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## HIGHLIGHTS OF THIS ISSUE

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# Rules and Regulations

## Title 7—AGRICULTURE

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

[Navel Orange Reg. 263]

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

#### Limitation of Handling

§ 907.563 Navel Orange Regulation 263.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Navel oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Navel oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 4, 1972.

(b) *Order.* (1) The respective quantities of naval oranges grown in Arizona and designated part of California which may be handled during the period April 7, 1972, through April 13, 1972, are hereby fixed as follows:

(i) District 1: 913,000 cartons;

(ii) District 2: 187,000 cartons;

(iii) District 3: Unlimited.

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

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

Dated: April 5, 1972.

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

[FR Doc.72-5389 Filed 4-5-72;11:27 am]

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[Valencia Orange Reg. 385]

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

#### Limitation of Handling

§ 908.685 Valencia Orange Regulation 385.

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

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on April 4, 1972.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period April 7, 1972, through April 13, 1972, are hereby fixed as follows:

(i) District 1: 1,484 cartons;

(ii) District 2: 14,316 cartons;

(iii) District 3: 154,000 cartons.

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

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

Dated: April 5, 1972.

ARTHUR E. BROWNE,
*Deputy Director, Fruit and Vegetable Division, Consumer and Marketing Service.*

[FR Doc.72-5390 Filed 4-5-72;11:27 am]

## Chapter X—Consumer and Marketing Service (Marketing Agreements and Orders; Milk), Department of Agriculture

[Milk Order 131]

### PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

### Order Terminating Certain Provisions

This termination order is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Central Arizona marketing area.

Notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 5302) concerning a proposed termination of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. None were filed in opposition.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that the following provisions of the order no longer tend to effectuate the declared policy of the Act:

1. In the introductory text of § 1131.51 (a), the provision "and shall be increased or decreased by a 'supply-demand adjustment' of not more than 50 cents computed as follows:";

2. Subparagraphs (1) and (2) of § 1131.51(a).

STATEMENT OF CONSIDERATION

The termination would eliminate the supply-demand adjustment provisions that are now a part of the Class I price formula in this order. These provisions adjust the order's Class I price according to changes in receipts of producer milk relative to Class I utilization in the market. An order effective June 4, 1968 (33 F.R. 8266) suspended the supply-demand adjustment provisions for an indefinite period.

The termination of these provisions was requested by the United Dairymen of Arizona to effectuate the declared policy of the Act. The cooperative association stated that the supply-demand adjustment provisions have been inoperative for more than 3 years indicating that the provisions are no longer needed in the order.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This termination is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that continuation of the supply-demand adjustment provisions in the order will not effectuate the declared policy of the Act;

(b) This termination order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rule making was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this termination.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

*It is therefore ordered*, That the aforesaid provisions of the order are hereby terminated.

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

Effective date: Upon publication in the FEDERAL REGISTER (4–6–72).

Signed at Washington, D.C., on March 31, 1972.

RICHARD LYNG,
*Acting Secretary.*

[FR Doc.72–5284 Filed 4–5–72;8:47 am]

# Title 9—ANIMALS AND ANIMAL PRODUCTS

## Chapter III—Consumer and Marketing Service (Meat Inspection), Department of Agriculture

SUBCHAPTER A—MEAT INSPECTION REGULATIONS

### PART 327—IMPORTED PRODUCTS

### Eligibility of Trust Territory of the Pacific Islands for Importation of Meat Products Into U.S.

On January 25, 1972, there was published in the FEDERAL REGISTER (37 F.R. 16) a notice of a proposal to amend § 327.2 of the Federal Meat Inspection Regulations (9 CFR Part 327), to change paragraph (b) of that section to include the words "Trust Territory of the Pacific Islands" in alphabetical order in the list of countries specified therein from which certain products (meat, meat food products, and meat byproducts) may be imported into the United States as provided in said regulations.

After due consideration of all relevant matters in connection with the notice of proposed rule making and under the authority of the Federal Meat Inspection Act (34 Stat. 1260, as amended, 21 U.S.C. 601 et seq.), paragraph (b) of § 327.2 is hereby amended to read as follows:

**§ 327.2 Eligibility of foreign countries for importation of product into the United States.**

* * * * *

(b) It has been determined that product of cattle, sheep, swine, and goats from the following countries, covered by foreign meat inspection certificates of the country of origin as required by § 327.4, except fresh, chilled, or frozen or other product ineligible for importation into the United States from countries in which the contagious and communicable disease of rinderpest, or of foot-and-mouth disease, or of African swine fever exists as provided in Part 94 of this title, is eligible under the regulations in this subchapter for importation into the United States after inspection and marking as required by the applicable provisions of this part.

| | |
|---|---|
| Argentina. | Ireland (Eire). |
| Australia. | Italy. |
| Austria. | Japan. |
| Belgium. | Luxembourg. |
| Brazil. | Mexico. |
| Bulgaria. | Netherlands. |
| Canada. | New Zealand. |
| Colombia. | Nicaragua. |
| Costa Rica. | Northern Ireland. |
| Czechoslovakia. | Norway. |
| Denmark. | Panama. |
| Dominican Republic. | Paraguay. |
| El Salvador. | Poland. |
| England and Wales. | Romania. |
| Finland. | Scotland. |
| France. | Spain. |
| Germany (Federal Republic). | Sweden. |
| Guatemala. | Switzerland. |
| Haiti. | Trust Territory of the Pacific Islands. |
| Honduras. | Uruguay. |
| Hungary. | Venezuela. |
| Iceland. | Yugoslavia. |

* * * * *

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 621; 29 F.R. 16210, as amended, 36 F.R. 13169)

The foregoing amendment shall become effective 30 days following publication of this notice in the FEDERAL REGISTER.

Done at Washington, D.C., on March 31, 1972.

RICHARD E. LYNG,
*Assistant Secretary.*

[FR Doc.72–5283 Filed 4–5–72;8:47 am]

# Title 13—BUSINESS CREDIT AND ASSISTANCE

## Chapter I—Small Business Administration

### PART 115—SURETY BOND GUARANTEE

On December 9, 1971, a notice was published in the FEDERAL REGISTER of proposed rule making for the establishment of regulations to govern Small Business Administration's authority to guarantee bid, payment or performance bonds issued by qualified sureties.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

No objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

*Effective date.* These regulations shall be effective as of February 8, 1972.

THOMAS S. KLEPPE,
*Administrator.*

Sec.

Sec.
115.6 Guarantee agreement.
115.7 Processing fee and guarantee fee.
115.8 Approval or decline of applications.

AUTHORITY: The provisions of this Part 115 issued under Title IV—Part B, of the Small Business Investment Act of 1958, 84 Stat. 1812; 15 U.S.C. 694a, 694b.

## § 115.1 Statutory provisions.

TITLE IV—PART B—SURETY BOND GUARANTEES

DEFINITIONS

SEC. 410. As used in this part—

(1) The term "bid bond" means a bond conditioned upon the bidder on a contract entering into the contract, if he receives the award thereof, and furnishing the prescribed payment bond and performance bond.

(2) The term "payment bond" means a bond conditioned upon the payment by the principal of money to persons under contract with him.

(3) The term "performance bond" means a bond conditioned upon the completion by the principal of a contract in accordance with its terms.

(4) The term "surety" means the person who, (A) under the terms of a bid bond, undertakes to pay a sum of money to the obligee in the event the principal breaches the conditions of the bond, (B) under the terms of a performance bond, undertakes to incur the cost of fulfilling the terms of a contract in the event the principal breaches the conditions of the contract, or (C) under the terms of a payment bond, undertakes to make payment to all persons supplying labor and material in the prosecution of the work provided for in the contract if the principal fails to make prompt payment.

(5) The term "obligee" means (A) in the case of a bid bond, the person requesting bids for the performance of a contract, or (B) in the case of a payment bond or performance bond, the person who has contracted with a principal for the completion of the contract and to whom the obligation of the surety runs in the event of a breach by the principal of the conditions of a payment bond or performance bond.

(6) The term "principal" means (A) in the case of a bid bond, a person bidding for the award of a contract, or (B) the person primarily liable to complete a contract for the obligee, or to make payments to other persons in respect of such contract, and for whose performance of his obligation the surety is bound under the terms of a payment or performance bond. A principal may be a prime contractor or a subcontractor.

(7) The term "prime contractor" means the person with whom the obligee has contracted to perform the contract.

(8) The term "subcontractor" means a person who has contracted with a prime contractor or with another subcontractor to perform a contract.

AUTHORITY OF THE ADMINISTRATION

SEC. 411. (a) The Administration may, in consultation with the Secretary of Housing and Urban Development and upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety against loss, as hereinafter provided, as the result of the breach of the terms of a bid bond, payment bond, or performance bond by a principal on any contract up to $500,000 in amount, subject to the following conditions:

(1) The person who would be the principal of the bond is a small business concern.

(2) The bond is required in order for such person to bid on a contract or to serve as a prime contractor or subcontractor thereon.

(3) Such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section.

