copies of the report are available upon request as long as the limited supply lasts. Requests should be addressed to the Secretary, U.S. Tariff Commission, Eighth and E Streets, NW., Washington, D.C. 20436.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

REPORT TO THE PRESIDENT

MARCH 16, 1972.

To the President:

In accordance with Executive Order 11377 of October 23, 1967, to assist the President

in the exercise of his authority under headnote 3 to schedule 7, part 8, subpart A, of the Tariff Schedules of the United States (79 Stat. 948; 19 U.S.C. 1202), the U.S. Tariff Commission herein reports its judgment as to the estimated domestic consumption of broom corn brooms for the year 1971, and the basis for that estimate. For convenience, the Commission also reports corresponding data for the years 1965 and 1970.

ESTIMATED CONSUMPTION OF BROOM CORN BROOMS

In the judgment of the Commission, the consumption in the calendar years 1965, 1970, and 1971 of brooms wholly or in part of broom corn was as follows (in dozens):

Type of broom	1965 [1]	1970 [2]	1971
Whiskbrooms of a kind provided for in items 750.26 to 750.28, inclusive, of the tariff schedules	470,612	445,501	382,331
Other brooms of a kind provided for in items 750.29 to 750.31, inclusive, of the tariff schedules	2,878,995	2,922,524	2,772,403

[1] As reported to the President on May 2, 1968.
[2] As reported to the President on April 30, 1971.

BASIS FOR THE COMMISSION'S JUDGMENT WITH RESPECT TO BROOM CORN BROOMS

The Commission estimated consumption of broom corn brooms in 1971 by the same methods it used to estimate consumption in its previous reports pursuant to Executive Order 11377. Apparent annual consumption was determined by adding the quantity of shipments by domestic producers to the quantity of imports and subtracting therefrom the quantity of exports. Data on imports. Data on imports were obtained from the Bureau of Customs of the U.S. Treasury Department; data on production and exports were estimated from responses to questionnaires sent to all known domestic producers of broom corn brooms.

The data for each of the components used in the computation of apparent annual consumption of broom corn brooms are as follows (in dozens):

Item	1965 [1]	1970 [2]	1971
	Whiskbrooms of a kind provided for in TSUS items 750.26 to 750.28, inclusive		
U.S. producers' shipments	318,691	327,603	289,270
Imports	152,686	119,654	93,766
Exports	765	1,756	705
Apparent consumption	470,612	445,501	382,331
	Other brooms of a kind provided for in TSUS items 750.29 to 750.31, inclusive		
U.S. producers' shipments	2,596,457	2,726,017	2,565,727
Imports	296,897	205,172	213,858
Exports	14,359	8,665	7,182
Apparent consumption	2,878,995	2,922,524	2,772,403

[1] As reported to the President on May 2, 1968.
[2] As reported to the President on April 30, 1971.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-4276 Filed 3-20-72;8:49 am]

[TEA-W-136]

RCA CORP.

Workers' Petition for Determination of Eligibility To Apply for Adjustment Assistance; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the workers of the RCA Corp., or an appropriate subdivision thereof, the U.S. Tariff Commission, on March 15, 1972, instituted an investigation under section 301(c)(2) of the act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with television picture tubes—color and monochrome (of the types provided for in items 687.50 and 687.51 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the worker of such company, or appropriate subdivision thereof.

The petitioners have not requested a public hearing. A hearing will be held on request of any other party showing a proper interest in the subject matter of the investigation, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, U.S. Tariff Commission, Eighth and E Streets NW., Washington, DC, and at the New York City office of the Tariff Commission located in room 437 of the Customhouse.

Issued: March 16, 1972.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.72-4259 Filed 3-20-72;8:47 am]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING THE EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR Part 519), and Administrative Order No. 621 (36 F.R. 12819), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base year; or provide the same standards authorized in certificates previously issued to the establishment.

Andy's Shopping Basket, Inc., foodstore; 1407 North U.S. 27, St. Johns, MI; 11-30-72.

Archer Avenue Big Store, Inc., variety-department store; 4181-4193 Archer Avenue, Chicago, IL; 12-2-72.

Babcocks's IGA Foodliner, Inc., foodstore; 425 West Vienna Street, Clio, MI; 12-19-72.

The Baby Shop, Inc., apparel store; 404 Main, Evansville, IN; 12-1-71 to 9-2-72.

Baker's Red & White, foodstore; 209 Main Street, Tabor City, NC; 11-26-72.

A. J. Bayless Markets, Inc., foodstore; No. 34, Tucson, Ariz.; 12-13-71 to 11-30-72.

Ben Franklin Store, variety-department store; 1250 North Green Street, McHenry, IL; 12-14-72.

Big John Discount Foods, foodstore; No. 3, Oblong, Ill.; 12-22-72.

Billowa, Inc., restaurant; 1046 Grand Avenue, Billings, MT; 11-18-72.

Cohen's, Inc., variety-department store; 712-716 Park Avenue, Norton, VA; 12-9-72.

Community Memorial Hospital, Inc., hospital; Burwell, Nebr.; 11-29-71 to 11-2-72.

Denmark's Department Store & Furniture Mart, variety-department store; Brooklet, Ga.; 12-15-72.

Dillon Companies, Inc., foodstores, 11-30-72, except as otherwise indicated: No. 108, Siloam Springs, Ark. (12-1-72); No. 38, Arkansas City, Kans.; Nos. 1, 8, 10, and 25, Hutchinson, Kans.; No. 39, Junction City, Kans.; No. 45, Wellington, Kans.; No. 37, Winfield, Kans.

Dyche Jones Food Store, foodstores, 11-22-72: Nos. 1 and 3, London, Ky.

Edward's, Inc., variety-department stores: Lake City Plaza, Lake City, S.C., 12-15-72; Laurens Plaza, Laurens, S.C., 12-8-72.

The Fair Co., Inc., variety-department store; Union Springs, Ala.; 11-21-72.

Family Thrift Center, foodstore; 11th Street West and Fourth Avenue, Williston, N. Dak.; 11-23-72.

Farmer's Market, Inc., foodstore; Waukon, Iowa; 12-10-72.

Feil & Ellermeyer, variety-department store; 211 South Main, Belen, NM; 12-9-72.

Foodway, Inc., foodstore; Fayette, Ala.; 12-8-71 to 11-30-72.

Forrest Keeling Nursery, Inc., agriculture; Elsberry, Mo.; 12-9-72.

Fred M. Nye Co., apparel store; 2422 Washington Boulevard, Ogden, UT; 12-16-71 to 11-20-72.

Frohsin's Inc., variety-department store; 68 Broad Street, Alexander City, AL; 10-26-72.

Gartin's foodstore; Franklin, Nebr.; 11–29–71 to 11–26–72.

Glenn's Mr. A. G., foodstore; 511 Main, Stockton, KS; 11–10–72.

Goldblatt Bros., Inc., variety-department stores: 1615 West Chicago Avenue, Chicago, IL, 11–21–72; 3311 West 26th Street, Chicago, IL, 10–27–72; 3701 Durand Avenue, Racine, WI, 12–10–72.

W. T. Grant Co., variety-department stores: No. 448, Elmhurst, Ill., 12–13–72; No. 1106, Roselle, Ill., 11–28–72; No. 1078, Lima, Ohio, 12–3–72; No. 157, Uniontown, Pa., 11–30–72.

H. E. B. Food Store, foodstore; No. 106, San Antonio, Tex.; 11–28–72.

Hamilton Supermarkets, Inc., foodstore; U.S. Highway 78, Hamilton, Ala.; 12–8–71 to 11–30–72.

Hammond Bros. Produce, Inc., foodstore; 240 North 13th Street, Decatur, IN; 12–8–71 to 11–5–72.

Horn's Big Star, foodstore; 207 South Jackson Street, Houston, MS; 11–20–72.

Hy Weilbacher & Sons, Inc., variety-department store; 207 North Main Street, Columbia, IL; 12–9–72.

The International House of Pancakes, restaurant; 3260 Broadway, Kansas City, MO; 12–6–71 to 10–31–72.

Jack & Jill Food Center, foodstore; Sauk Centre, Minn.; 12–16–72.

Jenny Lee Bakery, foodstore; 219 Forbes Avenue, Pittsburgh, PA; 12–14–72.

Jerry's Markets, foodstore; 2117 South Weinbach, Evansville, IN; 12–8–72.

Key Drug Store, drugstore; 500 Fourth Street, Sioux City, IA; 11–30–72.

S. S. Kresge Co., variety-department stores: No. 4392, Huntsville, Ala., 11–21–72; No. 4283, Jacksonville, Fla., 11–19–71 to 11–2–72; No. 783, Merritt Island, Fla., 12–9–72; No. 725, Miami, Fla., 11–30–72; No. 4543, Chicago, Ill., 12–18–72; No. 4564, Chicago, Ill., 12–1–72; No. 295, Kewanee, Ill., 11–21–72; No. 4076, Evansville, Ind., 12–9–72; No. 4268, Muncie, Ind., 12–1–72; No. 4314, Cedar Rapids, Iowa, 11–24–71 to 10–29–72; No. 4443, Overland Park, Kans., 11–11–71 to 10–31–72; Nos. 4171 and 4174, Wichita, Kans., 12–4–72; No. 576, Baltimore, Md., 11–29–72; No. 670, St. Clair Shores, Mich., 12–18–72; No. 4177, St. Clair Shores, Mich., 11–26–72; No. 4520, Duluth, Minn., 12–14–72; No. 4605, St. Cloud, Minn., 12–7–72; No. 4026, St. Joseph, Mo., 11–27–72; No. 4611, Sedalia, Mo., 12–17–72; No. 4263, Eastlake, Ohio, 11–26–72; No. 564, Fostoria, Ohio, 12–11–72; No. 4149, Lorain, Ohio, 11–29–72; No. 102, Mansfield, Ohio, 11–22–72; No. 203, Milford, Ohio, 12–14–71 to 11–17–72; No. 600, Northfield, Ohio, 11–20–72; No. 4168, Oregon, Ohio, 11–27–72; No. 4166, Toledo, Ohio, 12–6–72; No. 4209, Toledo, Ohio, 11–23–72; No. 269, Philadelphia, Pa., 12–7–72; No. 4603, Aberdeen, S. Dak., 12–17–72; No. 4402, Fort Worth, Tex., 11–30–72; No. 4398, Pasadena, Tex., 11–30–72; No. 4218, Appleton, Wis., 11–24–72; No. 4521, Parkersburg, W. Va., 12–5–72.

Kuhn Bros. Co., Inc., variety-department store; Front Street and Public Square, Winchester, TN; 11–29–72.

Martin's, variety-department stores: 3100 Quintard Avenue, Anniston, AL, 12–8–72; 1219 Wilmer Avenue, Anniston, AL; 11–21–72.

May's Drug Store, drugstore; No. 201, Peru, Ill.; 11–17–72.

McCrory-McLellan-Green Stores, variety-department stores: No. 638, South Norwalk, Conn., 12–14–72; No. 331, East Dover, Del., 12–9–72; No. 1031, Atlanta, Ga., 12–11–72; No. 1138, Silver Spring, Md., 12–12–72; No. 394, Detroit, Mich., 11–28–72; No. 260, Oxford, Miss., 11–29–71 to 11–15–72; No. 328, Yazoo City, Miss., 11–21–72.

McRae's, Inc., variety-department stores, 11–20–72: 401 East Capitol Street, Jackson, MS; 905 Ellis Avenue, Jackson, MS; 353 Meadowbrook Road, Jackson, MS; Battlefield Village Mall, Vicksburg, Miss.

Melwood Drug Co., drugstore; 4631 Centre Avenue, Pittsburgh, PA; 12–2–72.

Memorial Hospital, hospital; 107 Swift Street, Refugio, TX; 12–9–72.

Meyer's Rexall Drugs, drugstore; West Bremer Avenue, Waverly, Iowa; 12–8–72.

Mickel's, Inc., restaurant; 12th and Chatburn, Harlan, IA; 12–8–72.

Millport Supermarkets, Inc., foodstore; Millport, Ala.; 11–30–72.

Mitzefeld's, Inc., variety-department store; 312 Main Street, Rochester, MI; 11–26–72.

Morgan & Lindsey, Inc., variety-department store; No. 3093, Beaumont, Tex.; 12–14–72.

G. C. Murphy Co., variety-department stores; No. 303, Aliquippa, Pa., 11–29–72; No. 98, Beckley, W. Va., 11–20–72.

J. J. Newberry Co., variety-department stores: 600 Race Street, Cincinnati, OH 11–20–72; No. 218, Newport, Vt., 11–8–72.

Parisian, Inc., variety-department stores, 11–23–72: 2217 Bessemer Road, Birmingham, AL; Eastwood Mall, Birmingham, Ala.; 702 Montgomery Highway, Birmingham, AL; 1924 Second Avenue North, Birmingham, AL; Gateway Shopping Center, Decatur, Ala.

Parsons, Inc., variety-department store; Cumming, Ga.; 12–12–72.

Peabody's Market, foodstore; 154 South Hunter Boulevard, Birmingham, MI 12–17–72.

Piggly Wiggly, foodstore; No. 51, St. George, S.C.; 12–20–71 to 12–15–72.

Ralph Schwartz Co., drugstore; 7100 Dixie Highway, Florence, KY; 11–25–72.

Ream's Bargain Annex, foodstore; No. 3, American Fork, Utah; 12–13–72.

The Record Bar, music stores, 12–2–71 to 9–30–72: Northgate Shopping Center, Durham, N.C.; Dutch Village Square, Columbia, S.C.

Rogers Pharmacy, drugstore; 124 West Walnut, Rogers, AR; 12–5–72.