(4) The Administration determines that there is a reasonable expectation that such person will perform the covenants and conditions of the contract with respect to which the bond is required.

(5) The contract meets requirements established by the Administration for feasibility of successful completion and reasonableness of cost.

(6) The terms and conditions of any bond guaranteed under the authority of this part are reasonable in light of the risks involved and the extent of the surety's participation.

(b) Any contract of guarantee under this section shall obligate the Administration to pay to the surety a sum not to exceed 90 per centum of the loss incurred by the surety in fulfilling the terms of his contract as the result of the breach by the principal of the terms of a bid bond, performance bond, or payment bond.

(c) The Administration shall fix a uniform annual fee which it deems reasonable and necessary for any guarantee issued under this section, to be payable at such time and under such conditions as may be determined by the Administration. Such fee shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. The Administration shall also fix such uniform fees for the processing of applications for guarantees under this section as it determines are reasonable and necessary to pay administrative expenses incurred in connection therewith. Any contract of guarantee under this section shall obligate the surety to pay the Administration such portions of the bond fee as the Administration determines to be reasonable in the light of the relative risks and costs involved.

(d) The provisions of section 402 shall apply in the Administration of this section.

## § 115.2 Policy.

It is the intent of Congress to strengthen the competitive free enterprise system by assisting qualified small business concerns to obtain certain bid, payment or performance bonds that are otherwise not obtainable by authorizing the Small Business Administration to guarantee surety companies up to 90 percent of their losses incurred by reason of the breach of certain surety bonds executed on behalf of such small business concerns on contracts up to $500,000 in amount.

## § 115.3 Definitions.

(a) "Administration" shall mean the Small Business Administration.

(b) "Administrator" shall mean the Administrator of the Small Business Administration.

(c) "SBA" means the Small Business Administration.

(d) "Small business concern" means a concern which would qualify as a small business under § 121.3–14 of this chapter.

(e) "Surety" means a corporation with a Certificate of Authority from the Secretary of the Treasury under sections 6 to 13 of title 6 of the United States Code, or as otherwise qualified by the Small Business Administration.

## § 115.4 Eligibility.

In order to be eligible for a surety bond guarantee, the applicant must:

(a) Qualify as a small business under § 121.3–14 of this chapter.

(b) Operate or propose operation of a business in conformity with Part 120—Loan Policy, of this chapter.

(c) Represent that a bond is required in order to bid on a contract or to serve as a prime contractor or subcontractor thereon.

(d) Represent that a bond is not obtainable on reasonable terms and conditions without SBA's bond guarantee assistance.

## § 115.5 Procedure for surety bond guarantee assistance.

(a) An application for surety bond guarantee assistance shall be made on the appropriate SBA forms and shall include any additional information required in supporting schedules and forms. The application shall be submitted to an appropriate surety company agent in triplicate, plus all other supporting material. Except for the District of Columbia, the agent will forward one copy of the same to the SBA District Office and Regional Office serving the area in which the applicant is located, and one copy to the surety company. In the District of Columbia Standard Metropolitan Statistical Area, the agent will forward one copy of the same to the SBA District Office and one copy to the SBA Central Office.

## § 115.6 Guarantee agreement.

Any agreement by SBA to guarantee a surety company shall provide that:

(a) Surety shall represent that such bond or bonds when executed by it as to terms and conditions will be in accord with those executed by professional sureties for that type of contract for which such bond or bonds are required to be furnished by principal.

(b) Surety shall affirm that without the SBA guarantee to surety it will not issue any of said bonds to principal.

(c) That the term "loss" shall mean any and all liability, damages, court costs, counsel fees, charges and expenses of whatever kind or nature which the surety shall or may at any time, sustain or incur by reason, or in consequence, of having executed the bond or bonds guaranteed by SBA.

(d) Unless otherwise agreed, surety shall take charge of all claim matters arising under said bonds; determine its liability and the amount thereof; compromise, settle or defend any claim or suit; and, take such action as it deems necessary to minimize loss.

(e) Surety shall pay SBA 10 percent of its bond(s) premium for and in consideration of SBA's agreement to guarantee the bid, payment or performance bond contemplated by this agreement. It is further agreed by SBA and surety that surety will pay SBA an additional like percentage of the additional premiums on any increase in contract price and SBA will make a like percentage refund on any premium reductions resulting from a reduction in the contract price. Where SBA or surety's share of any additional premium increase or decrease is five dollars ($5.00) or less, there shall be no adjustment.

§ 115.7 Processing fee and guarantee fees.

(a) The applicant small business concern shall pay to SBA an annual processing fee in the amount of five dollars ($5.00).

(b) The applicant small business concern shall pay to SBA a guarantee fee of 0.2 percent of the contract price, not to exceed five hundred dollars ($500), said fee to be paid only by the applicant ultimately obtaining the contract.

(c) The Surety Company shall pay to SBA a guarantee fee of 10 percent of its bond premium.

§ 115.8 Approval or decline of applications.

(a) No application for bond guarantee assistance shall be approved unless the following determinations have been made by SBA:

(1) That there is a reasonable expectation that the applicant will perform the covenants and conditions of the contract with respect to which a bond is required;

(2) That the contract meets requirements established by SBA for feasibility of successful completion and reasonableness of cost;

(3) That the terms and conditions of any bond guaranteed under the authority of this legislation are reasonable in light of the risks involved and the extent of the surety's participation.

[FR Doc.72-5300 Filed 4-5-72;8:48 am]

# Title 14—AERONAUTICS AND SPACE

## Chapter I—Federal Aviation Administration, Department of Transportation

[Airspace Docket No. 72-WE-8]

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

### Alteration of Control Zone and Transition Area

On February 19, 1972, a notice of proposed rule making was published in the FEDERAL REGISTER (37 F.R. 3764) stating that the Federal Aviation Administration was considering amendments to Part 71 of the Federal Aviation Regulations that would alter the descriptions of the Prescott, Ariz., control zone and transition area.

Interested persons were given 30 days in which to submit written comments, suggestions or objections. No objections have been received and the proposed amendments are hereby adopted subject to the following change.

1. Add the following to the 700 foot portion of the transition area "* * * and within 3 miles each side of the Prescott VORTAC 319° radial extending from the 10.5-mile radius area to 8.5 miles northwest of the VORTAC;"

Since this change is minor in nature and imposes no additional burden on any person, notice and public procedure hereon is unnecessary.

*Effective date.* These amendments shall be effective 0901 G.m.t., May 25, 1972.

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

Issued in Los Angeles, Calif., on March 27, 1972.

ARVIN O. BASNIGHT,
*Director, Western Region.*

In § 71.171 (37 F.R. 2056) the description of the Prescott, Ariz., control zone is amended to read as follows:

PRESCOTT, ARIZ.

Within a 6-mile radius of Prescott Municipal Airport (latitude 34°39'10" N., longitude 122°25'15" W.).

In § 71.181 (37 F.R. 2143) the description of the Prescott, Ariz., transition area is amended to read as follows:

PRESCOTT, ARIZ.

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of Prescott Municipal Airport (latitude 34°39'10" N., longitude 122°25'15" W.) "* * * and within 3 miles each side of the Prescott VORTAC 319° radial extending from the 10.5-mile radius area to 8.5 miles northwest of the VORTAC;" that airspace extending upward from 1,200 feet above the surface within a 21-mile radius of the Prescott VORTAC extending clockwise from a line 5 miles south of and parallel to the Prescott VORTAC 252° radial to a line 5 miles west of and parallel to the Prescott VORTAC 159° radial and within a 14-mile radius of Prescott VORTAC, extending clockwise from a line 5 miles west of and parallel to the Prescott VORTAC 159° radial to a line 5 miles south of and parallel to the Prescott 252° radial.

[FR Doc.72-5277 Filed 4-5-72;8:46 am]

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## Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-727; Amdt. 3]

## PART 250—PRIORITY RULES, DENIED BOARDING COMPENSATION TARIFFS AND REPORTS OF UNACCOMMODATED PASSENGERS

### Filing of Rules and Statements With Chief, Passenger and Cargo Rates Division, Bureau of Economics

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of April 1972.

Part 250 (Priority Rules, Denied Boarding Compensation Tariffs and Reports of Unaccommodated Passengers) provides, inter alia, that all air carriers, except helicopter carriers and intra-Alaska carriers, certificated by the Board pursuant to paragraph (1) or (2) of section 401(d) of the Act, shall establish priority rules and criteria for determining which passengers holding confirmed reserved space shall be denied boarding on an oversold flight, and shall furnish to affected passengers a written explanation of denied boarding compensation.

*First.* Section 250.3, which requires that carriers file with the Board two copies of their priority rules, does not specify where such priority rules should be filed. We have determined that priority rules should be filed with the Chief, Passenger and Cargo Rates Division, Bureau of Economics, and we are amending § 250.3 accordingly.

*Second.* Section 250.9 requires a carrier to file with the Director, Bureau of Operating Rights, a written statement explaining denied boarding compensation. Moreover, § 250.9 permits a carrier to use a statement of its own making, rather than the text set forth therein, if it obtains the Board's prior approval; and the Board's authority thereunder has been delegated by § 385.13(u) to the Director, Bureau of Operating Rights. We have now determined to designate the Chief, Passenger and Cargo Rates Division of the Bureau of Economics, instead of the Director, Bureau of Operating Rights, as the official with whom statements under § 250.9 are to be filed, and to whom to delegate our authority to approve or disapprove statements containing language varying from the text prescribed therein. In accordance with said determination, we are amending § 250.9, and concurrently amending Part 385.[1]

Since this amendment is a rule of internal agency organization and procedure, notice and public procedure are not required, and the rule may be made effective on less than 30 days' notice.

Accordingly, the Civil Aeronautics Board hereby amends Part 250 of its Economic Regulations (14 CFR Part 250), effective April 7, 1972, to read as follows:

1. Amend § 250.3 to read as follows:

§ 250.3 Priority rules.

Every carrier shall establish priority rules and criteria for determining which passengers holding confirmed reserved space shall be denied boarding on an oversold flight. Every carrier shall file with the Chief, Passenger and Cargo Rates Division, Bureau of Economics, two copies of such rules and criteria, including that portion of its company manual instructing employees on the order of boarding priorities in case of an oversold flight. Such rules and criteria shall not make, give or cause any undue or unreasonable preference or advantage to any particular person or subject any particular person to any unjust discrimination or any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

2. Amend § 250.9 to read, in part, as follows:

§ 250.9 Written explanation of denied boarding compensation.

Every carrier shall furnish passengers who are denied boarding on flights on which they hold confirmed reserved space, immediately after the denied

[1] OR-60 adopted April 3, 1972.

boarding occurs, a written statement explaining the terms, conditions and limitations of the denied boarding compensation provided by this part. Each carrier shall, prior to furnishing passengers with such written statement or any revision thereof, file three copies of such statement, or revision, with the Chief, Passenger and Cargo Rates Division, Bureau of Economics. The language of the statement, or revision, to be filed must have the prior approval of the Board, unless the wording thereof is as prescribed hereinbelow.

* * * * *

(Secs. 102, 204(a), 403, 404, 411, 416(a), Federal Aviation Act of 1958, as amended, 72 Stat. 240, 743, 758, 760, 769, 771; 49 U.S.C. 1302, 1324, 1373, 1374, 1381, 1386; secs. 3, 4, Administrative Procedure Act, 81 Stat. 54, 80 Stat. 383; 5 U.S.C. 552, 553)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-5303 Filed 4-5-72;8:49 am]

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SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-60; Amdt. 25]

## PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

### Miscellaneous Amendments

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3d day of April 1972.

Concurrently herewith, the Board is adopting ER-727, amending Part 250 (Priority Rules, Denied Boarding Compensation Tariffs and Reports of Unaccommodated Passengers), to designate the Chief, Passenger and Cargo Rates Division, Bureau of Economics, as the Board official with whom copies of a carrier's written statements under § 250.9 are to be filed. As stated in ER-727, supra, the Board has also determined to designate concurrently the Chief, Passenger and Cargo Rates Division, Bureau of Economics, as the official to whom it delegates the authority to approve or disapprove the language of written statements filed under § 250.9. This amendment gives effect to such determination.

Since this amendment is a rule of internal agency organization and procedure, notice and public procedure are not required, and the rule may be made effective on less than 30 days' notice.

Accordingly, the Civil Aeronautics Board hereby amends Part 385 of its Organization Regulations (14 CFR Part 385), effective April 7, 1972, to read as follows:

1. Amend § 385.13 by deleting and reserving paragraph (u) as follows:

**§ 385.13 Delegation to the Director, Bureau of Operating Rights.**

The Board hereby delegates to the Director, Bureau of Operating Rights, the authority to:

* * * * *

(u) [Reserved]

* * * * *

2. Amend § 385.14 by adding paragraph (j) to read as follows:

**§ 385.14 Delegation to the Chief, Passenger and Cargo Rates Division, Bureau of Economics.**

The Board hereby delegates to the Chief, Passenger and Cargo Rates Division, Bureau of Economics, the authority to:

* * * * *

(j) Approve or disapprove written statements filed by air carriers pursuant to § 250.9 of this chapter (Economic Regulations) explaining the terms, conditions, and limitations of denied boarding compensation provided by Part 250 of this chapter.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324; Reorg. Plan No. 3 of 1961, 75 Stat. 837, 26 F.R. 5989)

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK, *Secretary.*

[FR Doc.72-5304 Filed 4-5-72;8:49 am]

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# 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

COMPONENTS OF PAPER AND PAPERBOARD IN CONTACT WITH AQUEOUS AND FATTY FOODS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 1B2697) filed by Monsanto Co., 800 North Lindbergh Boulevard, St. Louis, MO 63166, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use, as set forth below, of polyamine-epichlorohydrin resin as a wet strength agent and/or retention aid in the manufacture of paper and paperboard for food-contact use.

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), § 121.2526 is amended in paragraph (a)(5) by adding alphabetically a new item to the list of substances, as follows:

**§ 121.2526 Components of paper and paperboard in contact with aqueous and fatty foods.**

* * * * *

(a) * * *

(5) * * *

| *List of substances* | *Limitations* |
|---|---|
| * * * | * * * |
| Polyamine - epichlorohydrin resin produced by the reaction of bis (hexamethylene) triamine and higher homologues with epichlorophydrin such that the finished resin has a nitrogen content of 7.4–8.9 percent and chlorine content of 18–21 percent on a dry basis, and a minimum viscosity in 20 percent by weight aqueous solution of 30 centipoises at 25° C., as determined by Brookfield HAT model viscometer using a No. 1H spindle at 50 r.p.m. (or equivalent method). | For use only as a wet - strength agent and/or retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard, and used at a level not to exceed 1 percent by weight of dry paper and paperboard fibers. |
| * * * | * * * |

* * * * *

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 (4-6-72).

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

Dated: March 30, 1972.

SAM D. FINE, *Associate Commissioner for Compliance.*

[FR Doc.72-5290 Filed 4-5-72;8:48 am]

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SUBCHAPTER C—DRUGS

## PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

### Gentamicin Sulfate, Betamethasone Valerate

The Commissioner of Food and Drugs has evaluated a new animal drug application (46-821V) filed by Schering Corp., 86 Orange Street, Bloomfield, NJ 07003, proposing the safe and effective use of a combination drug containing gentamicin sulfate and betamethasone valerate for

the treatment of dogs. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding the following new section:

**§ 135a.22 Gentamicin sulfate, betamethasone valerate otic solution.**

(a) *Specifications.* Each cubic centimeter of solution contains gentamicin sulfate equivalent to 3 milligrams of gentamicin base and betamethasone valerate equivalent to 1 milligram of betamethasone alcohol.

(b) *Sponsor.* See code No. 032 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is used or intended for use in dogs for the treatment of acute and chronic otitis externa caused by bacteria sensitive to gentamicin.

(2) It is used by instillation of 3 to 8 drops of solution into the ear canal twice daily for 7 to 14 days. Duration of treatment will depend upon the severity of the condition and the response obtained. The duration of treatment and/or frequency of the dosage may be reduced but care should be taken not to discontinue therapy prematurely. The external ear and ear canal should be properly cleaned and dried before treatment. Remove foreign material, debris, crusted exudates, etc., with suitable nonirritating solutions. Excessive hair should be clipped from the treatment area of the external ear.

(3) If hypersensitivity to any of the components occurs treatment with this product should be discontinued and appropriate therapy instituted. Concomitant use with other drugs known to induce ototoxicity is not recommended. This preparation should not be used in conditions where corticosteroids are contraindicated. Do not administer parenteral corticosteroids during treatment with this drug. The antibiotic sensitivity of the pathogenic organism should be determined prior to use of this preparation.

(4) For use by or on the order of a licensed veterinarian.

*Effective date.* This order shall be effective upon publication in the FEDERAL REGISTER (4–6–72).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i))

Dated: March 28, 1972.

FRED J. KINGMA,
*Acting Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.72–5291 Filed 4–5–72;8:48 am]

## PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETIVE REGULATIONS

### Fee for Gas Chromatography Test

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), Part 146 is amended in § 146.8(b)(1) by revising the chargeable fee for the gas chromatography test to read as follows:

**§ 146.8 Fees.**

* * * * *

(b) * * *

(1) * * *

| *Test* | *Chargeable fee per test* |
|---|---|
| * * * | * * * |
| Gas chromatography | 18 |
| * * * | * * * |

* * * * *

*Effective date.* This order shall be effective upon publication in the FEDERAL REGISTER (4–6–72).

(Sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357)

Dated: March 28, 1972.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.72–5292 Filed 4–5–72;8:48 am]

# Title 33—NAVIGATION AND NAVIGABLE WATERS

## Chapter I—Coast Guard, Department of Transportation

[CGFR 71–107a]

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

### Willamette River, Oreg.

This amendment changes the regulations for the Oregon State Highway Department across the Willamette River, mile 132.1 at Corvallis to require that the draw open on signal if at least 7 days notice has been given. Further, the draw need not open on Saturdays, Sundays, and legal holidays. This amendment was circulated as a public notice dated 26 October 1971 by the Commander, Thirteenth Coast Guard District and was published in the FEDERAL REGISTER as a notice of proposed rule making (CGFR 71–107) on October 14, 1971 (36 F.R. 19981). Six comments were received, four had no objection to the proposal. One objection was withdrawn after clarifying information had been given to the objector. One objected to the 6-month period, stating that this was not reasonable. In a subsequent meeting between the bridge owners and the objector it was agreed that 7 days notice would be adequate, this change is incorporated in this amendment. Another change in the proposed amendment is in the name of this bridge because this was transferred from county to state ownership. This amendment was originally proposed to be included in § 117.755 however these regulations more appropriately are codified under § 117.759b(f)(7).

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising subparagraph (7) of paragraph (f) of § 117.759b to read as follows:

**§ 117.759b Drawbridges in the State of Oregon where constant attendance is not required.**

* * * * *

(f) * * *

(7) *Oregon State Highway Department bridge, Van Buren Street, Corvallis.* The draw shall open on signal if at least 7 days' notice has been given, however, the draw need not open on Saturdays, Sundays, and legal holidays.

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

*Effective date.* This revision shall become effective on May 8, 1972.

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

MARCH 31, 1972.

[FR Doc.72–5289 Filed 4–5–72;8:47 am]

# Proposed Rule Making

## DEPARTMENT OF AGRICULTURE

### Consumer and Marketing Service

[ 7 CFR Part 946 ]

[AO-200-A1]

### IRISH POTATOES GROWN IN STATE OF WASHINGTON

### Decision With Respect to Proposed Amendment of Marketing Agreement and Order; Referendum Order

Pursuant to the Agricultural Market-Agreement Act of 1937, as amended (secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674), and the applicable rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held in Quincy, Wash., October 28, 1971, pursuant to notice thereof published in the September 24, 1971, issue of the FEDERAL REGISTER (36 F.R. 18956), upon a proposed amendment of Marketing Agreement No. 113 and Order No. 946 (7 CFR Part 946) hereinafter referred to collectively as the "order," regulating the handling of Irish potatoes grown in the State of Washington.

Based on evidence adduced at the hearing and the record thereof, the Deputy Administrator, Consumer and Marketing Service, on February 29, 1972, filed with the Hearing Clerk, U.S. Department of Agriculture, a recommended decision (including a proposed amendment of the order) which was published in the FEDERAL REGISTER March 3, 1972 (37 F.R. 4444). It offered opportunity to file written exceptions thereto until March 23, 1972. None was filed.

*Material issues, findings, and conclusions.* The material issues, findings, and conclusions of the recommended decision set forth in the FEDERAL REGISTER (F.R. Doc. 72-3241; 37 F.R. 4444), are hereby approved and adopted as the material issues, findings, and conclusions of this decision as if set forth in full herein.

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

*Referendum order.* Pursuant to the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), it is hereby directed that a referendum be conducted among producers who during the period April 16, 1971, through April 15, 1972 (which is hereby determined to be the representative period for the purpose of such referendum) have been engaged within the production area as defined in the order annexed to this decision and referendum order, in the production of potatoes for market, to determine whether such producers approve or favor the issuance of the annexed amendatory order. William C. Knope and John C. Rhine of the Fruit and Vegetable Division, Consumer and Marketing Service, U.S. Department of Agriculture, are hereby designated referendum agents of the Secretary of Agriculture to conduct said referendum severally or jointly.

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

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

A copy of the aforesaid annexed order and of the aforesaid referendum procedure may be examined in the Northwest Marketing Field Office, U.S. Department of Agriculture, 1218 Southwest Washington Street, Portland, OR 97205.

*It is hereby ordered,* That this decision and referendum order, except the annexed marketing agreement, as amended, be published in the FEDERAL REGISTER. The regulatory provisions of the said marketing agreement, as amended, are identical with those contained in the order as amended by the annexed order which will be published with this decision.

Dated: March 31, 1972.

RICHARD E. LYNG,
*Acting Secretary.*

*Order[1] Amending the order regulating the handling of Irish potatoes grown in the State of Washington*

**§ 946.0 Findings and determinations.**

The findings and determinations hereinafter set forth are supplementary, and in addition to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order; and all of the said previous findings and determinations are hereby ratified and affirmed except insofar as such previous findings and determinations may be in conflict with the findings and determinations set forth herein (for prior findings and determinations see 14 F.R. 5860);

(a) Findings upon the basis of the hearing record: Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) and the applicable rules of practice and procedure effective thereunder (7 CFR Part 900), a public hearing was held in Quincy, Wash., on October 28, 1971, upon a proposed amendment of Marketing Agreement No. 113 and Order No. 946 (7 CFR Part 946) regulating the handling of Irish potatoes grown in the State of Washington. Upon the basis of the evidence introduced at such hearing and the record thereof, it is hereby found that:

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

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

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

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

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

(b) *It is therefore ordered,* That, on and after the effective date hereof, all handling of potatoes grown in the production area shall be in conformity to, and in compliance with, the terms and conditions of the said order as hereby amended, as follows:

1. Section 946.6 is revised to read as follows:

**§ 946.6 Handler.**

"Handler" is synonymous with "shipper" and means any person (except a common or contract carrier of potatoes

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

owned by another person) who handles potatoes or causes potatoes to be handled.

2. Section 946.7 is revised to read as follows:

§ 946.7 Handle.

"Handle" is synonymous with "ship" and means to transport, sell, or in any other way to place potatoes grown in the State of Washington, or cause such potatoes to be placed, in the current of commerce within the production area or between the production area and any point outside thereof, or from any point in the adjoining States of Oregon and Idaho to any other point: *Provided*, That, the definition of "handle" shall not include the transportation of ungraded potatoes within the production area for the purpose of having such potatoes prepared for market, or stored, except that the committee may impose safeguards pursuant to § 946.55 with respect to such potatoes.

3. Section 946.9 is revised to read as follows:

§ 946.9 Fiscal period.

"Fiscal period" means the period beginning on July 1 of each year and ending June 30 of the following year, or such other period as the Secretary may establish pursuant to recommendation of the committee.

§§ 946.13, 946.14, and 946.15 [Deleted]

4. Sections 946.13, 946.14, and 946.15 are deleted.

5. Section 946.16 is renumbered as § 946.13 and revised to read as follows:

§ 946.13 Grade and size.

"Grade" means any one of the officially established grades of potatoes, and "size" means any one of the officially established sizes of potatoes as defined and set forth in:

(a) The U.S. Standards for Potatoes issued by the U.S. Department of Agriculture (§§ 51.1540 to 51.1566 of this title), or amendments thereto or modifications thereof, or variations based thereon;

(b) U.S. Standards for Grades of Potatoes for Processing as issued by the U.S. Department of Agriculture (§§ 51.3410 to 51.3424 of this title), or amendments thereto, or modifications thereof, or variations based thereon;

(c) U.S. Standards for Grades of Peeled Potatoes (§§ 52.2421 to 52.2433 of this title), or amendments thereto or modifications thereof, or variations based thereon; and

(d) State of Washington Standards for Potatoes issued by the State of Washington Director of Agriculture, or amendments thereto, or modifications thereof, or variations based thereon.

6. Section 946.14 is added to read as follows:

§ 946.14 Grading.

"Grading" is synonymous with "preparing for market" which means the sorting or separating of potatoes into grades and sizes for market purposes.

7. Section 946.17 is renumbered as § 946.15 and revised to read as follows:

§ 946.15 Export.

"Export" means shipment of potatoes beyond the boundaries of the 48 contiguous States of the United States, or the District of Columbia.

§ 946.16 [Renumbered]

8. Section 946.18 is renumbered as § 946.16.

9. Paragraph (a) of § 946.25 is amended to read as follows:

§ 946.25 Selection.

(a) Persons selected as committee members or alternates to represent producers shall be individuals who are producers in the respective district for which selected, or officers or employees of a corporate producer in such district.

* * * * *

10. Paragraph (a) of § 946.27 is amended to read as follows:

§ 946.27 Term of office.

(a) The term of office of committee members and alternates shall be for 3 years beginning on the 1st day of July and continuing until their successors are selected and have qualified: *Provided, however*, That the terms of office of the initial committee under the amended order shall be determined by the Secretary so that the terms of office of one-third of the initial members and alternates shall be for 1 year, one-third for 2 years, and one-third for 3 years.

* * * * *

11. Section 946.30 is revised to read as follows:

§ 946.30 Expenses and compensation.

Committee members and their respective alternates when acting on committee business shall be reimbursed for reasonable expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers under this subpart. In addition, they may receive reasonable compensation at a rate recommended by the committee and approved by the Secretary.

12. Section 946.32 is revised to read as follows:

§ 946.32 Nomination.