Rose Drug, Inc., drugstores, 12–17–71 to 12–5–72: 103 Main Street, Bentonville, AR: 1050 West Walnut, Rogers, AR.

St. Charles Nursing Home, nursing home; Kyles Lane, Covington, Ky.; 11–24–72.

St. Luke Lutheran Home, nursing home; Spencer, Iowa; 11–22–71 to 11–16–72.

St. Luke's Hospital, hospital; South Seventh Avenue and First Street West, Crosby, ND; 12–10–72.

Schensul's Cafeteria, restaurants: 3235 North Palinfield Avenue, Grand Rapids, MI, 11–28–72; Woodland Mall, Kentwood, Mich., 11–30–72.

Schneider's Department Store, variety-department store; 806–810 Main Street, Jasper, IN; 12–14–72.

Schulte & Treide, variety-department store: 7816 Harford Road, Baltimore, MD; 11–23–72, Shady Oaks, nursing home; Lake City, Iowa; 11–29–71 to 10–29–72.

Sovine Brothers Super Market, Inc., foodstore; Culloden, W. Va.; 12–4–72.

Spurgeon's, variety-department stores: 204–206 East Main, Moopeston, IL, 12–7–72; 429 Lincoln Highway, Rochelle, IL, 11–5–72; 14–16 West Third, Sterling, IL, 11–20–72; 30 West Main Street, Marshalltown, IA, 12–4–72; 117–119 First Avenue West, Newton, IA, 11–21–72; 13 North Frederick Street, Oelwein, IA, 12–4–72; 216–218 Bush Street, Red Wing, MN, 11–14–72; 1C13 16th Avenue, Monroe, WI, 12–10–72.

Sterling's Men's & Boys', Inc., apparel store; 218 Southwest First Avenue, Fort Lauderdale, FL; 12–12–72.

Sumiton Supermarkets, Inc., foodstore; Sumiton, Ala.; 11–30–72.

Sunset Home, nursing home; Bowman N. Dak.; 12–9–72.

T. G. & Y. Stores Co., variety-department stores, 11–30–72, except as otherwise indicated: No. 188, Tempe, Ariz.; No. 513, Pico Rivera, Calif.; No. 562, West Covina, Calif. (12–18–71 to 11–30–72); No. 715, Orlando, Fla. (12–10–72); No. 117, Wichita, Kans. (11–20–72); No. 321, Gonzales, La.; No. 474, Independence, Mo. (12–1–72); No. 303, Lee's Summit, Mo. (12–1–72); No. 299, St. Joseph, Mo. (12–17–72); No. 465, Blackwell, Okla. (11–21–72); No. 425, Oklahoma City, Okla.; No. 46, Stillwater, Okla. (12–12–72); No. 422, Tulsa, Okla. (12–14–72); No. 1004, Woodward, Okla.; No. 80, Yukon, Okla. (12–4–72); No. 834, Houston, Tex. (11–20–72); No. 395, Jasper, Tex. (11–22–72).

Templeton-Kimbrough Pharmacy, drugstore; 1718 Campus Court, Abilene, TX; 12–6–72.

T-Mart Drug Corp., drugstore; Churchville Avenue, Staunton, Va.; 11–25–72.

Vernon Supermarkets, Inc., foodstore; 201 North Pond Street, Vernon, AL; 12–8–71 to 11–30–72.

Viewcrest Nurseries, agriculture; 9617 Northeast Burton Road, Vancouver, WA; 11–30–72.

Waconia Super Valu, foodstore; Waconia, Minn.; 12–16–72.

Wakefield's, Inc., variety-department store; 1212 Quintard Avenue, Anniston, AL; 11–21–72.

William C. Weichmann Co., Variety-department store; 116 South Jefferson, Saginaw, MI; 12–3–71 to 11–8–72.

The following certificates issued to establishments permitted to rely on the base-year employment experience of others were either the first full-time student certificates issued to the establishment, or provide standards different from those previously authorized. The certificates permit the employment of full-time students at rates of not less than 85 percent of the applicable statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

B & J Restaurant & Cafeteria, restaurant; 1503 North Graham Hopedale Road, Burlington, NC; waitress-waiter, busboy (girl); 5 to 17 percent; 12–14–72.

A. J. Bayless Markets, Inc., foodstores, for the occupations of package clerk, service clerk, 23 to 31 percent, 12–14–72: Nos. 44, 47, 49, and 56, Tucson, Ariz.

Bidigare Hardware, hardware store; 19550 Kelly Road, Harper Woods, MI; stock clerk; 6 to 15 percent; 12–14–72.

Bill & Clif's Food Town, foodstore; 309 North Main Street, Goodlettsville, TN; sacker; 10 percent; 12–14–72.

Blue Hills Supermarket, foodstore; 2309 North Third Street, Manhattan, KS; carryout, checker, stock clerk, bottle clerk, cleanup; 9 to 20 percent; 11–8–72.

Bodin's IGA Foodliner, food store; Vacherie, La.; cashier, stock clerk; 25 percent; 12–14–72.

Dykes Store, Inc., foodstore; 5006 Winbourne Avenue, Baton Rouge, LA; salesclerk, stock clerk, cleanup; 20 to 31 percent; 12–14–72.

Gandy's Food Lane Market, foodstore; 708 North Seventh Street, Dade City, FL; meat clerk, cashier, bagger; 16 percent; 11–30–72.

Guin Supermarkets, Inc., foodstore; Spanish Plaza Shopping Center, Guin, Ala.; stock clerk, produce clerk, carryout, meat clerk, cashier; 15 percent; 12–14–72.

Kenton, Inc., restaurant; 550 Wilson Avenue, Cedar Rapids, IA; general restaurant worker; 27 to 61 percent; 12–14–72.

Lake City Super Valu, foodstore; Lake City, Minn.; carryout, checker, cleanup, stock clerk; 14 to 21 percent; 12–14–72.

McCrory-McLellan-Green Stores, variety-department store; No. 107, Dunedin, Fla.; salesclerk, office clerk, stock clerk, porter; 10 to 32 percent; 11–30–72.

McDonald's Hamburgers, restaurant; 1115 Sassafras Street, Erie, PA; general restaurant worker; 7 to 42 percent; 12–14–72.

McHoma Lodge & Restaurant, restaurant; McAlester, Okla.; kitchen helper, desk clerk; 4 percent; 12–14–72.

Piggly Wiggly, variety-department stores, for the occupations of package clerk, stock clerk, checker, 18 to 25 percent, 12–14–72: No. 7, Dardanelle, Ark.; No. 8, Morrilton, Ark.; No. 9, Russellville, Ark.

The Record Bar, record stores, for the occupation of salesclerk, 13 to 28 percent, 12–14–72: Alps Road, Athens, Ga.; Lavista Road and I–285, Atlanta, Ga.; Northline Road, Greensboro, N.C.; Johnson City, Tenn.

A. G. Shannon Hardware Co., hardware store; Buckhannon, W. Va.; stock clerk, salesclerk; 8 to 9 percent; 12–14–72.

Spurgeon's, variety-department store; 213 East Main, Cherokee, IA; salesclerk, stock clerk, receiving clerk, marking clerk, janitorial; 12 to 16 percent; 12–14–72.

T. G. & Y. Stores Co., variety-department stores, for the occupations of salesclerk, stock clerk, office clerk, 12–14–72: No. 271, Little Rock, Ark., 10 to 21 percent; No. 1310, Stuart, Fla., 12 to 24 percent; No. 9138, Charlotte, Mich., 5 to 20 percent; No. 452, Independence, Mo., 14 to 33 percent; No. 1016, Durant, Okla., 10 to 30 percent; No. 438, Oklahoma City, Okla., 18 to 30 percent.

Variety Stores, Inc., variety-department store; 5711 North Broad Street, Philadelphia, PA; salesclerk, stock clerk; 15 to 25 percent; 12–14–72.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within 30 days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 519.9.

Signed at Washington, D.C., this 29th day of February 1972.

ROBERT G. GRONEWALD,
Authorized Representative of the Administrator.

[FR Doc.72–4240 Filed 3–20–72;8:45 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

MARCH 16, 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 95540 Sub 825, Watkins Motor Lines, Inc., now assigned April 20, 1972, at Denver, Colo., will be held in room 15032, Federal Building, 1961 Stout Street.

MC 115826 Sub 228, W. J. Digby, Inc., now assigned April 19, 1972, at Denver, Colo., will be held in Room 15032, Federal Building, 1961 Stout Street.

FD 26767, Atchison, Topeka, and Santa Fe Railway Co. abandonment between Crews and Palmer Lake, El Paso County, Colo., FD 26768, Denver and Rio Grande Western Railroad Co. abandonment between Kelker and Skinners, El Paso County, Colo., now assigned April 17, 1972, at Colorado Springs, Colo., will be held in Room 206, U.S. Post Office Building, Pikes Peak and Nevada.

FD 26924, Great Western Railway Co. abandonment between Officer and Eaton, in Weld and Larimer Counties, Colo., now assigned April 24, 1972, at Fort Collins, Colo., will be held at the City Council Chambers, Second Floor, Municipal Building, La Porte Avenue.

FD 26987, The Chicago, Milwaukee, St. Paul & Pacific Railroad Co. abandonment (a) between Northern Pacific Crossing and Monroe, FD 27011, Oregon-Washington Railroad & Navigation Co., and its Lessee, Union Pacific Railroad Co.—Construction and Operation—Near Fish Lake and in Spokane, all in Spokane County, Wash., now being assigned hearing March 27, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

FD 27013, Union Pacific Railroad Co., abandonment of Operations between Fish Lake and Napa Street, Spokane, all in Spokane, FD 27012, Oregon-Washington Railroad & Navigation Co. and its Lessee, Union Pacific Railroad Co.—Construction and Operation—Near Fish Lake and in Spokane, all in Spokane County, Wash., now being assigned March 27, 1972, at the Offices of Interstate Commerce Commission, Washington, D.C.

MC 115322 Sub 79, Redwing Refrigerated, Inc., now assigned April 19, 1972, at Washington, D.C., postponed to May 4, 1972, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 135728, Richard J. Franks, continued to March 17, 1972, in Room 913 Federal Building, 111 West Huron Street, Buffalo, NY.

MC 115491 Sub 122, Commercial Carrier Corp., now assigned March 27, 1972, at Tampa, Fla., postponed indefinitely.

MC 96881 Sub 12, Orville M. Fine, doing business as Fine Truck Line, now being assigned for hearing May 1, 1972, at Shreveport, La., in a hearing room to be designated later.

MC–C–7408, Klipsch Hauling Co.—Investigation and Revocation of Certificate, now assigned May 4, 1972, St. Louis, canceled and application dismissed.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72–4308 Filed 3–20–72;8:51 am]

[Notice 39]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 15, 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 51146 (Sub-No. 258 TA) (Amendment), filed February 10, 1972, published in the FEDERAL REGISTER issue of March 3, 1972, amended and republished as amended this issue. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Post Office Box 2298, 54306, Green Bay, WI 54304. Applicant's representative: Neil DuJardin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and gift packs*, from Marshfield, Wis., to points in the United States (except Alaska and Hawaii), and *return of equipment, material and supplies*, used in the manufacture and distribution of the commodities described above, for 180 days. Supporting shipper: Figi's Inc., Marshfield, Wis. 54449 (James E. Coleman, Traffic Manager). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 54203. NOTE: The purpose of this republication is to include the return movement.

No. MC 119777 (Sub-No. 237 TA), filed March 2, 1972. Applicant: LIGON SPECIALIZED HAULER, INC., Post Office Drawer L, Highway 85 East, Madisonville, KY 42431. Applicant's representative: Louis J. Amato (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings* (except commodities as described by the Commission in Mercer Extension—Oilfield Commodities, 74 M.C.C. 459), from points in Calhoun County, Ark., to points in the United States (except Hawaii and Alaska), for 180 days. Supporting shipper: Don Underwood, Plant Manager, Precision Polymers, Inc., East Camden, Ark. Send protests to: Wayne L. Merilatt, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 125045 (Sub-No. 12 TA), filed February 28, 1972. Applicant: SHERMAN

MOLDE, doing business as MOLDE TRUCKING COMPANY, 955 11¼ Street SW., Rochester, MN 55901. Applicant's representative: Sherman Molde (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ice cream*, from Zumbrota and Rochester, Minn., to Green Bay, Wis., Champaign, Ill., Des Moines, Iowa, and Fargo and Bismarck, N. Dak., for 150 days. Supporting shipper: Preferred Products, Inc., 101 Jefferson Avenue South, Hopkins, MN 55343. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 128250 (Sub-No. 3 TA), filed March 6, 1972. Applicant: EUGENE NANNEY, 827 Harvard Road, Sikeston, MO 63801. Applicant's representative: Kenneth L. Dement, 310 West North Street, Sikeston, MO 63801. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ground clay*, in 5, 10, or 25 pounds sacks (50 pound bales), from A. P. Green Refractories, Oran, Mo., to points in Arkansas, Missouri, Tennessee, Kansas, Nebraska, Illinois, Iowa, Texas, Oklahoma, and Kentucky, for 180 days. Supporting shipper: A. P. Green Refractories Co., Post Office Box 187, Oran, MO 63771. Send protests to: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, 210 North 12th Street, Room 1465, St. Louis, MO 63101.