The Secretary may select the members of the State of Washington Potato Committee and their respective alternates from nominations which may be made in the following manner, or from among such other qualified persons:

(a) A meeting or meetings of producers and handlers shall be held by the committee in each district for which nominees are to be selected not later than May 1 of each year to designate nominees for members and alternates to the committee; or the committee may conduct nominations by mail in a manner recommended by the committee and approved by the Secretary; and, in arranging for such meetings, the committee may, if it deems desirable, utilize the services and facilities of other existing organizations;

(b) At least one nominee shall be designated for each position as member and for each position as alternate member on the committee which is vacant, or which is to become vacant the following July 1;

(c) The names of nominees shall be supplied to the Secretary in such manner and form as he may prescribe, not later than June 1 of each year, or by such other date as may be specified by the Secretary;

(d) Only producers may participate in designating producer nominees, and only handlers may participate in designating handler nominees. Any person who operates in more than one district or is engaged in producing and handling potatoes, shall elect the classification (i.e., producer or handler), and the district within which he desires to participate in designating nominees;

(e) Regardless of the number of districts in which a person produces or handles potatoes, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives in designating nominees for committee members and alternates. An eligible voter's privilege of casting only one vote as aforesaid shall be construed to permit a voter to cast one vote for each position to be filled in the district in which he elects to vote; and

(f) If nominations are not made within the time and in the manner specified in this section, the Secretary may, without regard to nominations, select the committee members and alternates on the basis of the representation provided for in this subpart.

§ 946.33 [Deleted]

13. Section 946.33 is deleted.

§ 946.33 [Renumbered]

14. Section 946.34 is renumbered as § 946.33.

15. Section 946.40 is revised to read as follows:

§ 946.40 Expenses.

The committee is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred by it during each fiscal period for its maintenance and functioning, and for such other purposes as the Secretary, pursuant to this subpart, determines to be appropriate. The committee shall submit to the Secretary a budget for each fiscal period, including an explanation of the items appearing therein, and a recommendation as to the rate of assessment for such fiscal period.

16. Section 946.41 is revised to read as follows:

§ 946.41 Assessments.

Each handler shall pay to the committee upon demand, his pro rata share of the expenses authorized by the Secretary for each fiscal period. Each handler's pro rata share shall be the rate of assessment per hundredweight fixed by the Secretary times the quantity of potatoes which he handles as the first handler thereof. At any time during or after

a fiscal period, the Secretary may increase the rate of assessment as necessary to cover authorized expenses. Such increase shall be applicable to all potatoes handled during the given fiscal period. The payment of expenses for the maintenance and functioning of the committee may be required during periods when no regulations are in effect. If a handler does not pay his assessment within the time prescribed by the committee, the assessment may be increased by a late payment charge or an interest charge, or both, at rates prescribed by the committee with the approval of the Secretary.

17. Section 946.42 is revised to read as follows:

**§ 946.42 Accounting.**

(a) *Excess funds.* At the end of a fiscal period, funds in excess of the year's expenses shall be placed in an operating reserve not to exceed approximately two fiscal periods' operational expenses or such lower limits as the committee, with the approval of the Secretary, may establish. Funds in such reserve shall be available for use by the committee for expenses authorized pursuant to § 946.40. Funds in excess of those placed in the operating reserve shall be refunded to handlers. Each handler's share of such excess shall be the amount of assessments he paid in excess of his pro rata share of the actual expenses of the committee and the addition, if any, to the operating reserve.

(b) *Accounting of funds upon termination of order.* Any money collected as assessments pursuant to this subpart and remaining unexpended in the possession of the committee after termination of this part shall be distributed in such manner as the Secretary may direct: *Provided,* That to the extent practical, such funds shall be returned pro rata to the persons from whom such funds were collected.

18. Section 946.46 is renumbered as § 946.50 and revised to read as follows:

**§ 946.50 Marketing policy.**

(a) Prior to each marketing season, the committee shall consider and prepare a policy statement for the marketing of potatoes. In developing its marketing policy, the committee shall investigate relevant supply and demand conditions for potatoes. In such investigations, the committee shall give appropriate considerations to the following:

(1) Market prices of potatoes, including prices by grade, size, quality, and maturity in different packs of fresh potatoes and of the various forms of processed potatoes;

(2) Supplies of potatoes by grade, size, quality, and maturity in the production area and in other production areas, of fresh potatoes, and the supplies of various forms of processed potatoes;

(3) The trend and level of consumer income;

(4) Establishing and maintaining orderly marketing conditions for potatoes;

(5) Orderly marketing of potatoes as will be in the public interest; and

(6) Other relevant factors.

(b) In the event it becomes advisable to deviate from such marketing policy because of changed supply and demand conditions, the committee shall formulate a revised marketing policy statement in accordance with the appropriate considerations in paragraph (a) of this section.

(c) The committee shall submit a report to the Secretary setting forth such marketing policy. Notice of each such marketing policy and any revision thereof shall be given to producers, handlers, and other interested parties by bulletins, newspapers, or other appropriate media, and copies thereof shall be available for examination at the committee office to all interested parties.

19. Section 946.47 is renumbered as § 946.51 and revised to read as follows:

**§ 946.51 Recommendation for regulation.**

The committee shall recommend to the Secretary regulations, or amendments, modifications, suspension, or termination thereof, whenever it finds that such regulations as provided in § 946.52 are in accordance with the marketing policy established pursuant to § 946.50 and that such regulations will tend to effectuate the declared policy of the act.

20. Section 946.48 is renumbered as § 946.52 and revised to read as follows:

**§ 946.52 Issuance of regulations.**

(a) The Secretary shall limit the shipment of potatoes as set forth in this subpart whenever he finds from the recommendation and information submitted by the committee, or from other available information, that it would tend to effectuate the declared policy of the act:

(1) To regulate, in any or all portions of the production area the handling of particular grades, sizes, qualities or maturity of any or all varieties of potatoes during any period;

(2) To regulate the handling of particular grades, sizes, qualities or maturities of any or all varieties of potatoes, or for any combination of the foregoing during any period in the States of Oregon and Idaho which have been shipped from the production area to specified locations therein for grading or storage pursuant to § 946.54;

(3) To regulate the handling of particular grades, sizes, qualities or maturities of any or all varieties differently for: Different portions of the production area, different uses or outlets, different packs or for any combination of the foregoing, during any period;

(4) To regulate the handling of potatoes by establishing in terms of grades, sizes, or both, minimum standards of quality and maturity.

(b) The Secretary may amend any regulation issued under this subpart whenever he finds that such amendment would tend to effectuate the declared policy of the act. The Secretary may also terminate or suspend any regulation whenever he finds that such regulation obstructs or no longer tends to effectuate the declared policy of the act.

(c) The Secretary shall notify the committee of any such regulation issued pursuant to this section and the committee shall give reasonable notice thereof to handlers.

21. Section 946.49 is renumbered as § 946.53 and revised to read as follows:

**§ 946.53 Minimum quantities.**

The committee, with the approval of the Secretary, may establish, for any or all portions of the production area, minimum quantities below which shipments will be free from regulations issued pursuant to this part.

22. Section 946.50 is renumbered as § 946.54 and revised to read as follows:

**§ 946.54 Shipments for specified purposes.**

(a) Whenever the Secretary finds, upon the basis of the recommendations and information submitted by the committee, or from other available information, that it will tend to effectuate the declared policy of the act, he shall modify, suspend, or terminate any or all regulations issued pursuant to this part in order to facilitate shipments of potatoes for the following purposes:

(1) Livestock feed;
(2) Charity;
(3) Export;
(4) Seed;
(5) Prepeeling;
(6) Such other purposes as may be specified by the committee with the approval of the Secretary; and
(7) Grading or storing between the districts within the production area or to and within specified locations in the adjoining States of Idaho and Oregon.

(b) The Secretary shall give prompt notice to the committee of any modification, suspension, or termination of regulations pursuant to this section, or of any approval issued by him under the provisions of this section.

23. Section 946.55 is added to read as follows:

**§ 946.55 Safeguards.**

(a) The committee, with the approval of the Secretary, may prescribe adequate safeguards to prevent shipments pursuant to § 946.54 from entering channels of trade and other outlets for other than the specific purposes authorized therefor, and the transportation of potatoes for grading and storing to points outside the production area.

(b) Safeguards provided by this section may include, but shall not be limited to, requirements that handlers:

(1) Shall obtain the inspection required by § 946.60 or pay the assessment provided by § 946.41, or both, in connection with the potato shipments effected in accordance with § 946.54, and

(2) shall obtain a special purpose certificate from the committee for shipments of potatoes effected or to be effected under provisions of § 946.54.

(c) The committee, with the approval of the Secretary, shall prescribe rules

governing the issuance and the contents of the special purpose certificate.

(d) The committee may rescind, or deny to any handler the special purpose certificate if proof satisfactory to the committee is obtained that potatoes shipped by him for the purpose stated in § 946.54 were handled contrary to the provisions of this section.

(e) The committee shall make reports to the Secretary, as requested, showing the number of applications for such certificates, the quantity of potatoes covered by such applications for such certificates, the number of such applications denied, and certificates granted, the quantity of potatoes shipped under duly issued certificates, and such other information as may be requested by the Secretary.