No. MC 129032 (Sub-No. 5 TA), filed March 1, 1972. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Post Office Box 7608, Tulsa, OK 74105. Applicant's representative: Tom Inman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lubrication oil*, in containers, from Tulsa, Okla., to Phoenix, Ariz., for 180 days. Supporting shipper: J. W. Wilhoit, Phoenix Fuel Co., Inc., 1200 North 24th Avenue, Post Office Box 6176, Phoenix, AR 85005. 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 129032 (Sub-No. 6 TA), filed March 2, 1972. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Post Office Box 7608, Tulsa, OK 74107. Applicant's representative: Tom Inman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, in glass containers, packed in cardboard cartons, from points in New York, Kentucky, Ohio, Michigan, Illinois, Tennessee, Missouri, and Indiana, for 180 days. Supporting shipper: Louis Abraham, Jr.; Parboe Sales Co., 6924 East Reading Place, Tulsa, OK. 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 129537 (Sub-No. 10 TA), filed March 3, 1972. Applicant: REEVES TRANSPORTATION CO., Route 5, Dew's Pond Road, Calhoun, Ga. 30701. Applicant's representative: John C. Vogt, Jr., 523 East Madison Street, Tampa, FL 33802. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpets and rugs*, (a) from points in Floyd, Bartow, Chattooga, Gordon, Whitfield, Murray, Catoosa, Walker, Troup, and Muscogee Counties, Ga., and to points in Alachua, Baker, Bay, Bradford, Calhoun, Citrus, Clay, Columbia, De Soto, Dixie, Escambia, Flagler, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Holmes, Jackson, Jefferson, Lafayette, Lake, Leon, Levy, Liberty, Madison, Marion, Monroe, Nassau, Okaloosa, Okeechobee, Osceola, Putnam, St. Johns, Santa Rosa, Sumter, Suwanee, Taylor, Union, Wakulla, Walton, and Washington Counties, Fla.; (b) from points in Hamilton County, Tenn., and Gilmer and Carroll Counties, Ga., to points in Florida; and (c) from points in Hamilton Counties, Tenn., and Troup, Muscogee, Gilmer, and Carroll Counties, Ga., to points in Arkansas and Texas, for 180 days. NOTE: In effect, this application, if granted, would allow applicant to serve all points in the States of Florida, Arkansas, and Texas, from all of the above-described origin counties in the State of Georgia, as well as Hamilton County, Tenn. Supported by: There are approximately 24 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, GA 30309.

No. MC 129951 (Sub-No. 2 TA), filed March 3, 1972. Applicant: HARLEY I. KEETER, JR., 6379 Valmont Drive, Boulder, CO 80302. Applicant's representative: William A. Love, 2040 14th Street, Suite 300, Boulder, CO 80302. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bulk soda ash*, from Alchiem, Wyo., to Boulder, Colo., for 180 days. Supporting shipper: Allied Chemical Corp., Industrial Chemicals Division, 63d and Valmont Drive, Post Office Box 228, Boulder, CO 80302. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 136172 (Sub-No. 1 TA), filed March 2, 1972. Applicant: DICK BELL TRUCKING, INC., 16036 Valley Boulevard, Fontana, CA 92335. 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: (1) *Styrofoam cups* weighing not over 4 pounds per cubic foot; and (2) *styrene lids*, weighing not over 6 pounds per cubic foot, from the plant of the Baron Container Corp. near Chandler, Ariz., to points in California, Nevada, Oregon, and Washington, for 180 days. Supporting shipper: Baron Container Corp., a subsidiary of Baron Industries, Post Office Box 820, Chandler, AZ 85224. 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 136332 (Sub-No. 1 TA), filed March 1, 1972. Applicant: A. & M. TRANSPORT LTD., Post Office Box 11, Havelock, NB, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Calcined lime*, in bulk, in dump-type vehicles, from the ports of entry on the United States/Canada boundary line at or near Houlton, and Calais, Maine, to Lincoln, Rumford, Woodland, Old Town, and Winslow, Maine, for 180 days. Supporting shipper: Havelock Processing, Ltd., Havelock, New Brunswick, Canada. Send protests to: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 307, 76 Pearl Street, Post Office Box 167, PSS, Portland, ME 04112.

No. MC 136397 (Sub-No. 1 TA), filed March 3, 1972. Applicant: LLOYD G. APMAN AND JOHN M. APMAN, doing business as DELWIN TRANSFER CO., 1991 North Seventh Street, North St. Paul, MN 55109. Applicant's representative: James F. Finley, 920 Minnesota Building, St. Paul, Minn. 55101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry tankage and dried blood*, from Whitehall, Wis., to Minneapolis, Minn., for Commodity Trading Co., Minneapolis, Minn., for 180 days. Supporting shipper: Commodity Trading Co., Minneapolis, Minn. Send protests to: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building, 110 South Fourth Street, Minneapolis, MN 55401.

No. MC 136453 TA, filed March 3, 1972. Applicant: MARTIN TRANSIT, INC., Route No. 2, Rock Falls, Ill. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* in Appendix 1 to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins, pelts and pieces thereof and commodities in bulk), from Sterling, Ill., to points in Ohio, Pennsylvania, New York, New Jersey, Connecticut, Main, Massachusetts, Maryland, Virginia, West Virginia, District of Columbia, Kentucky, Tennessee, North Carolina, South Carolina, Michigan,

Wisconsin, and Minnesota, under a continuing contract with Armour Food Co., for 180 days. Supporting shipper: Armour Food Co., Fresh Meats Division, Phoenix, Ariz. Send protests to: Richard O. Chandler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 136454 TA, filed February 29, 1972. Applicant, MAX FRY, doing business as ABC TRANSFER & STORAGE CO., 3231 Empire Drive, Alexandria, LA 71301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* (on pack and crate contract with England AFB, Louisiana), between Alexandria, La., on the one hand, and, on the other, the Louisiana Parishes of Avoyelles, Evangeline, Grant, La Salle, Acadia, St. Landry, Cathoula, Concordia, East Feliciana, Point Coupee, West Feliciana, Adams, Amite, Clairborne, Franklin, Jefferson, Wilkinson, Caldwell, East Carroll, Richland, Madison, Morehouse, Tensas, West Carroll, and Win, La., for 180 days. Supporting shipper: Department of the Air Force DOD, 4403d Transportation Squadron (TAC) England Air Force Base, La. 71301. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 701 Loyola Avenue, New Orleans, LA 70113.

No. MC 136455 TA, filed March 2, 1972. Applicant: JEROME I. STRINDEN, doing business as PACIFIC COAST TRANSPORT, 1254 Fries Avenue, Wilmington, CA 90744. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Campers*, from points in California to points in Arizona, New Mexico, Nevada, Utah, Idaho, Oregon, and Washington, for 180 days. Supporting shipper: Westways Manufacturing Co., Inc., 2201 South Anne Street, Santa Ana, CA 92704. Send protests to: District Supervisor Philip Yallowitz, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

MOTOR CARRIERS OF PASSENGERS

No. MC 123577 (Sub-No. 13 TA), filed March 1, 1972. Applicant: WARWICK-GREENWOOD LAKE AND NEW YORK TRANSIT, INC., DONALD A. ROBINSON, TRUSTEE, 60 Galloway Road, Terminal, Warwick, NY 10990, 419 Anderson Avenue, Fairview, NJ 07022. Applicant's representative: Edward F. Bowes, 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 Totowa, N.J., and New York, N.Y., from the junction of U.S. Highway 46 and Union Avenue, over Union Avenue to junction of the entrance roads of Interstate Highway 80 at Union Avenue in Totowa, N.J., thence over entrance roads to Interstate Highway 80, then over Interstate Highway 80 to junction Interstate Highway 95 at Teneck-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., then over Interstate Highway 495 to New York, N.Y., via the Lincoln Tunnel, and return over the same route using Interstate Highway 95 (New Jersey Turnpike) access road in North Bergen, N.J., serving no intermediate points. The applicant in MC 123577 (Sub-No. 1) has existing rights to operate over unnumbered highways in Totowa, N.J., serving no intermediate points for operating convenience only in connection with its existing routes between Warwick, N.Y., and New York, N.Y., via New Jersey. Applicant requests that such existing restrictions be amended to permit joinder of the proposed route to applicant's existing route in MC 123577 (Sub-No. 1) for purposes of joinder only; (2) between Paterson, N.J., and Paterson, N.J., from the junction of New Jersey Highway 4 (Broadway) and Madison Avenue in Paterson, N.J., over Madison Avenue to junction entrance ramps Interstate Highway 80 in Paterson, and return over the same route serving all intermediate points. The application in MC 123577 (Sub-No. 1) has existing authority to operate between Warwick, N.Y., and Paramus, N.J., serving all intermediate points including Paterson, N.J., such route authorizing service from Paterson, N.J., over New Jersey Highway 4 to New Jersey Highway 17 in Paramus, serving all intermediate points.

The application proposes to join such route to Interstate Highway 80 via Madison Avenue in Paterson as stated and proposes to operate via Interstate Highway 80 and Interstate Highway 95 as described in route (1) to and from New York, N.Y., in order that the applicant may join the proposed route to Interstate Highway 80 described in route (1) above, it is requested that the restriction Interstate Highway 80 described in route (1) above be lifted so as to enable the applicant to join the proposed route to Interstate Highway 80 in Paterson; and (3) between Hackensack, N.J., and Hackensack, N.J., from junction New Jersey Highway 17 and Interstate Highway 80 in Hackensack, N.J., over Interstate Highway 80 access road to Interstate Highway 80 in Hackensack, N.J., and return over the same routes using Interstate Highway 80 access road at New Jersey Highway 17, serving no intermediate points. The applicant is presently authorized to operate on New Jersey Highway 17 in Hackensack, N.J., with closed doors. Applicant requests that such restriction be modified to permit joinder of the proposed route to its existing route at the junction of Interstate Highway 80 and New Jersey Highway 17 in Hackensack. Service is not proposed in intermediate points. The applicant proposes to join the above-described proposed routes (1), (2), and (3) to all its existing routes in Docket MC 123577 and sub numbers thereunder in order to provide service between all points on its existing routes in New Jersey and New York via such existing routes and the proposed routes, for 180 days. Supporting shippers: Elaine Peacock, 14 Arlington Road, Riverdale, NJ, and 58 other individuals whose names are on file at the Newark, N.J., field office. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, Bureau of Operations, 970 Broad Street, Newark, NJ 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.72-4307 Filed 3-20-72;8:51 am]

[Notice 31]

MOTOR CARRIER TRANSFER PROCEEDINGS

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-73329. By order of March 10, 1972, the Motor Carrier Board approved the transfer to James Larson, doing business as Larson Trucking, Crystal Lake, Iowa, of the operating rights set forth in certificate No. MC-69630, issued January 17, 1941, to Clifford Stewart (LaVerne Stewart, Executor), Crystal Lake, Iowa, authorizing the transportation of agricultural machinery and implements, from St. Paul and Minneapolis, Minn., to Crystal Lake, Iowa, and points and places within 10 miles thereof; and livestock, agricultural commodities, and household goods, between points and places in the above-specified Iowa territory, on the one hand, and, on the other, points and places in Minnesota. Clayton L. Wornson, 824 Brick and Tile Building, Mason City, Iowa 5041, attorney for applicants.

No. MC-FC-73456. By order of March 10, 1972, the Motor Carrier Board approved the transfer to Tri-State Transit, Inc., Memphis, Tenn., of the operating rights in certificate No. MC-128239 issued April 24, 1969, to Billy R. Hallum, doing business as Tri-State Transit Co., Southaven, Miss., authorizing the transportation of passengers and their baggage between Southaven, Miss., and Memphis, Tenn., Dale Woodall, 900 Memphis Bank Building, Memphis, Tenn. 38103, attorney for applicants.

No. MC–FC–73491. By order of March 10, 1972, the Motor Carrier Board approved the transfer to Tab Transportation, Inc., Los Angeles, Calif., of the operating rights in permit No. MC–134789 (Sub-No. 1) issued January 25, 1972, to Wilber C. Shaffer and Tyrone Froemke, a partnership, doing business as Tab Transportation Co., Los Angeles, Calif., authorizing the transportation of gratings, footwalks, scaffolds, aluminum lineal shapes, stainless steel sink frames, tables, hardware, ladders, plumbing, plumbers' fittings, plastic articles, aluminum boats, floating dock and houses or buildings, under continuing contract with R. D. Werner Co., of Greenville, Pa., between points in Ventura, Santa Barbara, Kern, San Diego, Orange, San Bernardino, Riverside, and Los Angeles Counties, Calif., Robert L. Baker, 1154 South Garfield Avenue, Alhambra, CA 91802, attorney for applicants.

No. MC–FC–73514. By order of March 9, 1972, the Motor Carrier Board approved the transfer to Viking Way, Inc., Ogden, Utah, of the operating rights in permit No. MC–134588 (Sub-No. 1) issued July 7, 1971, to O. Vernon Hanson, doing business as Viking Way, Ogden, Utah, authorizing the transportation of various commodities from Ogden, Utah, to points in California, Philip C. Pugsley, 400 El Paso Gas Building, Salt Lake City, Utah 84111, attorney for applicants.

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

[FR Doc.72–4306 Filed 3–20–72;8:51 am]

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TUESDAY, MARCH 21, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 55

PART II

FEDERAL COMMUNICATIONS COMMISSION

■

Use of Broadcast and Cablecast Facilities by Candidates for Public Office

(Public Notice of March 16, 1972)

FEDERAL COMMUNICATIONS COMMISSION

[FCC 72-231]

USE OF BROADCAST AND CABLECAST FACILITIES

Candidates for Public Office

MARCH 16, 1972.

On August 7, 1970, the Commission issued a Public Notice entitled "Use of Broadcast Facilities by Candidates for Public Office" (24 F.C.C. 2d 832). That notice, the so-called "Political Broadcast Primer," consisted of a compilation of the Commission's interpretive rulings under section 315 of the Communications Act of 1934, as amended, and the Commission's rules implementing that section of the Act. It superseded all similar primers that had been previously issued. Since then, additional interpretive rulings have been issued from time to time and published in the FCC Reports. The rulings in the 1970 primer and thereafter apply both to political programs over broadcast stations and those originated by cable television systems (CATV systems).

On February 7, 1972, the Federal Election Campaign Act of 1971 was enacted (Public Law 92-225). It amends sections 312 and 315 of the Communications Act, effective April 7, 1972. This means that the amended sections are applicable to all political broadcasts or CATV cablecasts (program originations) made on or after April 7, whether free or purchased, and whether contracted for prior to that date or not. The purpose of the present Public Notice is to furnish guidelines apprising broadcast station licensees, CATV operators, candidates, and other interested persons of their respective responsibilities and rights under the amended sections. These guidelines are being issued by the Commission after careful study of the legislative history underlying the amendments, and, like the 1970 primer, are issued in question-and-answer format.[1]

The guidelines are being issued in response to a host of inquiries raised by members of the broadcast and cable industries, and others, as to the implications of the amended sections 312 and 315. Their preparation has involved the Commission in some extremely difficult decisions as to congressional intent concerning various aspects of the amendments. Their release is viewed as being in the public interest and consistent with the position taken in the 1970 primer where we said (24 F.C.C. 2d 832, 885):

> In response to general inquiries the Commission limits itself to giving general guidelines to help an individual or station determine their rights and obligations under section 315.

Broadly speaking, the guidelines deal with four areas: (1) Definition of "legally qualified candidate," (2) rates to be charged for use of a station[2] by candidates, (3) certifications stations are required to obtain from candidates, and (4) allowing reasonable access to or permitting purchase of reasonable amounts of time by candidates for Federal elective office.

In some cases, the guidelines supplement present Commission rules governing political broadcasts and the interpretive rulings of the 1970 primer and thereafter. In other cases they are inconsistent with them. Effective April 7, 1972, any inconsistencies between the rules, the 1970 primer, and rulings since 1970 on the one hand, and these guidelines on the other, will be resolved in favor of the guidelines. Generally the guidelines highlight any inconsistencies by referring to the appropriate section of the rules, pertinent questions in the 1970 primer, or rulings made since the issuance of the primer. It is our intent to amend the rules in the future to accommodate the changes in sections 312 and 315. We do not presently envisage the issuance in the near future of a new primer to replace that of 1970. However, as experience accrues, we may find it necessary to modify the present guidelines, or to issue new ones as new problems arise. Some questions are intentionally not raised in the guidelines since they would best be handled on a case-by-case basis.

The recommended complaint procedures set forth in the 1970 primer (24 F.C.C. 2d 832, 834-5) were written largely for the purpose of dealing with requests for "equal opportunity" under the provisions of section 315. However, they are valid for and should be followed in cases involving disputes about other matters such as whether a candidate was charged the proper rates, or whether he was allowed reasonable access to a station or whether he was permitted to purchase reasonable amounts of time. In such cases, of course, the detailed statement of the complainant called for in (iii) of the penultimate paragraph of the complaint procedures in the 1970 primer should be modified to fit the particular complaint.

To make use of the guidelines easier, they are preceded by title I of the Federal Election Campaign Act of 1971 which amends sections 312 and 315 of the Communications Act; sections 312 and 315 as they presently read and as amended; and the Commission's rules governing political broadcasts and cablecasts. Insofar as the Commission's sponsorship identification rules are pertinent to this subject the reader is referred to the 1970 primer (24 F.C.C. 2d 832, 837-8). The immediately following section contains title I of the Federal Election Campaign Act of 1971.

I—THE NEW LAW

TITLE I—CAMPAIGN COMMUNICATIONS

SHORT TITLE

SEC. 101. This title may be cited as the "Campaign Communications Reform Act."

DEFINITIONS

SEC. 102. For purposes of this title:

(1) The term "communications media" means broadcasting stations, newspapers, magazines, outdoor advertising facilities, and telephones; but, with respect to telephones, spending or an expenditure shall be deemed to be spending or an expenditure for the use of communications media only if such spending or expenditure is for the costs of telephones, paid telephonists, and automatic telephone equipment, used by a candidate for Federal elective office to communicate with potential voters (excluding any costs of telephones incurred by a volunteer for use of telephones by him).

(2) The term "broadcasting station" has the same meaning as such term has under section 315(f) of the Communications Act of 1934.

(3) The term "Federal elective office" means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States (and for purposes of section 103(b) such term includes the office of Vice President).

(4) The term "legally qualified candidate" means any person who (A) meets the qualifications prescribed by the applicable laws to hold the Federal elective office for which he is a candidate, and (B) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors.

(5) The term "voting age population" means resident population, eighteen years of age and older.

(b) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

MEDIA RATE AND RELATED REQUIREMENTS

SEC. 103. (a) (1) Section 315(b) of the Communications Act of 1934 is amended to read as follows:

"(b) The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public

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[1] The Federal Election Campaign Act of 1971 consists of four titles. The amendments to the Communications Act are in title I. Other provisions in the new law include limitations on the amount that a candidate for Federal elective office may spend for the use of communications media on behalf of his candidacy, limitations on the expenditures that such candidates may make from their personal funds or the funds of their immediate families in connection with their campaigns, and requirements of detailed reporting by political committees and candidates of the sources and uses of campaign funds. Regulations issued by the Comptroller General under titles I and III, by the Secretary of the Senate under title III, and by the Clerk of the House of Representatives under title III, implement those provisions and also serve to supplement these guidelines. Title IV pertains to extension of credit to candidates for Federal elective office, without security, by the communications and transportation industries. That title does not become effective with regard to the communications industry until the FCC promulgates rules on the subject, which must be done by May 7, 1972. The Commission will soon issue a Notice of Proposed Rule Making in regard to this.

[2] The amended sections 312 and 315 apply to both broadcast stations and cable television systems, except that, as the "reasonable access" guidelines indicate, cable systems that lack cablecasting facilities and are not required by the Commission's rules to have them need not provide such facilities pursuant to section 312(a)(7). Therefore, as was the case with the 1970 primer, the guidelines are applicable to both broadcast stations and cable television systems. References to "stations" and "licensees" include "cable television systems" and "cable television system operators."

office in connection with his campaign for nomination for election, or election, to such office shall not exceed—

"(1) During the forty-five days preceding the date of a primary or primary runoff election and during the sixty days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and

"(2) At any other time, the charges made for comparable use of such station by other users thereof."

(2) (A) Section 312(a) of such Act is amended by striking "or" at the end of clause (5), striking the period at the end of clause (6) and inserting in lieu thereof a semicolon and "or", and adding at the end of such section 312(a) the following new paragraph:

"(7) For wilful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy.".

(B) The second sentence of section 315(a) of such Act is amended by inserting "under this subsection" after "No obligation is imposed".

(b) To the extent that any person sells space in any newspaper or magazine to a legally qualified candidate for Federal elective office, or nomination thereto, in connection with such candidate's campaign for nomination for, or election to, such office, the charges made for the use of such space in connection with his campaign shall not exceed the charges made for comparable use of such space for other purposes.

LIMITATIONS OF EXPENDITURES FOR USE OF COMMUNICATIONS MEDIA

SEC. 104. (a) (1) Subject to paragraph (4), no legally qualified candidate in an election (other than a primary or primary runoff election) for a Federal elective office may—

(A) Spend for the use of communications media on behalf of his candidacy in such election a total amount in excess of the greater of—

(i) 10 cents multiplied by the voting age population (as certified under paragraph (5)) of the geographical area in which the election for such office is held, or

(ii) $50,000, or

(B) Spend for the use of broadcast stations on behalf of his candidacy in such election a total amount in excess of 60 per centum of the amount determined under subparagraph (A) with respect to such election.

(2) No legally qualified candidate in a primary election for nomination to a Federal elective office, other than President, may spend—

(A) For the use of communications media, or

(B) For the use of broadcast stations,

on behalf of his candidacy in such election a total amount in excess of the amounts determined under paragraph (1) (A) or (B), respectively, with respect to the general election for such office. For purposes of this subsection a primary runoff election shall be treated as a separate primary election.

(3) (A) No person who is a candidate for presidential nomination may spend—

(i) For the use in a State of communications media, or

(ii) For the use in a State of broadcast stations,

on behalf of his candidacy for presidential nomination a total amount in excess of the amounts which would have been determined under paragraph (1) (A) or (B), respectively, had he been a candidate for election for the office of Senator from such State (or for the office of Delegate or Resident Commissioner in the case of the District of Columbia or the Commonwealth of Puerto Rico).

(B) For purposes of this paragraph (3), a person is a candidate for presidential nomination if he makes (or any other person makes on his behalf) an expenditure for the use of any communications medium on behalf of his candidacy for any political party's nomination for election to the office of President. He shall be considered to be such a candidate during the period—

(i) Beginning on the date on which he (or such other person) first makes such an expenditure (or, if later, January 1 of the year in which the election for the office of President is held), and

(ii) Ending on the date on which such political party nominates a candidate for the office of President.

For purposes of this title and of section 315 of the Communications Act of 1934, a candidate for presidential nomination shall be considered a legally qualified candidate for public office.

(C) The Comptroller General shall prescribe regulations under which any expenditure by a candidate for presidential nomination for the use in two or more States of a communications medium shall be attributed to such candidate's expenditure limitation in each such State, based on the number of persons in such State who can reasonably be expected to be reached by such communications medium.

(4) (A) For purposes of subparagraph (B):

(i) The term "price index" means the average over a calendar year of the Consumer Price Index (all items—U.S. city average) published monthly by the Bureau of Labor Statistics.

(ii) The term "base period" means the calendar year 1970.

(B) At the beginning of each calendar year (commencing in 1972), as there becomes available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Comptroller General and publish in the FEDERAL REGISTER the per centum difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each amount determined under paragraph (1) (A) (i) and (ii) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

(5) Within 60 days after the date of enactment of this Act, and during the first week of January in 1973 and every subsequent year, the Secretary of Commerce shall certify to the Comptroller General and publish in the FEDERAL REGISTER an estimate of the voting age population of each State and congressional district for the last calendar year ending before the date of certification.

(6) Amounts spent for the use of communications media on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) shall, for the purposes of this subsection, be deemed to have been spent by such candidate. Amounts spent for the use of communications media by or on behalf of any legally qualified candidate for the office of Vice President of the United States shall, for the purposes of this section, be deemed to have been spent by the candidate for the office of President of the United States with whom he is running.

(7) For purposes of this section and section 315(c) of the Communications Act of 1934—

(A) spending and charges for the use of communications media include not only the direct charges of the media but also agents commissions allowed the agent by the media, and

(B) Any expenditure for the use of any communications medium by or on behalf of the candidacy of a candidate for Federal elective office (or nomination thereto) shall be charged against the expenditure limitation under this subsection applicable to the election in which such medium is used.

(b) No person may make any charge for the use by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) of any newspaper, magazine, or outdoor advertising facility, unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies in writing to the person making such charge that the payment of such charge will not violate paragraph (1), (2), or (3) of subsection (a), whichever is applicable.

(c) Section 315 of the Communications Act of 1934 is amended by redesignating subsection (c) as subsection (g) and by inserting after subsection (b) the following new subsections:

"(c) No station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate any limitation specified in paragraph (1), (2), or (3) of section 104(a) of the Campaign Communications Reform Act, whichever paragraph is applicable.

"(d) If a State by law and expressly—

"(1) Has provided that a primary or other election for any office of such State or of a political subdivision thereof is subject to this subsection,

"(2) Has specified a limitation upon total expenditures for the use of broadcasting stations on behalf of the candidacy of each legally qualified candidate in such election,

"(3) Has provided in any such law an unequivocal expression of intent to be bound by the provisions of this subsection, and

"(4) Has stipulated that the amount of such limitation shall not exceed the amount which would be determined for such election under section 104(a)(1)(B) or 104(a)(2)(B) (whichever is applicable) of the Campaign Communications Reform Act had such election been an election for a Federal elective office or nomination thereto;

Then no station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate in such election unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate such State limitation.

"(e) Whoever willfully and knowingly violates the provisions of subsection (c) or (d) of this section shall be punished by a fine not to exceed $5,000 or imprisonment for a period not to exceed 5 years, or both. The provisions of sections 501 through 503 of this Act shall not apply to violations of either such subsection.

"(f)(1) For the purposes of this section:

"(A) The term 'broadcasting station' includes a community antenna television system.

"(B) The terms 'licensee' and 'station licensee' when used with respect to a community antenna television system, means the operator of such system.

"(C) The term 'Federal elective office' means the office of the President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States.

"(2) For purposes of subsections (c) and (d), the term 'legally qualified candidate'

means any person who (A) meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate and (B) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors."

REGULATIONS

SEC. 105. The Comptroller General shall prescribe such regulations as may be necessary or appropriate to carry out sections 102, 103(b), 104(a), and 104(b) of this Act.

PENALTIES

SEC. 106. Whoever willfully and knowingly violates any provision of section 103(b), 104(a), or 104(b) or any regulation under section 105 shall be punished by a fine of not more than $5,000 or by imprisonment of not more than 5 years, or both.

For purposes of clarification, sections II and III of this public notice set forth the new language of sections 312(a) and 315 of the Communications Act as amended in accordance with Title I of the Federal Election Campaign Act of 1971. Section IV sets forth the language of the Commission's present rules governing political broadcasting.