24. Section 946.53 is renumbered as § 946.60 and paragraph (a) is amended to read as follows:

**§ 946.60 Inspection and certification.**

(a) During any period in which the Secretary regulates the shipment of potatoes pursuant to the provisions of this subpart, each handler who first ships potatoes shall, prior to making shipment, cause each shipment to be inspected by an authorized representative of the Federal-State inspection service or such other inspection service as the Secretary shall designate. The committee may, with the approval of the Secretary, prescribe rules and regulations modifying the inspection requirements of this section in circumstances under which such requirements would create an undue hardship on growers or shippers: *Provided,* That all such shipments shall comply with all regulations in effect: *And provided further,* That proper safeguards to assure compliance are adopted.

* * * * *

**§§ 946.56, 946.57, 946.58, and 946.59 [Deleted]**

25. Sections 946.56, 946.57, 946.58, and 946.59 are deleted.

26. Section 946.70 is revised to read as follows:

**§ 946.70 Reports and records.**

(a) Upon the request of the committee, with the approval of the Secretary, every handler shall furnish to the committee in such manner and at such time as may be prescribed, such information as will enable the committee to exercise its duties under this subpart.

(b) Each handler shall establish and maintain for at least 2 succeeding years such records and documents with respect to potatoes received and potatoes disposed of by him as will substantiate the required reports.

(c) For the purpose of assuring compliance with the recordkeeping requirements and verifying reports filed by handlers, the Secretary and the committee through its duly authorized employees, shall have access to such records.

(d) All reports and records furnished or submitted by handlers to, or obtained by the employees of, the committee which contain data for information constituting a trade secret or disclosing the trade position, financial condition, or business operations of the particular handler from whom received, shall be treated as confidential, and the reports and all information obtained from records shall at all times be kept in the custody and under the control of one or more employees of the committee who shall disclose such information to no person other than the Secretary, or his authorized agents. Compilations of general reports from data and information submitted by handlers is authorized subject to the prohibition of disclosure of individual handlers' identity or operations.

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## Farmers Home Administration

## [ 7 CFR Part 1861 ]

[FHA Instruction 451.5]

## SERVICING OF COMMUNITY PROGRAM LOANS AND GRANTS

### Proposed Policies, Authorizations and Procedures

Notice is hereby given that the Farmers Home Administration has under consideration a proposed new Subpart F, "Servicing of Community Program Loans and Grants," which prescribes the policies, authorizations, and procedures for servicing association loans.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendment to the Assistant Administrator for Management, Farmers Home Administration, U.S. Department of Agriculture, Room 5013, South Building, Washington, D.C. 20250, within 30 days after date of 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 Assistant Administrator for Management during regular business hours. (8:15 a.m.–4:45 p.m.)

As proposed, the new Subpart F will read as follows:

Sec.



AUTHORITY: The provisions of this Subpart F issued under sec. 339, 75 Stat. 318, 7 U.S.C. 1989; sec. 602, 78 Stat. 528, 42 U.S.C. 2942; sec. 301, 80 Stat. 379, 5 U.S.C. 301; Order of Act. Sec. of Agr., 36 F.R. 21529; Order of Asst. Sec. of Agr. for Rural Development and Conservation, 36 F.R. 21529; Order of Dir., OEO, 29 F.R. 14764.

### Subpart F—Servicing of Community Program Loans and Grants

**§ 1861.81 Purpose.**

This subpart prescribes the policies, authorizations, and procedures for servicing the following: Community water and waste disposal system loans and grants, comprehensive water and sewer planning grants, loans for grazing and other shift-in-land use projects, community recreation facility loans, community irrigation and drainage loans, watershed loans and advances, resource conservation and development loans, economic opportunity cooperative loans, loans to Indian tribes and tribal corporations, and loans to timber development organizations. Servicing will be directed toward assisting the borrower to meet the objectives of the loan, repaying loans on schedule, complying with agreements, and protecting the Farmers Home Administration's (FHA's) financial interest.

**§ 1861.82 Loan servicing.**

(a) *Regular payments.* Regular payments are: All payments other than extra payments and refunds; revenue from mineral lease bonuses and delay rentals; proceeds from the sale of timber harvested on a selective cutting basis that does not deplete the Government's security; proceeds from the sale of gravel, rock, fill dirt, or sand when such sale does not reduce the value of the Government's security; and similar transactions which do not reduce the value of the Government's security.

(1) *Order of application.* Regular payments will be applied to accounts in accordance with § 1861.5(a) except as otherwise established by the note or bond.

(b) *Extra payments.* Extra payments are those derived from: the sale of basic chattel or real estate security, including rental or lease of real estate security of a depreciating or depleting nature; mineral royalties and timber other than referred to in paragraph (a)(1) of this section; cash proceeds of real property insurance as provided in § 1806.5(b) of this chapter; and a refund of unused loan funds.

(1) *Application.* Extra payments will be applied in accordance with § 1861.5 (b) except where otherwise established in accordance with the note or bond.

(c) *Collections.* Collections will be processed in accordance with Part 1862 of this chapter.

(d) *Actions by FHA for account of borrower including advances for protection of security or lien.* (1) Property insurance will be serviced in accordance with Part 1806 of this chapter in real estate mortgage cases and in accordance with the loan agreement in other cases.

(2) Borrower's real property taxes will be serviced in accordance with Part 1863 of this chapter. If State statutes permit a personal property tax lien to have priority over FHA's lien, personal property taxes will be serviced in accordance with §§ 1863.3 and 1863.4 of this chapter.

(3) The State Director is authorized to approve vouchers to pay costs, other than taxes and insurance, necessary to protect FHA's interest. Vouchers will be prepared using standard Form 1034, "Public Voucher for Purchases and Services Other Than Personal," in an original and two copies. The name and address of the party to whom payment is due will be inserted in the heading. The amount of the vouchered items will be inserted in the appropriate spaces. The notation inserted in the space for description of the services will include the purpose of the payment, the location and a simple description of the property, the name and case number of the borrower, and the fact that the amount will be charged to the borrower's account. A sample notation could be as follows:

For payment of water rights of real property in (community), (State), (case No.), (loan type code) for the period of July 15, 1971, through August 1971 to be charged to the borrower's loan account.

(4) After the voucher has been approved by the State Director, the original with any attached reports will be sent to the Finance Office, St. Louis, Mo. One copy will be held in the borrower's county office loan docket, and one copy will be given to the borrower.

(i) After the voucher has been processed in the Finance Office, a U.S. Treasury check will be issued to the appropriate payee and mailed to the State Director for delivery. The purpose of the payment will be stated on each check. Any amount advanced will be entered as a recoverable charge on the borrower's account in the Finance Office. The advance will bear interest at the rate specified in the most recent debt instrument under which the advance is authorized to be made. After the check is issued, Form FHA 451–26, "Transaction Record," will be prepared by the Finance Office and sent to the appropriate county office, showing the amount of the recoverable charge and the applicable rate of interest.

(e) *Subordination of security*—(1) *Request for subordination.* When a borrower requests FHA to subordinate a security instrument so that another creditor or lender can refinance, extend, reamortize, or increase the amount of a prior lien, or place a lien ahead of the FHA lien, it will submit a written request. This request should contain the purpose of the subordination, exact amount of money or property involved, description of security property to be subordinated, type of security instrument, name, address, line of business, and other general information pertaining to the party in favor of which subordination will be given, and other pertinent information which will be of assistance in determining need for subordination. The State Director is authorized to execute subordination on Form FHA 460–2, "Subordination by the Government," provided all the following requirements and conditions are met:

(i) The amount of the subordination does not exceed the State Director's loan approval authorization as set forth in Part 1810, Subpart B of this chapter.

(ii) The borrower is unable to refinance the FHA mortgage on terms which it can reasonably be expected to meet.

(iii) The transaction will either further the objectives for which the FHA loan was made or improve the borrower's debt-paying ability and, in either case, result in the FHA debt being adequately or no less well secured.

(iv) The terms and conditions of the prior lien will be such that the borrower can reasonably be expected to meet them as well as all other debts.

(v) Any proposed development work will be planned and performed in accordance with Subpart A of Part 1823 of this chapter or in a manner directed by the creditor which reasonably attains the objectives of Subpart A of Part 1823 of this chapter.

(vi) In case of land purchase, the FHA will obtain a mortgage on such purchased land.

(vii) When the transaction involves more than $1,000 and the State Director considers it necessary, a present market value appraisal report will be obtained. However, a current appraisal report need not be obtained if there is an appraisal report not over 2 years old in the file which will permit the proper determination as to the present market value of the total property after the transaction.

(viii) The subordination is for a specific amount.

(ix) All contracts, pay estimates, and change orders will be reviewed and approved by the FHA State Director.

(x) The proposed action will not so change the nature of the borrower's activities as to make it ineligible for FHA loan assistance.