II—SECTION 312(a) OF THE COMMUNICATIONS ACT (AS AMENDED)

Effective April 7, 1972, section 312(a) of the Communications Act of 1934 will read as follows (previously existing law which will remain unchanged is shown in roman; previously existing matter deleted by the Campaign Communications Reform Act is enclosed in brackets; new matter added by the Campaign Communications Reform Act is printed in italic):

SEC. 312. (a) The Commission may revoke any station license or construction permit—

(1) For false statements knowingly made either in the application or in any statement of fact which may be required pursuant to section 308;

(2) Because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license of permit on an original application;

(3) For willful or repeated failure to operate substantially as set forth in the license;

(4) For willful or repeated violation of, or willful or repeated failure to observe any provision of this Act or any rule or regulation of the Commission authorized by this Act or by a treaty ratified by the United States;

(5) For violation of or failure to observe any final cease and desist order issued by the Commission under this section; [or]

(6) For violation of section 1304, 1343, or 1464 of title 18 of the United States Code [.]; *or*

(7) *For willful or repeated failure to allow reasonable access to or to permit purchase of reasonable amounts of time for the use of a broadcasting station by a legally qualified candidate for Federal elective office on behalf of his candidacy.*

III—SECTION 315 OF THE COMMUNICATIONS ACT (AS AMENDED)

Effective April 7, 1972, section 315 of the Communications Act of 1934 will read as follows (previously existing law which will remain unchanged is shown in roman; previously existing law deleted by the Campaign Communications Reform Act is enclosed in brackets; new matter added by Act is that printed in italic):

SEC. 315. (a) If any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he shall afford equal opportunities to all other such candidates for that office in the use of such broadcasting station: *Provided*,[3] That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is hereby [4] imposed *under this subsection* upon any licensee to allow the use of its station by any such candidate. Appearance by a legally qualified candidate on any—

(1) Bona fide newscast,

(2) Bona fide news interview,

(3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or

(4) On-the-spot coverage of bona fide news events (included but not limited to political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection. Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

[(b) The charges made for the use of any broadcasting station for any of the purposes set forth in this section shall not exceed the charges made for comparable use of such station for other purposes.]

(b) *The charges made for the use of any broadcast station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed—*

(1) During the 45 days preceding the date of a primary or primary runoff election and during the 60 days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same period; and

(2) At any other time, the charges made for comparable use of such station by other users thereof.

(c) No station licensee may make any charge for the use of such station by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate any limitation specified in paragraph (1), (2), or (3) of section 104(a) of the Campaign Communications Reform Act, whichever paragraph is applicable.

(d) If a State by law and expressly—

(1) Has provided that a primary or other election for any office of such State or of a political subdivision thereof is subject to this subsection,

(2) Has specified a limitation upon total expenditures for the use of broadcasting stations on behalf of the candidacy of each legally qualified candidate in such election,

(3) Has provided in any such law an unequivocal expression of intent to be bound by the provisions of this subsection, and

(4) Has stipulated that the amount of such limitation shall not exceed the amount which would be determined for such election under section 104(a)(1)(B) or 104(a)(2)(B) (whichever is applicable) of the Campaign Communications Reform Act had such election been an election for a Federal elective office or nomination thereto,

then no station licensee may take any charge for the use of such station by or on behalf of any legally qualified candidate in such election unless such candidate (or a person specifically authorized by such candidate in writing to do so) certifies to such licensee in writing that the payment of such charge will not violate such State limitation.

(e) Whoever willfully and knowingly violates the provisions of subsection (c) or (d) of this section shall be punished by a fine not to exceed $5,000 or imprisonment for a period not to exceed five years, or both. The provisions of sections 501 through 503 of this Act shall not apply to violations of either such subsection.

(f)(1) For the purposes of this section:

(A) The term 'broadcasting station' includes a community antenna television system.

(B) The terms 'licensee' and 'station licensee' when used with respect to a community antenna television system, means the operator of such system.

(C) The term 'Federal elective office' means the office of President of the United States, or of Senator or Representative in, or Resident Commissioner or Delegate to, the Congress of the United States.

(2) For purposes of subsections (c) and (d), the term 'legally qualified candidate' means any person who (A) meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate and (B) is eligible under applicable State law to be voted for by the electorate directly or by means of delegates or electors.

[(c)](g) *The Commission shall prescribe* appropriate rules and regulations to carry out the provisions of this section.

IV—THE COMMISSION'S RULES AND REGULATIONS WITH RESPECT TO POLITICAL BROADCASTS AND CABLECASTS

The Commission's present rules and regulations with respect to political broadcasts coming within section 315 of the Communications Act are set forth in §§ 73.120 (AM), 73.290 (FM), 73.590 (noncommercial educational FM), and 73.657 (TV), respectively. These provisions are identical (except for elimination of any discussion of charges in § 73.590 relating to noncommercial educational FM stations) and read as follows:

Broadcasts by candidates for public office—

(a) *Definitions.* A "legally qualified candidate" means any person who has publicly announced that he is a candidate for nomination by a convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, State or national, and who meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who:

(1) Has qualified for a place on the ballot or

(2) Is eligible under the applicable law to be voted for by sticker, by writing in his name on the ballot, or other method, and (i) has been duly nominated by a political

[3] This word, although italicized, is not new matter. It appears in italic in the present law and remains in italic in the new law.

[4] The word *hereby* is not included in the United States Code (47 U.S.C. 315) but appears in the Statutes at Large (66 Stat. 717).

party which is commonly known and regarded as such, or (ii) makes a substantial showing that he is a bona fide candidate for nomination or office, as the case may be.

(b) *General requirements.* No station licensee is required to permit the use of its facilities by any legally qualified candidate for public office, but if any licensee shall permit any such candidate to use its facilities, it shall afford equal opportunities to all such other candidates for that office to use such facilities: *Provided,* That such licensee shall have no power of censorship over the material broadcast by any such candidate.

(c) *Rates and practices.* (1) The rates, if any, charged all such candidates for the same office shall be uniform and shall not be rebated by any means direct or indirect. A candidate shall, in each case, be charged no more than the rate the station would charge if the candidate were a commercial advertiser whose advertising was directed to promoting its business within the same area as that encompassed by the particular office for which such person is a candidate. All discount privileges otherwise offered by a station to commercial advertisers shall be available upon equal terms to all candidates for public office.

(2) In making time available to candidates for public office no licensee shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered pursuant to this part, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any licensee make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to broadcast to the exclusion of other legally qualified candidates for the same public office.

(d) *Records; inspection.* Every licensee shall keep and permit public inspection of a complete record of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the licensee of such requests, and the charges made, if any, if request is granted. Such records shall be retained for a period of 2 years.

NOTE: See § 1.526 of this chapter.

(e) *Time of request.* A request for equal opportunities must be submitted to the licensee within 1 week of the day on which the first prior use, giving rise to the right of equal opportunities, occurred: *Provided, however,* That where the person was not a candidate at the time of such first prior use, he shall submit his request within 1 week of the first subsequent use after he has become a legally qualified candidate for the office in question.

(f) *Burden of proof.* A candidate requesting such equal opportunities of the licensee, or complaining of noncompliance to the Commission shall have the burden of proving that he and his opponent are legally qualified candidates for the same public office.

The Commission's present rules and regulations with respect to political cablecasts coming within section 315 of the Communications Act are set forth in §§ 76.5(y) and 76.205, which read as follows:

Section 76.5 *Definitions.* * * * (y) *Legally qualified candidate.* Any person who has publicly announced that he is a candidate for nomination by a convention of a political party or for nomination or election in a primary, special, or general election, municipal, county, State, or National, and who meets the qualifications prescribed by the applicable laws to hold the office for which he is a candidate, so that he may be voted for by the electorate directly or by means of delegates or electors, and who:

(1) Has qualified for a place on the ballot, or

(2) Is eligible under the applicable law to be voted for by sticker, by writing his name on the ballot, or other method, and (i) has been duly nominated by a political party which is commonly known and regarded as such, or (ii) makes a substantial showing that he is a bona fide candidate for nomination or office.

Section 76.205 *Origination cablecasts by candidates for public office.* (a) *General requirements.* If a cable television system shall permit any legally qualified candidate for public office to use its origination channel (s) and facilities therefor, it shall afford equal opportunities to all other such candidates for that office: *Provided, however,* That such system shall have no power of censorship over the material cablecast by any such candidate: *And provided, further,* That an appearance by a legally qualified candidate on any:

(1) Bona fide newscast,

(2) Bona fide news interview,

(3) Bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or

(4) On-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto),

shall not be deemed to be use of the facilities of the system within the meaning of this paragraph.

NOTE: The fairness doctrine is applicable to these exempt categories. See § 76.209.

(b) *Rates and practices.* (1) The rates, if any, charged all such candidates for the same office shall be uniform, shall not be rebated by any means direct or indirect, and shall not exceed the charges made for comparable origination use of such facilities for other purposes.

(2) In making facilities available to candidates for public office no cable television system shall make any discrimination between candidates in charges, practices, regulations, facilities, or services for or in connection with the service rendered, or make or give any preference to any candidate for public office or subject any such candidate to any prejudice or disadvantage; nor shall any cable television system make any contract or other agreement which shall have the effect of permitting any legally qualified candidate for any public office to cablecast to the exclusion of other legally qualified candidates for the same public office.

(c) *Records; inspections.* Every cable television system shall keep and permit public inspection of a complete record of all requests for origination cablecasting time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the system of such requests, the charges made, if any, and the length and time of cablecast, if the request is granted. Such records shall be retained for a period of two years.

(d) *Time of request.* A request for equal opportunities for use of the origination channel(s) must be submitted to the cable television system within one (1) week of the day on which the first prior use, giving rise to the right of equal opportunities, occurred: *Provided, however,* That where a person was not a candidate at the time of such first prior use, he shall submit his request within one (1) week of the first subsequent use after he has become a legally qualified candidate for the office in question.

(e) *Burden of proof.* A candidate requesting such equal opportunities of the cable television system, or complaining of noncompliance to the Commission, shall have the burden of proving that he and his opponent are legally qualified candidates for the same public office.

The Commission guidelines for interpreting the Federal Election Campaign Act of 1971 appear in the following sections V through VIII.[5]

V—SECTION 315—LEGALLY QUALIFIED CANDIDATES

V. 1. Q. Who is a "legally qualified candidate" for purposes of section 315(a)?

A. The definition of paragraph (a)[y] of the Commission rules applies for the purposes of administering section 315(a). (See IV above and IV in the 1970 primer.) However, section 104(a)(3)(B) of the Campaign Communications Reform Act requires some explanatory remarks concerning candidates for presidential nomination. Broadly speaking, clause (i) of that section provides that a person is a candidate for presidential nomination if, on or after a specified date, he makes (or any other person makes on his behalf) an expenditure for the use of a communications medium on behalf of his candidacy for nomination. (This provision is subject to interpretation by regulations to be issued by the Comptroller General of the United States.) The section also states that a person who is a candidate for presidential nomination is, for purposes of section 315 of the Communications Act, considered to be a legally qualified candidate for public office.

Paragraph (a)[y] of the Commission rules provides that a person is not a legally qualified candidate within the meaning of the statute unless he has publicly announced his intention to be a candidate. (See Q. and A. IV.18. of the 1970 primer.) New section 104(a)(3)(B) means that a person who had made an expenditure as described in that section is a legally qualified candidate for presidential nomination, even

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[5] For convenience, in the remainder of this public notice, references to any paragraph of the political broadcast or cablecast rules will be by paragraph only. For example, "paragraph (a)[y]" of the Commission rules will mean "§§ 73.120(a), 73.290(a), 73.590(a), and 73.657(a) of the political broadcast rules and the corresponding § 76.5(y) of the political cablecast rules."

Attention is invited to the fact that some paragraphs of the present political broadcast and cablecast rules are inconsistent with the guidelines herein. For example, paragraphs (b) and (c)(1) of the political broadcast rules are inconsistent with the guidelines which implement the new sections 312(a)(7) and 315(b)(1) of the Communications Act (which respectively require broadcast stations to give reasonable access to candidates for Federal elective office, and to charge all candidates not more than "lowest unit charges" during specified periods before elections.) As stated in the fifth paragraph of this public notice, such inconsistencies are to be resolved in favor of the guidelines. In the future, the Commission will amend the present political broadcast and cablecast rules to conform with the guidelines.

though no public announcement of candidacy has been made, and hence is entitled to equal opportunity under section 315(a) of the Communications Act. However, section 104(c) of the Campaign Communications Reform Act amends section 315(c) of the Communications Act to provide that no communications medium may make any charge for the use of its facilities by or on behalf of any legally qualified candidate for Federal elective office (or for nomination to such office) unless such candidate (or a person specifically authorized by such candidate in writing to do so) submits a certification to the licensee that the payment of the charge will not exceed the spending limitation set forth in the new law. In cases where a person has made the expenditure mentioned in section 104(a)(3)(B) but has not publicly announced his candidacy, we shall construe the submission of the aforementioned certificate and the expenditure as constituting a public announcement as of the date of the broadcast or publication in other communications media of the matter for which the expenditure is made.

Moreover, we interpret the intent of Congress to be that the mere making of minimal expenditures under the provisions of section 104(a)(3)(B) does not entitle a person to equal opportunity under section 315(a). Thus, for example, a person who has taken out a $5 advertisement in a newspaper, and submitted a certification in connection therewith, would not, in the absence of other facts to demonstrate the bona fides of his candidacy, be entitled to equal opportunity under section 315(a).

2. Q. To whom do the "lowest unit charge" provisions of section 315(b)(1) apply?

A. With one exception, section 315(b)(1) applies to all persons who meet the requirements of a "legally qualified candidate" for purposes of section 315(a) as discussed in Q. and A. V. 1. above. The exception is that it does not apply to candidates for nomination by a convention or a caucus of a political party held to nominate a candidate since the special rate provision of section 315(b)(1) by its express terms applies only during the 45 days preceding the date of a primary or a primary runoff election and during the 60 days preceding the date of a general or special election in which a person is a candidate. Thus, for example, a person campaigning in a State in an effort to have the State convention of a political party select delegates to a national nominating convention who are favorable to him would not be entitled to the lowest unit charge. Similarly, a person campaigning to have a State convention nominate him for State office, or for U.S. Senator or Representative, would not be entitled to the lowest unit charge. In a situation where a person is campaigning in a primary election in which delegates will be selected to go to a State convention which in turn will select delegates to a national convention, the lowest unit charge provision would apply to that person during the 45 days preceding the primary.

3. Q. To whom do the "comparable use" provisions of section 315(b)(2) apply?

A. Unlike section 315(b)(1), section 315(b)(2) has no restrictive provisions, and applies to all persons who are legally qualified candidates for the purposes of section 315(a) as discussed in Q. and A. V. 1. above; whether running in an election or seeking nomination by a party convention.

4. Q. To what "legally qualified candidates" do the certification provisions of section 315(c) apply?

A. They apply to "legally qualified candidates" as the term is defined in section 315(f)(2), who are seeking to hold "Federal elective office" as the term is defined in section 102(3) of the Campaign Communications Reform Act. This definition of "legally qualified candidate" is intended to be used only with regard to the certification required by the provisions of section 315(c) and the spending limitation provisions of section 104(a)(1) and (2) of the Campaign Communications Reform Act referred to in section 315(c). The Commission is of the view that the definition of section 315(f)(2)(B) does not include situations where a person is seeking nomination for U.S. Senator or Representative by a convention or caucus held to nominate such candidates and that the provisions of section 315(c) do not apply to such persons. The Commission believes that the provisions of section 315(c) do apply to persons qualifying as candidates for presidential nomination under the spending provisions of section 104(a)(3)(A)(i) whether they are running in a primary election or are seeking to influence the action of a State convention of a political party that will select delegates to its national nominating convention.

5. Q. To what "legally qualified candidates" do the provisions of section 315(d) apply?

A. They apply to all "legally qualified candidates" for any office of a State or political subdivision thereof who meet the definition of "legally qualified candidate" set forth in section 315(f)(2) if the State has taken the steps mentioned in section 315(d). The definition of section 315(f)(2)(B) does not apply to situations where a person is seeking nomination for State office by a caucus or convention, and the provisions of section 315(d) do not apply to such candidates.

VI—Section 315—Lowest Unit Charge

VI. 1. Q. What is the meaning of "lowest unit charge of the station for the same class and amount of time for the same period" in section 315(b)(1)?

A. The term "class" refers to rate categories such as fixed-position spots, preemptible spots, run-of-schedule and special-rate packages. The term "amount of time" refers to the unit of time purchased, such as 30 seconds, 60 seconds, 5 minutes or 1 hour. The term "same period" refers to the period of the broadcast day such as prime time, drive time, class A, class B or other classifications established by the station.

Candidates are entitled to discounts, frequency and otherwise, offered to the most favored commercial advertiser for the same class and amount of time for the same period, without regard to the frequency of use by the candidate. This includes discount rates not published in a rate card but provided to commercial advertisers. Some examples follow:

(a) A licensee sells one fixed-position, 1-minute spot in prime time to commercial advertisers for $15. It sells 500 such spots for $5,000. It must sell one such spot to a candidate for not more than $10.

(b) A licensee sells one immediately preemptible 30-second spot in drive time to commercial advertisers for $10. It sells 100 such spots for $750. It must sell one such spot to a candidate for not more than $7.50.

(c) A licensee's best rate per spot for run-of-schedule, 1-minute spots is 1,000 for $1,000. Its rate for one such run-of-schedule spot is $4. It must sell one such spot to a candidate for not more than $1.

2. Q. May the lowest unit charge vary with the day of the week on which a candidate uses a station?

A. Yes. For example, a television station might charge commercial advertisers more for 1-minute, fixed-position spots between 7:00–7:30 p.m. on Sunday than it does for such spots on Monday through Friday; and the charges on Monday through Friday might exceed the charges for such spots on Saturday. In computing the lowest unit charge which must not be exceeded in selling time to candidates, stations, in addition to taking into account the class and amount of time for the same period of the day, may take into account the day of the week, if rates of the station vary with the day of the week. In the example given above, the station would not be required to sell time to a candidate for use on Sunday between 7:00–7:30 p.m. at rates not exceeding the lowest unit charge for Saturday night. If a station does not vary its charges to commercial advertisers with the day of the week, it may not do so with candidates for public office.

3. Q. A general election is to be held on November 2. As required by section 315(b), the lowest unit charge must be made to candidates during the preceding 60 days, commencing September 3. Pursuant to normal practices, a station on September 20 changes from its summer rates to its higher fall rates. Is the lowest unit charge during the entire 60-day period preceding the election based on summer rates?

A. No. From September 3 to September 20, the lowest unit charge is based on the summer rates. On and after September 20, the fall rates are used as the basis for computation of the lowest unit charge. Compare Q. and A. VI. 8. through 12. below.[6]

4. Q. For a particular community, ARB and Nielsen television market reports are issued six times a year. Upon receipt of these reports it is the normal

[6] At the present time, of course, such changes in rates are subject to any statements of policy, guidelines, or regulations issued by the Price Commission under the Economic Stabilization Program.

business practice of a television station in the community to reexamine its rates and revise some of them. During the 60-day period preceding a general election, such a rate revision occurs which results in increased rates for adjacencies to program A shown in prime time, and a decrease in rates for adjacencies to program B in prime time. What is the basis for calculation of the lowest unit charge for adjacencies to the two programs during the 60-day period?

A. Candidates using adjacencies to either program A or program B prior to the rate change are entitled to be charged not more than the lowest unit rate for such adjacencies prior to the rate change, and those using adjacencies to either program after the rate change are entitled to be charged not more than the lowest unit charge after the rate change. Thus, the lowest unit rate for candidates for adjacencies to program A prior to the rate change is lower than the lowest unit rate after the rate change. As to adjacencies to program B, the lowest unit rate prior to the rate change is higher than the lowest unit rate after the rate change. Compare Q. and A. VI. 8. through 12. below.[6]

5. Q. Do the lowest unit charge provisions apply to purchase of time on the networks?

A. Yes. The Commission is of the view that although the Campaign Communications Reform Act does not specifically refer to networks, the provisions are intended to apply to purchase of network time. A network is in a real sense selling time on behalf of station licensees and the Commission interprets new section 315(b)(1) as applying to the combination of licensees in the network as well as to the individual licensees. Thus, charges to legally qualified candidates purchasing network time may not exceed the lowest unit charge for the same class and amount of time for the same period of the broadcast day on a network. Candidates are entitled to be charged not more than the lowest unit rate regardless of the number of times they use the network. For example, if a television network gives a discount for advertisers who contract in advance on a noncancellable basis for at least one 1-minute commercial announcement for broadcast in one or more specified programs in prime time at least once a fortnight on a regular schedule over a 52-week period, a candidate would be entitled to that discount even though purchasing only one such spot announcement. At intervals, a television network may change the spot announcement charges for a particular program depending on the viewer ratings for the program. If commercial advertiser A has contracted in advance for a spot on a program to be broadcast on a certain date, and if because of low viewer ratings the price being offered to other advertisers for spots on the program on that date is lower than the price contracted for by A, advertiser A must nonetheless pay the higher price for which he contracted. Such will not be the case for a candidate under the provisions of section 315(b)(1). If the price of a spot on the date of use is lower than the price for which he contracted in advance, he will be entitled to the lower price and is to be given a rebate (if the spot has been previously paid for) or an adjustment (if the spot has not yet been paid for). Moreover, if the lower price (on the date of use) just mentioned is not as low as the lowest unit charge made to advertisers who enter into the 52-week type of contract mentioned above, the candidate is entitled to be charged the lowest unit rate based on the 52-week contract even though he purchases only one spot.

The upshot of the foregoing is that a candidate falling under the provisions of section 315(b)(1) will be entitled to the lowest unit charge on the date of use of the network regardless of the date on which he places or pays for his order for time. We emphasize that it is the date of network use that will govern the charge made to any candidate. Thus if $40,000 is the lowest unit charge for a 1-minute spot announcement on a particular program in prime time on October 1, and $50,000 is the lowest unit charge for a 1-minute spot on that program in prime time on October 22, candidate A who purchases a 1-minute spot broadcast on October 1 pays $40,000, and candidate B who purchases a 1-minute spot broadcast on October 22 pays $50,000. This difference in price charged the two candidates is not inconsistent with paragraph (c)[b] of the Commission rules (which provides that there shall be no discrimination between candidates as to charges) for both candidates are receiving the lowest unit rate at the time of use, that rate being based on audience exposure and giving candidate B greater exposure than A. (See Q. and A. VI. 3. and 4. above. The difference in rates therein are also correlated with audience size. See also footnote 6 above.)

Attention is invited to the fact that the foregoing discussion of network charges to candidates is applicable to uses of a network not involving "equal opportunity" under section 315(a). For "equal opportunity" situations, the principle set forth in Q. and A. VI. 8., below, applies. Thus, if candidate A has a 1-minute spot on a network on October 1 for $40,000, candidate B exercising "equal opportunity" rights on October 22 pays $40,000 rather than $50,000.

6. Q. During the 60-day period preceding a general election there are no changes in rates of the kind mentioned in Q. and A. VI. 3. and 4. above. A licensee observes that on a particular date he has some unsold time available during prime time hours. Preferring to realize something rather than nothing for that time, he approaches and sells to an advertiser three 1-minute, fixed-position spots in prime time at an extremely low rate. The unit charge for the three spots is lower than the lowest unit charge for such spots based on "normal" rates prevailing during the 60-day period. What is the effect of this in calculating lowest unit charge for the 60-day period?

A. The extremely low rate should be viewed as the lowest unit charge, because it is the lowest charge available to commercial advertisers and it was possible for it to have been afforded on any day of the 60-day period. In view of this consideration and the possibility of abuse (by favoring commercial advertisers or one candidate over another), the giving of such an extremely low rate on any date will not only set a new standard for the calculation of lowest unit charge on that date and the remainder of the period, but all candidates who have used the station prior to that date will be entitled to refunds to bring the charges to them in line with that extremely low rate. To afford some certainty in this respect, the appropriate period to which this holding applies is the 45- or 60-day period; affording extremely low rates on an ad hoc basis outside these periods thus is not relevant to the issue of the lowest unit charge.

7. Q. Candidate A purchases 50 fixed-position, 1-minute spots in prime time to be aired prior to the 45- or 60-day period preceding an election and pays for the time on the basis of "comparable use" as provided in section 315(b)(2). Pursuant to section 315(a), candidate B is entitled to "equal opportunity" to respond to candidate A, and candidate B purchases 50 such spots for his response, which spots are to be aired during the 45- or 60-day period. On what basis is candidate B charged?

A. Candidate B may be charged not more than the lowest unit charge prevailing during the 45- or 60-day period. Had candidate B responded to candidate A prior to the 45- or 60-day period, he would have been charged on a "comparable use" basis, just like candidate A. However, since the statute provides for a lowest unit charge basis for uses during the 45- or 60-day period, candidate B is charged on that basis. Paragraph (c)[b] of the Commission rules on political broadcasts provides that a station shall not discriminate between candidates in charges, but this does not amount to discrimination since the difference in charges is set by statute.

8. Q. During the 60-day period preceding a general election, the rates of a station, pursuant to normal business practices, change from summer to higher fall rates. The lowest unit charges are therefore less before the rate change than afterwards. (See Q. and A. VI. 3. above.) Candidate A purchases 50 fixed-position, 1-minute spots in prime time to be aired before the rate change. Pursuant to section 315(a), candidate B is entitled to equal opportunity to respond to candidate A, and candidate B purchases 50 such spots for his response, which spots are to be aired after the seasonal rate change. Is candidate B charged a higher rate?

A. Although in situations not involving "equal opportunity" the lowest unit charge for candidates using the station prior to the seasonal rate change is based on summer rates, and for those using the station after the change is based on fall rates, the situation is different in cases

[6] At the present time, of course, such changes in rates are subject to any statements of policy, guidelines, or regulations issued by the Price Commission under the Economic Stabilization Program.

involving "equal opportunity." The candidate in such a situation is entitled to be charged on the same basis as the candidate to whom he is responding. Therefore, in this situation, the rate charged candidate B must be the same as that charged candidate A (which rate cannot exceed the lowest unit charge based on summer rates). (Compare Q. and A. VIII. 21. in the 1970 primer.)

9. Q. During the 60-day period preceding a general election, the rates of a station, pursuant to normal business practices, change from summer to higher fall rates. The lowest unit charges are therefore less before the rate change than afterwards. (See Q. and A. VI. 3. above.) Candidate A purchases 50 fixed-position, 1-minute spots in prime time to be aired before the rate change. Pursuant to section 315(a), candidate B requests "equal opportunity" to respond to candidate A in fixed-position, 1-minute spots in prime time to be aired after the seasonal rate change. Candidate B requests 100 such spots. At what rate is candidate B charged?

A. Candidate B is entitled to 50 such spots at the rate charged candidate A to satisfy the "equal opportunity" requirement. For the remaining 50 spots he may be charged not more than the lowest unit rate based on the higher fall rates. It should be noted that the sale to candidate B of 50 spots at the low summer rates to satisfy the "equal opportunity" requirement does not affect the rates to be charged him or other candidates using the station after the change to the higher fall rates on other than an "equal opportunity" basis.