(2) *Processing.* All subordinations pertaining to other than chattel liens will be closed in accordance with instructions from the Office of the General Counsel (OGC). When national office approval is required or the State Director desires advice pertaining to a requested subordination, the borrower's loan docket together with a current operating budget, financial statement, copy of proposed lien, appraisal report, borrower's written request, OGC opinion, and other necessary supporting information, will be sent to the national office.

(f) *Loan reamortization.* (1) The State Director is authorized to approve reamortization of loans for borrowers having a delinquency which cannot be brought current within 1 year while maintaining a reasonable reserve when all of the following conditions exist:

(i) The debt(s) to be reamortized does not exceed the State Director's loan approval authorization.

(ii) The borrower has demonstrated for at least 1 year by actual performance or has presented a budget which clearly indicates that it is able to meet the proposed payment schedule.

(iii) There is no extension of the final maturity date.

(2) Proposals for reamortization exceeding the limits set in subparagraph (1) of this paragraph, and those evidenced by notes which are not delinquent may be reamortized with prior approval of the national office. Requests for such reamortization will be forwarded to the national office along with the loan docket, a current budget and financial statement, and the State Director's statement of essential facts and recommendation.

(3) Processing will be handled as follows:

(i) Borrowers other than public bodies requesting reamortization will complete Form FHA 451–30, "Reamortization Agreement." All of the note, including principal and interest, will be reamortized. Reamortization will be accomplished through the use of a new note unless the OGC recommends that the terms of the existing note be modified through the use of Form FHA 451–30, or if that is legally inadequate through the use of other appropriate form.

(ii) Public body borrowers may effect reamortization by any procedure which in the opinion of their counsel and OGC is legally permissible under State law and acceptable to the State Director. Appendix 3 of Part 1823, Subpart A of this chapter would not apply to the new bonds.

(4) The properly executed new instrument(s) or endorsement, as appropriate, will be forwarded to the Finance Office together with the original existing note or bond attached thereto. The copy of the new note or bond or endorsement will be retained by the Finance Office until the account is paid in full or otherwise satisfied.

(g) *Consent to borrower's granting lease of security*—(1) *State Director's consent.* The State Director may consent to the leasing of all or a portion of security property, when:

(i) The lease will not adversely affect the repayment of the loan or the Government's rights under the security instrument.

(ii) Leasing is not an alternative to, or means of, delaying liquidation action.

(iii) The lease and use of any proceeds from such lease will further the objectives of the loan.

(iv) Rental income is assigned to FHA in an amount sufficient to make regular payments on the loan, and operate and maintain the facility, unless such payments are otherwise adequately assured.

(v) The lease is advantageous to the borrower and is not to the Government's disadvantage.

(vi) If foreclosure action has been approved and the case has been submitted to OGC, consent to lease and use of proceeds will be granted only with the concurrence of the OGC.

(vii) The lease shall not exceed a 1-year period. The property may not be under lease more than 2 consecutive years without authorization from the national office.

(2) *Mineral leases.* The State Director, unless liquidation is pending, is authorized to approve mineral leases when:

(i) The lessee agrees in the lease or elsewhere, or is liable without any agreement, to pay adequate compensation for any damage to the real estate surface and improvements. Damage compensation will be assigned to FHA by the use of Form FHA 443–16, "Assignment of Income from Real Estate Security," or other appropriate instrument, or to the prior lienholder.

(ii) Royalty payments are adequate and are assigned to FHA on Form FHA 443–16.

(iii) All or a portion of delay rentals and bonus payments may be assigned on Form FHA 443–16 if needed for protection of the Government's interests.

(iv) The lease, subordination, or consent form is acceptable to the OGC.

(3) *Processing.* When FHA's consent to a lease is required, the borrower will complete and submit Form FHA 465–1, "Application for Partial Release, Subordination, or Consent." This form will show the terms of the proposed lease and will specify the use of proceeds including any proceeds to be released to the borrower. When another lienholder's mortgage requires consent to lease, his consent will be obtained. When the approval of the national office is required or if the State Director wishes a lease transaction reviewed prior to approval, he will forward the loan docket, a copy of the proposed lease, and any other pertinent information along with his recommendations to the national office.

(h) *Membership liability.* As a loan approval requirement, some borrowers may have special agreements with members for the purchase of shares of stock or for the payment of a pro rata share of the loan in event of default, or they may have in their corporate instruments authority to make special assessments in such event. Such agreements may be referred to as individual liability agreements and may be assigned to and held by the FHA as additional security for the loan. In other cases the borrower's note may be endorsed by individuals. Such liability instruments will be serviced in a manner indicated by their contents so as to adequately protect the interest of the FHA.

(i) *Other security.* Other security such as collateral assignments, water stock certificates, notices of lienholder interest (Bureau of Land Management grazing permits), and waivers of grazing privileges (Forest Service grazing permits), will be serviced so as to protect the interest of FHA, and pursuant to any special servicing actions developed by the State Director with the assistance of the OGC. Evidence of such security will be filed in the loan docket in the county office. A notation will be made on Form FHA 405–10, "Management System Card—Association," showing necessary servicing action.

(j) *Correcting errors in security instruments.* Land, buildings, or chattels included in the mortgage through mutual mistake when substantiated by the factual situation may be released from the mortgage by the State Director. The release is contingent on the State Director with the advice of the OGC determining that a mutual error existed at the time such property was included in the Government's mortgage.

### § 1861.83 Sale or exchange of security property.

(a) *Authority.* Approval to a cash sale of a portion of the borrower's assets or an exchange of security property may be given when the approving official determines:

(1) The consideration is adequate.

(2) The release will not prevent carrying out the purpose of the loan.

(3) The remaining property is adequate security for the loan, or the transaction will not adversely effect FHA's security position.

(4) The proceeds are used for one or more of the following purposes:

(i) To pay on FHA debts in accordance with paragraphs (a) and (b) of § 1861.82, on debts secured by a prior lien, and on debts secured by a subsequent lien if it is to FHA's advantage.

(ii) To purchase or to acquire through exchange property more suitable to the borrower's needs, provided the FHA secured debt will be as well secured after the transaction as before.

(iii) To develop or enlarge the facility provided that such action is necessary to improve the borrower's debt-paying ability, place his operation on a more sound basis, or otherwise further the objectives of the loan.

(5) The FHA liens are not released until receipt of the appropriate sale proceeds for application on the Government's claim. In any State in which it is necessary to obtain the insured note from the lender to present to the recorder before a release of a portion of the land from the mortgage, the borrower must pay any cost for postage and insurance of the note while in transit. The county supervisor will advise the borrower when it requests a partial release that it must pay such costs. If the borrower is unable to pay the costs from personal funds, they may be deducted from the sale proceeds. The amount of the charge will be based on the statement of actual cost furnishd by the insured lender.

(b) *Processing.* When a borrower requests permission to sell or exchange a portion of FHA's security property, Form FHA 465–1, will be completed for real estate, or Form FHA 462–2, "Statement of Conditions on Which Lien Will be Released," will be completed for chattels. The county supervisor will forward Form FHA 465–1 or Form FHA 462–2, an appraisal report, as appropriate, the county office docket, his recommendation, and all other pertinent information to the State Director.

(c) *Releasing security*—(1) *Chattel security.* The county supervisor is authorized to satisfy or terminate chattel security instruments when paragraph (a) of this section and § 1871.8 of this chapter have been complied with. Satisfaction or termination of chattel security instruments will be accomplished in accordance with § 1871.13 of this chapter. Partial releases may be made by using Form FHA 460–1, "Partial Release," or Form FHA 460–6, "Partial Release (UCC States)." Form FHA 460–4, "Satisfaction," will be used when a debt has been paid in full or satisfied by debt settlement action.

(2) *Real estate.* Subject to paragraph (a) of this section, the State Director is authorized to consent to disposition of part of an interest in real estate security by approving Form FHA 465–1. Upon request for such consent, the county supervisor will forward Form FHA 465–1, the borrower's loan file, and any other pertinent information to the State Director. Partial release of real estate security may be made by use of Form FHA 460–1 or any other form approved by OGC. Form FHA 460–4 will be used when a debt has been paid in full or satisfied by debt settlement action.

(d) *Release of liability.* (1) When the FHA debt is paid in full from the sale of proceeds, the borrower will be released from liability by use of Form FHA 465–8, "Release from Personal Liability."

(2) When sale proceeds are not sufficient to pay the FHA debt in full and all security property has been disposed of, the remaining debt will be accelerated and the case reclassified to collection-only.

### § 1861.84 Liquidation of security.

When the county supervisor believes that continued servicing will not accomplish the objectives of the loan he will complete the form, "Report on Association Problem Case (Association-Type Projects)," available in all FHA offices, and submit it along with the county office file to the State office. If the State Director determines the account should be liquidated he will encourage the borrower to voluntarily sell the property and remit the proceeds to FHA. He will give the borrower a specified period of time not to exceed 180 days to accomplish such action. If the voluntary sale cannot be accomplished the loan will be liquidated in accordance with § 1861.85, 1861.86, or 1861.87.