10. Q. A commercial advertiser has over a period of years had a contract for commercial spot announcements with a station and that contract has been renewed from time to time with unchanged rates set at the time the contract was entered into although the rates of the station to other advertisers have increased. Thus, the lowest unit charge of the station for the same class and amount of time for the same period computed by using current rates to other advertisers is higher than the lowest unit charge based on the rates being given to the advertiser with the "rate protection agreement." In calculating the lowest unit charge for a candidate who qualifies for such charges under section 315(b)(1), is it correct to use as a basis for the calculation the current rates generally held out to advertisers in the community?

A. No. The candidate is entitled to the lowest unit charge for the same class and amount of time for the same period. Since the lowest unit charge is that being given to the advertiser with the contract of long standing, that charge must be made to the candidate. Compare Q. and A. VIII. 13. in the 1970 primer.

11. Q. A candidate, prior to April 7, 1972, has contracted for use of a station after that date. The date(s) of use contracted for occurs during the 45- or 60-day period before an election. The contract price was at rates not exceeding those made to commercial advertisers for comparable use of the station, as provided in section 315(b) of the Communications Act prior to its amendment by the Campaign Communications Reform Act. Is the candidate entitled to a refund if payment to the station has been made prior to the time of use, or to an adjustment in the charges if payment has not been made at or before the time of use, so that he will pay on a lowest unit charge basis?

A. Yes. The lowest unit charge applies to all uses falling under the provisions of section 315(b)(1) which occur on or after April 7, 1972, regardless of the date of contract.

12. Q. On or after April 7, 1972, a candidate contracts with a station for use of its facilities on a specified date or dates in the future, which dates occur within a 45- or 60-day period before an election. The price for the use of the facilities is stated in the contract. At the time of use of the facilities, the rates of the station have changed because, for example, of normal seasonal rate changes, or because of the issuance of ARB or Nielsen TV market reports which resulted in rate changes by the station. At what rate is the candidate charged for use of the station?

A. If the change in rates has resulted in a lowest unit charge which is greater than that provided in the contract, the candidate is entitled to the charge specified in the contract. If the rate change of the station has resulted in a lowest unit charge which is less than that provided in the contract, the candidate is entitled to be charged at the lesser rate.

13. Q. On or after April 7, 1972, a candidate contracts with a station for use of its facilities during a period 60 days prior to a general election. The contract specifies no set rate to be charged, but instead, provides that the rate to be charged will not exceed the lowest unit charge being made on the date(s) contracted for. May such contracts be entered into by stations?

A. Yes. There is nothing in the new law concerning the type of contract a station may enter into with a candidate. (However, a contract providing that regardless of the lowest unit charge being made on the date of use by the candidate the candidate must pay a higher rate specified in the contract would be contrary to the public policy established by the new law.) Without additional language in such a contract, however, it might be impossible to satisfy the certification requirement of Q. and A. VII.1.(1), below.

14. Q. Does the "lowest unit charge" provision of section 315(b)(1) apply to political broadcasts by groups, organizations or persons other than candidates?

A. No. The provision applies only to broadcasts by candidates for public office. The general guideline to be followed is that the "uses" of broadcast stations for which the "lowest unit charge" provision applies are the "uses" which would entitle an opposing candidate to "equal opportunities" under the provisions of section 315(a), i.e., uses in which the candidate personally participates through use of his voice or image, live or taped, or through film or picture. (See "III. B. What constitutes a 'use' of broadcast facilities entitling opposing candidates to 'equal opportunities'?" in the 1970 primer.) Section 104(a)(6) of the Campaign Communications Reform Act provides that amounts spent for the use of communications media by or on behalf of a candidate are attributable to the candidate's spending limit. This means that some broadcast time bought to further the candidacy of a person may be on his behalf and will count against his spending limit, but will not be entitled to the "lowest unit charge" if it does not involve a "use" by the candidate. (See Q. and A. VIII.2. of the 1970 primer.)

15. Q. Does the "lowest unit charge" provision of section 315(b)(1) apply to both time charges and other charges by a station in connection with political broadcasts?

A. No. The provision applies only to charges for purchase of time. It does not cover additional charges made by a station for other services, which may be termed production oriented, such as charges for use of a television studio, audio- or video-taping, or line charges and remote technical crew charges when the broadcast is to be picked up outside the station. Moreover, the provision does not apply to additional charges that might be incurred if a candidate sought to purchase full sponsorship of an existing program for which there is an established program charge in addition to a time charge.

16. Q. Customarily, stations allow advertising agency commissions to be taken out of the charges made for time. If a candidate purchases time from a station through an agency, may the station include the agency commission in the lowest unit charge it makes to the candidate?

A. Yes. However, if a candidate purchases time directly from a station without the use of an agency, the lowest unit charge must exclude the amount usually paid for agency commission. For example, if a 1-minute spot announcement costs $100 and an agency is allowed $15, a candidate placing a spot through an agency must pay $100. But if a candidate places the spot directly, without use of an agency, he pays $85. In this connection, however, attention is invited to Q. and A. VI.13. above which states that production costs are not included in the lowest unit charge. Hence a candidate purchasing time directly, without the use of an agency, must furnish his advertisement or other program matter to the station, unless it is the policy of the station to prepare the material for commercial advertisers in such situations. See Q. and A. VIII. 12. and 20. in the 1970 primer.

17. Q. May a station with both "national" and "local" rates charge a candidate falling within the purview of section 315(b)(1) its lowest rate charge based on its "national" rates?

A. No. The calculation of the lowest unit charge must be based on its "local" rates (if they are lower than its "national" rates) regardless of whether a candidate is running for municipal, county, State, or national office. ("National" and "local" are not viewed as different "classes" of service under the

provisions of section 315(b)(1).) For example, if a candidate were running for the office of United States Senator and fell within the purview of section 315(b)(1), and if a station on which he purchased time covered all or most of the State in which he was running, calculation of the lowest unit charge would have to be based on the station's "local" rather than it's "national" rates. This guideline overrules Q. and A. VIII. 4. and 14. in the 1970 primer insofar as candidates falling under the provisions of section 315(b)(1) are concerned. They are not overruled, however, as to candidates falling under the provisions of section 315(b)(2). See also Q. and A. VIII.3. in the 1970 primer.

18. Q. In computing the lowest unit charge under the provisions of section 315(b)(1), is the calculation based on the rate card of the station or on the rates actually charged by the station if they differ from those on the rate card?

A. The calculation is based on whatever will give the lowest unit rate for the same class and amount of time during the same period of the day. If use of the actual charges gives the lowest unit rate, actual charges are used in determining rates for candidates. If use of the rate card gives the lowest unit rate, the rate card is the basis used. Example of actual charges forming the basis for lowest unit charge: A licensee is "flexible" and uses his rate card as a point of departure for negotiations which always results in rates less than those shown on the card. Example of rate card forming the basis for lowest unit charge: A rate card shows a "package" or "plan" for fixed-position, one-minute spots in drive time which yields the lowest unit charge on the card for such spots (e.g., 10,000 such spots over a period of a year for a very low rate). The "package" or "plan" on the rate card also yields the lowest unit charge as compared with actual sales that may have been made for such spots at rates less than card rates. However, the "package" or "plan" has not been purchased by anyone for use during the 45- or 60-day period. In such a case, the rate card is used as the basis for calculation of the lowest unit rate for such spots because although it was never taken advantage of by a purchaser of time, the very low unit rate of the "package" or "plan" was being held out to the public.

19. Q. A person is a legally qualified candidate for nomination for the presidency, as discussed in Q. and A. V.1. above. He is running in the primary election of a State in the eastern part of the United States. During the period of 45 days before that primary election he wishes to purchase time on stations in that State and on stations in each of three western States. The situation with regard to each of the western States is as follows: (1) in State A, a presidential primary election has already been held in the State; (2) in State B, the delegates to the national nominating convention have already been selected by a State convention; (3) in State C, a presidential primary election is yet to be held in the State, the person is running in that primary, but that primary will occur more than 45 days after the proposed use of the stations in State C. On what stations is the candidate entitled to the lowest unit charge?

A. He is entitled to the lowest unit charge only on the stations in the eastern State where he is running in the primary election. In the western States he would be entitled to rates on a "comparable" basis under the provisions of section 315(b)(2). The Commission is of the view that the intent of the lowest unit rate provision is that it is to apply only in situations where an election is being held in the service area of the station on which time is being purchased. If the person in this case subsequently receives the nomination of his party at its national convention, then under the provisions of section 315(b)(1) he would be entitled to the lowest unit charge in stations in all of the 50 States during the 60-day period preceding the presidential election.

20. Q. By statute a State provides that broadcast stations may carry legal notices at rates fixed by the statute. This rate is quite low so that for a particular broadcast station in that State the lowest unit charge for such notices for the same class and amount of time for the same period is less than the lowest unit charge based on "normal" rates. Must the lowest unit charge for candidates be calculated on the basis of the statutory rate for legal notices?

A. No. Since the rates for legal notices are set by statute rather than by the station, they are not used for calculation of the lowest unit charge for candidates.

21. Q. Are trade outs or barter transactions involving commercial advertisers to be used in computing the lowest unit charge?

A. No. Although stations engage in trade outs and barter in dealing with advertisers, only transactions involving sale of time for monetary consideration are to be used as the basis for calculating the lowest unit charge which must not be exceeded when a candidate wishes to purchase time. (This does not affect the Commission's policy with respect to reporting trade out and barter transactions on the Annual Financial Report (FCC Form 324). See Public Notice, FCC 72-139, February 17, 1972.)

22. Q. Are stations permitted to charge less than the lowest unit charge during the 45- or 60-day period before an election?

A. Yes. To make the preceding questions and answers concerning the matter of "lowest unit charge" less cumbersome, they have sometimes been couched in terms that might have conveyed the impression that stations must charge the lowest unit charge to candidates. It is stressed here that section 315(b)(1) provides that charges made by stations shall not exceed the lowest unit charge for the same class and amount of time for the same period. Stations are at liberty to charge less than the lowest unit charge. However, if they do, they must give the same low unit rate to other candidates for all offices purchasing the same class, amount, and period of time on the station.

23. Q. Where a cable television operator does not have an advertising rate schedule, how should he determine the proper rate for a political message, in terms of "lowest unit charge" and "comparable use" rate concepts?

A. Since it is likely that most cable operators have had little experience in offering cablecasts on their systems, and even less in charging for use of cablecasting facilities, it will be necessary for operators without existing rate schedules to arrive at some reasonable rate structure. Section 73.251(a)(11)(iii) of the rules requires cable systems to establish appropriate rate schedules for use of their leased access channels; we expect that such rates will not have the effect of discouraging political use of such channels.

24. Q. Do the "lowest unit charge" and "comparable use" rate concepts prevent a cable television operator from establishing different rate structures for origination and access cablecasting channels?

A. No. The Commission considers origination and access cablecasting channels to be very different and noncomparable vehicles for expression on a cable system. It is for this reason, for example, that the Commission requires "equal time" and "fairness" obligations arising on an origination cablecasting channel to be satisfied on such a channel, and not on an access channel. See paragraph 145, Cable Television Report and Order, 37 F.R. 3252 (1972). Thus, a cable operator need not have the same rate structure for both origination and access channels.

25. Q. What is the meaning of "charge made for comparable use" in section 315(b)(2)?

A. This term is identical with that in section 315(b) prior to its amendment by the Campaign Communications Reform Act, and is construed in the same manner. The section entitled "VIII. What rates may be charged candidates for programs under section 315?" in the 1970 primer contains Commission rulings on this statutory term and on paragraph (c)[b] of the Commission rules governing political broadcasts and cablecasts which implemented the old section 315(b). These rulings are still valid.

VII—Section 315—Certification

VII. 1. Q. What procedure is recommended by the Commission with regard to the certification that stations must obtain pursuant to sections 315(c) and 315(d).

A. The Commission recommends the following procedure which is analogous to that which will be established by regulations of the Comptroller General for certifications required by section 104(b) of the Campaign Communications Reform Act in connection with uses by candidates of newspapers, magazines, or outdoor advertising facilities:

(1) The certification should contain the call sign and community of license of the station (or, in the case of a cable television system, the name of the system, each community served, and State);

name of candidate; his political affiliation; elective office sought; date of primary or other election in connection with which time is being purchased; dates of proposed use or uses of station; duration of each broadcast and time at which each broadcast is to be made on each date; the rate to be charged and the total charges for which payment by the candidate is certified not to violate the candidate's spending limitation; signature of the candidate or of the person specifically authorized by the candidate in writing to do so; and date of signature. In addition to the foregoing, the certification should state that payment for the use of the time purchased, including any agent's commission allowed the agent by the station, will not violate the candidate's permissible limit of campaign spending under the provisions of section 104(a) of the Federal Election Campaign Act of 1971 (Public Law 92–225) as determined by the Comptroller General of the United States for the race involved. (For State races under section 315(d), appropriate language concerning spending limits imposed by the State law should be used.)

(2) The original certification must be given to the person making the charge before the order or agreement for the particular use is accepted. One copy of the certification should be retained by the candidate or the authorized person. If prior to the date(s) of use there is a change in the amount of charge, an amended certification must be given to the station.

(3) Each authorization by a candidate to another person or persons to make certifications on behalf of the candidate shall state the name and address of the authorized individual, the name of the candidate, the election involved, and any restrictions or limitations imposed, and it should be signed and dated by the candidate. The authorized individual may retain the original but a copy of the authorization must be given to the person making the charge.

(4) Whenever a single use of a station is by or on behalf of two or more candidates for elective office, the amount attributable to the expenditure of each candidate is the amount agreed upon by the candidates in advance of the use and shown on the certification. In such situations, a joint certification, or individual certifications showing the allocation to each candidate should be furnished by joint users.

(5) Certifications should be obtained for each individual use or series of uses of a station for which a candidate contracts. (E.g., if one contract is for 100 spots, only one certification is necessary.)

(6) The certification need not be in any special form. It may, for example, be incorporated into a standard contract or start order.

(7) Certifications must, pursuant to paragraph (d)[c] of the Commission's rules, be placed in the station file which is available for public inspection, and retained for a period of 2 years. If the certification is made by a duly authorized person as mentioned in (3) above, the copy of that person's authorization given to the person making the charge must be attached to the certification and retained with it in the file for the 2-year period.

(8) Attention of certifying parties is invited to the fact that the Comptroller General of the United States will, in the near future, promulgate regulations governing communications media spending limitations for Federal elective office as required by the Campaign Communications Reform Act. These regulations will be published in the FEDERAL REGISTER and issued in a new title 11 ("Federal Elections") of the Code of Federal Regulations. Candidates should, of course, familiarize themselves with the contents of those regulations when issued. However, as an aid to stations and candidates, and with the caveat that this information is subject to modification by the aforementioned regulations, the following represents the substance of a pertinent portion of what is expected to appear in the regulations:

An expenditure for use of a station is deemed to take place on the date or dates when the station is actually used, regardless of when payment therefor is made and regardless of the date of any contract or promise. Such expenditure is charged against the amount of the expenditure limitation applicable to the election in connection with which the station is actually used, regardless of when payment therefor is made and regardless of the date of any contract or promise. An expenditure for the use of a station, when such use occurs on or after the effective date of the Campaign Communications Reform Act (April 7, 1972), is charged against the expenditure limitation applicable to the election in which the station is used, regardless of whether or not the use is paid for or contracted for prior to the effective date of the Act. However, the Act does not apply when such use occurs entirely before the effective date of the Act, regardless of whether or not the use is paid for on or after the effective date.

2. Q. Under the provisions of sections 315(c) and 315(d), if a station gives free time for use by or on behalf of a candidate must it obtain a certification from the candidate or a properly authorized person?

A. No. The sections only require the station licensee to obtain a certification if a charge is being made for the broadcast time, for if time is given free, use of a station by or on behalf of a candidate under those circumstances cannot bring the candidate into violation of the spending limitation.

3. Q. If a candidate prior to April 7, 1972, has contracted for use of a station both prior to April 7, 1972, and after that date, must the station obtain the certification required under section 315 (c) or (d) for the broadcasts which occur after April 7, 1972?

A. Yes. A certification must be obtained in all cases where a station is making a charge for use of the station by or on behalf of a legally qualified candidate on and after April 7, 1972. No certification for uses of a station prior to April 7, 1972, is necessary.

VIII—SECTION 312—REASONABLE ACCESS

VIII. 1. Q. To what candidates do the provisions of section 312(a)(7) apply?

A. They only apply to legally qualified candidates for Federal elective office (as such offices are defined in section 102 (3) and (4) of the Campaign Communications Reform Act). As to the right to access by candidates for other than Federal elective office, a licensee must govern its conduct by established interpretations of section 315 of the Communications Act prior to amendments. One such interpretation of section 315 is the Commission's historic policy regarding sale of time to candidates for office: The licensee in its own good-faith judgment in serving the public interest may determine which political races are of greatest interest and significance to its service area, and therefore may refuse to sell time to candidates for less important offices, provided it treats all candidates for such offices equally.

2. Q. Who is a "legally qualified candidate" for Federal elective office for purposes of section 312(a)(7)?

A. A "legally qualified candidate" for Federal elective office for the purpose of this section is the same as that spelled out in Q. and A. V.1. above, i.e., for purposes of reasonable access and permitting purchase of reasonable amounts of time the definition is the same as for section 315(a) concerning "equal opportunities."

3. Q. How is a licensee to comply with the requirement of section 312(a)(7) that he give reasonable access to his station to, or permit the purchase of reasonable amounts of time by, candidates for Federal elective office?

A. Each licensee, under the provisions of sections 307 and 309 of the Communications Act, is required to serve the public interest, convenience, or necessity. In its Report and Statement of Policy Re: Commission En Banc Programming Inquiry (1960), the Commission stated that political broadcasts constitute one of the major elements in meeting that standard. (See Farmers Educational and Cooperative Union of America, North Dakota Division v. WDAY, Inc., 360 U.S. 525 (1959), and Red Lion Broadcasting Co., Inc. v. FCC, 395 U.S. 367, 393–94 (1969).) The foregoing broad standard ha been applied over the years to the overall programing of licensees. New section 312(a)(7) adds to that broad standard specific language concerning reasonable access.

Congress clearly did not intend, to take the extreme case, that during the closing days of a campaign stations should be required to accommodate requests for political time to the exclusion of all or most other types of programing or advertising. Important as an informed electorate is in our society, there are other elements in the public interest standard, and the public is entitled to other kinds of programing than political. It was not intended that all or most time be preempted for political broadcasts. The foregoing appears to be the only definite statement that may be made about the new section, since no all-embracing standard can be set. The test of whether a licensee has met the requirement of the new section is one of reasonableness. The Commission will not substitute its judgment for that of the licensee, but, rather, it will determine in

any case that may arise whether the licensee can be said to have acted reasonably and in good faith in fulfilling his obligations under this section.

We are aware of the fact that a myriad of situations can arise that will present difficult problems. One conceivable method of trying to act reasonably and in good faith might be for licensees, prior to an election campaign for Federal offices, to meet with candidates in an effort to work out the problem of reasonable access for them on their stations. Such conferences might cover, among other things, the subjects of the amount of time that the station proposes to sell or give candidates, the amount and types of its other programing, the 7-day rule, and the amount of advertising it proposes to sell to commercial advertisers.

4. Q. Do the provisions of section 312 (a)(7) apply to persons or groups requesting access to or purchase of time on a station for themselves as spokesmen on behalf of a candidate?

A. No. The section applies only to requests for "use" of a station by a candidate. The standard of what constitutes a "use" of a station for purposes of administering section 312(a)(7) is the same as the standard concerning "equal opportunities" under section 315(a). That standard is elaborated in sections III. A. and B. of the 1970 primer and subsequent rulings. (See also Q. and A. VI.14. above.) With regard to spokesmen for candidates, a licensee must govern its conduct by the "public interest, convenience, or necessity" standard of sections 307 and 309 of the Communications Act discussed in Q. and A. VIII.3. above. See also Letter to Nicholas Zapple, 23 F.C.C. 2d 707 (1970).

5. Q. Does the "reasonable access" provision of section 312(7) require commercial stations to give free time to legally qualified candidates for Federal elective office?

A. No, but the licensee cannot refuse to give free time and also to permit the purchase of reasonable amounts of time. If the purchase of reasonable amounts of time is not permitted, then the station is required to give reasonable amounts of free time.

6. Q. If a commercial station gives reasonable amounts of free time to candidates for Federal elective office, must it also permit purchase of reasonable amounts of time?

A. No. A commercial station is required either to provide reasonable amounts of free time or permit purchase of reasonable amounts of time. It is not required to do both.

7. Q. If candidate A has spent the maximum amount of funds permitted him under the limitation set by section 104(a) (1), (2), or (3) of the Campaign Communications Reform Act and requests "equal opportunity" under the provisions of section 315(a) to respond to a broadcast by candidate B, paid for by candidate B, which occurred after candidate A had reached his spending limit, must the station provide free time to candidate A?

A. No. Candidate A cannot furnish the necessary certification that purchase of time on the station would not result in a violation of the spending limitation.

8. Q. Some stations have in the past had the policy of not selling short political spot announcements (e.g., 10 seconds, 1 minute) on the ground that they did not contribute to an informed electorate. In light of the enactment of section 312(a)(7), may stations have such policies, or must they sell reasonable numbers of short spots to legally qualified candidates for Federal office if requested?

A. We have, prior to the enactment of section 312(a)(7), when station were (under the provisions of section 315) not required to allow use of their facilities by particular candidates for public office, ruled that licensees may have such policies. In so ruling, we have cautioned that licensees have the public interest consideration of making their facilities available to candidates, but have left to the good-faith judgment of the licensee the determination of how the facilities were to be used to serve the public interest. As complaints arose, we looked to the reasonableness of that judgment in a particular fact pattern. (31 FCC 2d 782 (1971).) Section 312(a)(7) now imposes on the overall obligation to operate in the public interest the additional specific requirement that reasonable access and purchase of reasonable amounts of time be afforded candidates for Federal office. We shall, under this new section, apply the same test of reasonableness of the judgment of the licensee. Thus whether a refusal to sell short political spots would or would not violate the provisions of the new section would depend on the circumstances in which the refusal occurred. The same would apply to similar situations, e.g., in cases where a station has a policy of not placing political spots on news programs.

9. Q. Does section 312(a)(7) apply to noncommercial educational stations, and other nonprofit stations, as well as to commercial stations?

A. Yes. There are no provisions in the Campaign Communications Reform Act exempting such stations, nor is there anything in the legislative history of the Act that would indicate that such an exemption was intended. Both types of stations would be required to give reasonable access to legally qualified candidates for Federal elective office.

10. Q. May noncommercial educational stations and nonprofit stations charge for broadcast time by or on behalf of legally qualified candidates for Federal elective office?

A. Under the provisions of the Commission rules, noncommercial educational stations operating on channels reserved for noncommercial educational use are not permitted to levy charges for time—for political broadcasts or otherwise. Some such stations presently are providing political programing without charge, and it appears that as a practical matter the new provision will not greatly alter their practices. On the other hand, those stations that do not engage in such programing will be required under the new law to provide reasonable access to candidates without charge. Noncommercial educational stations that are operating on unreserved channels, and nonprofit stations that are not educational, e.g., those offering religious broadcasting, may charge for political broadcast time (if their charters or articles of incorporation permit them to make time charges) although it is their policy normally not to charge for any time. If they do charge, notice must be given to the Commission of this change in operation. The lowest unit charge provisions of section 315(b) cannot apply to such stations since they have no rates on which to base such a charge. However, any charges made must be reasonable when viewed in the light of charges made by commercial stations in the same broadcast service licensed to serve the same community. If the charges made by nonprofit stations are unduly high, it is conceivable that they might be construed as an attempt to circumvent the reasonable access provision of section 312 (a)(7). Noncommercial educational stations and nonprofit stations, whether giving free time for political broadcasts or charging for such time, may make necessary charges for production-oriented services, and for other things of the type mentioned in Q. and A. VI.15. above.

11. Q. Does the "reasonable access" provision of section 312(a)(7) require a cable television system that lacks cablecasting facilities to provide such facilities upon receipt of a request for access to or purchase of time on a system?

A. No. A cable system that lacks cablecasting facilities, other than for automated services, and is not required by the Commission's Rules to have them, need not provide such facilities upon receipt of a request for access to or purchase of time on the system.

Adopted: March 15, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[7]
[SEAL] BEN F. WAPLE,
Secretary.

[FR Doc.72-4289 Filed 3-20-72;8:48 am]

[7] Commissioners Johnson and H. Rex Lee not participating.

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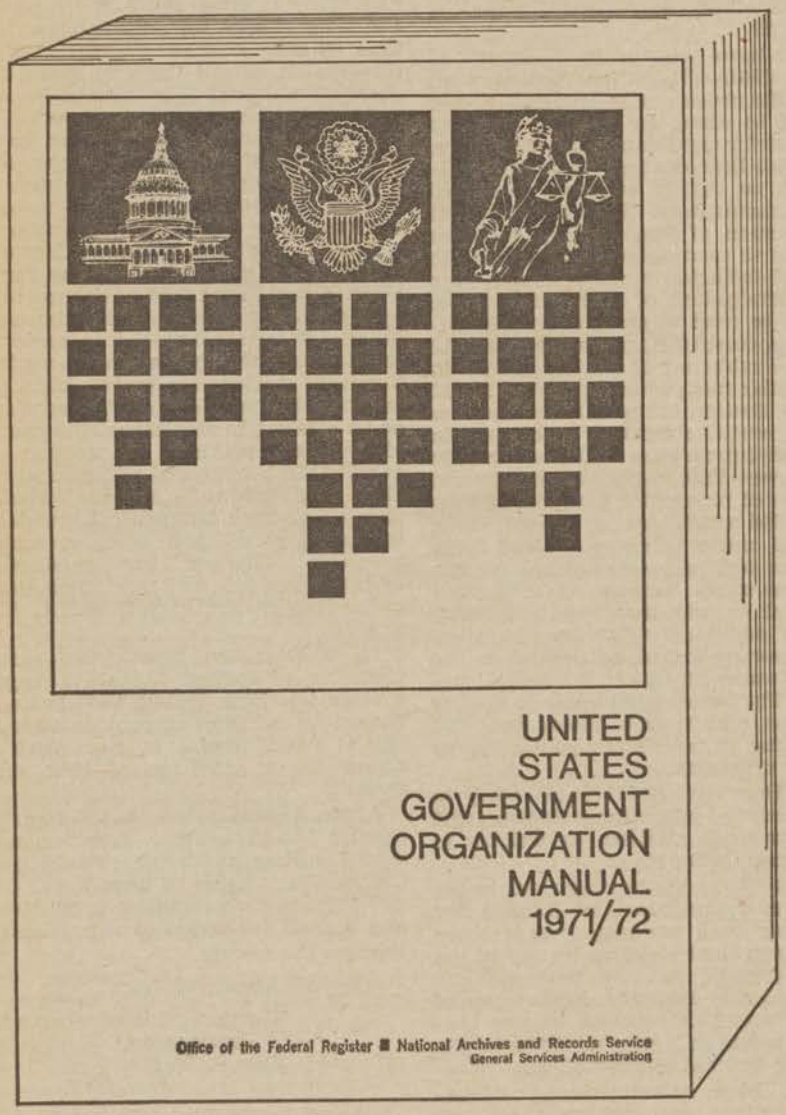

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