### § 1861.85 Transfer of security and assumption of loans.

(a) *General.* Transfer and assumption may be approved subject to the following conditions:

(1) Transfers to eligible applicants will receive preference over transfers to ineligible applicants, provided recovery to FHA from the sale price is not less than it would be if the transfer were to an ineligible applicant.

(2) The present borrower is unable or unwilling to accomplish the objectives of the loan and the transfer will be to the Government's advantage.

(3) If the debt(s) exceeds the present market value of the security, the transferee will assume an amount at least equal to the present market value.

(4) If the FHA debt is less than the present market value, the transferee will assume an amount at least equal to the debt owed the FHA.

(5) The transfer will not adversely affect the FHA program in the area.

(6) FHA concurs in the plans for disposition of funds in the transferor's debt service, reserve and operation, and maintenance account.

(7) The county committee recommends the transfer.

(b) *Transfers to eligible applicants.* (1) The State Director is authorized to approve transfers of security property to and assumptions of FHA debts by transferees who would be eligible for the type of loan being transferred.

(2) If the interest rate or terms of the loan are changed, Form FHA 460–5, "Assumption Agreement (New Terms)," will be executed by the transferee. The new repayment period may not exceed the repayment period for a new loan of the type involved. If the current interest rate for such loans is higher than the rate specified in the note(s) being assumed, the current rate will apply except in cases of transfers from nonpublic to public bodies and mergers.

(3) If the full debt is assumed and the same interest rate and terms prevail, Form FHA 460–9, "Assumption Agreement (Same Terms—Eligible Transferee)," will be executed by the transferee.

(4) A loan for which the transferee is eligible may be made in connection with a transfer subject to the policies and procedures governing the kind of loan being made.

(5) If the transferor is to receive a payment for its equity, the total FHA debt must be assumed.

(6) Release of liability will be considered in accordance with the following:

(i) When all FHA security is transferred to an eligible applicant and the total outstanding debt is assumed, it will be the policy to release the transferor from liability.

(ii) In those cases where the transfer is for less than the full amount of the FHA debt, the transferor may be released from liability provided the State Director determines that the transferor has no reasonable debt-paying ability considering its assets and income at the time of the transfer and the county committee certifies that the transferor has cooperated in good faith, used due diligence to maintain the security property against loss, and has otherwise fulfilled the covenants incident to the loan to the best of its ability. If the county committee recommends a release of liability, such recommendation will be made on Form FHA 440–2, "County Committee Certification or Recommendation," in the blank space following item 10 similar to the following:

———, in our opinion does not have reasonable debt-paying ability to pay the balance of the debt not assumed after considering its assets and income at the time of the transfer. Transferors have cooperated in good faith, used due diligence to maintain the security against loss, and otherwise fulfilled the covenants incident to the loan to the best of its ability. Therefore, we recommend that the transferor be released of personal liability upon the transferee's assumption of that portion of the indebtedness equal to the present market value of the security.

(c) *Transfers to ineligible applicants.* Transfer of an FHA loan to an ineligible applicant is considered only when needed as a method for servicing problem cases in which objectives of the original loan cannot be realized but not for providing a means by which members can obtain an equity, and not as a method of providing a source of credit for purchasers. The State Director is authorized to approve a transfer of indebtedness to and assumption of the loan by an applicant who does not meet the eligibility requirements for the kind of loan being assumed when the transferee will make a downpayment of at least 20 percent of the amount of the debt to be assumed and the remaining balance is scheduled for repayment in not to exceed five equal annual installments with interest to the transferee at the rate set forth in Part 1810, Subpart A of this chapter, plus .125 percent at the time of transfer approval and in accordance with the following:

(1) Transferees must have the ability to pay the FHA debt in accordance with the assumption agreement and the legal capacity to enter into the contract. The applicant will submit a complete financial statement using Form FHA 442–12, "Financial Statement," or similar form. This information should be supplemented by a credit report from an independent source such as Dunn and Bradstreet or verified by an independent certified public accountant. When the transferee is a new corporation, consideration will be given to obtaining individual liability agreements from its members.

(2) Form FHA 465–5, "Transfer of Real Estate Security," modified as appropriate, will be executed by the transferee.

(3) This subpart does not preclude the transferor from receiving equity payments when the full amount of the FHA debt is assumed. However, such equity payments will not be made on more favorable terms than those on which the balance of the FHA debt will be paid.

(4) In cases involving transfers to ineligible applicants for the full amount of the FHA debt, the State Director may release the transferor from liability.

(d) *Submission to the national office.* All proposed transfers involving the following will be submitted to the national office for review and approval authorization:

(1) Those to be made on more liberal rates and terms than is set forth in paragraph (c) of this section. There will be no release of liability in connection with transfers involving a repayment period in excess of 5 years.

(2) Those proposing a cash downpayment to the present borrower in an amount which exceeds actual sales expenses.

(3) Water and waste disposal loans representing indebtedness for projects financed in part by FHA development grants.

(e) *Processing transfers.* (1) Form FHA 465–5, will be completed to reflect the agreement between the transferor and the transferee. The form will be prepared so as to show agreements on items such as the prorating of taxes and insurance, title, legal and filing fees, equity and method of payment, and other appropriate items.

(2) The effective date of the transfer will be the actual date the transfer is closed. This is the date on which Form FHA 460–5 or FHA 460–9 is signed. In connection with the use of either form, the unpaid principal balance and the accrued interest will be shown in table 1 and the accrued interest will be computed from Form FHA 451–26, or Form FHA 451–11, "Statement of Account," or Form 451–25, "Status of Account." If Form FHA 460–9 is used, the transferee will be informed of the amount of principal and interest owed as shown on the latest Transaction Record or Statement of Account. He will also be advised as to the amount that would be required to place the account on schedule as of the previous installment due date and any amounts that must be paid to bring any payments up to date. If Form FHA 460–5 is used, he should be advised of the amount needed to be on schedule by the next installment due date.

(3) The transferor will convey title of all assets to the transferee, unless other arrangements are agreed upon by all parties concerned, including FHA.

(4) There must be no lien judgment or other claims of parties other than FHA against the security being transferred unless the transferee is willing to accept such claims and the FHA approving official determines that such claims will not affect the transferee's ability to repay FHA's debt, meet all operating and maintenance costs, and to maintain the required reserves. The written consent of any other lienor will be obtained where required.

(5) The county supervisor will forward the loan docket to the State office including forms and documents listed in instructions available in all FHA offices.

(6) If the transfer is not within the State Director's approval authority, the State Director will forward the loan docket along with his recommendation to OGC for review and comments. Upon receipt of OGC's comments, the State Director will forward the complete file along with his recommendation to the national office. The form, "Report on Association Problem Case (Association-Type Projects)," available in all FHA offices, will be used to record the borrower's present situation and will be forwarded with the docket.

(7) If an insured loan is involved, the Finance Office will have the insured note assigned to the fund when the Assumption Agreement changes the terms of note or bond.

(8) The transferee will obtain insurance in accordance with the requirements for the outstanding loan(s) involved unless the approval official requires additional insurance as a condition of approval. If insurance is required, it may be obtained either by transfer of the existing coverage by the transferor or by acquisition of a new policy by the transferee. When the full amount of the FHA debt is being assumed and an amount

has been advanced for insurance premiums or any other purposes the transfer will not be completed until the Finance Office has charged the advance to the transferor's account.

(9) The parties to the transfer will be responsible for obtaining the legal services necessary to accomplish the transfer. Transfer closing will be accomplished in accordance with OGC's instructions.

(10) When the transferee will be an eligible applicant, any development funds not to be refunded remaining in the transferor's supervised bank account will be transferred to the transferee's supervised bank account simultaneously with the closing of the transfer for use in completing planned development. All funds remaining in the supervised bank account will be refunded to FHA as a condition of transfer to an ineligible applicant.

(f) *Debt assumption or release from personal liability.* In each case where the full amount of the debt is assumed, or a release from personal liability is otherwise approved under this subpart, and all of the security is being transferred, Forms FHA 460–5, FHA 460–9, FHA 451–1, "Receipt for Payment," and FHA 465–8 will be completed and executed simultaneously with the closing of the transaction. The original of Forms FHA 460–5 or FHA 460–9 (including a signed copy for insured loan), Form FHA 451–1 when applicable, and a signed copy of Form FHA 465–8 will be transmitted immediately to the Finance Office. If a loan is involved, Form FHA 440–3, "Record of Actions," also will be sent to the Finance Office.

(g) *Transfer not completed.* If for any reason the transfer is not completed after approval, the Finance Office will be notified to resume servicing the account in the name of the transferor.

**§ 1861.86 Voluntary conveyance of security to FHA.**

(a) *General.* Voluntary conveyance should be considered only after the borrower has exhausted all reasonable efforts to liquidate the loan either through sale of its property or transfer and assumption.

(1) The State Director, subject to the policies outlined in this paragraph, is authorized to approve a voluntary conveyance with or without release of liability when the present market values of the property to be conveyed to the Government does not exceed $250,000.

(2) The borrower will complete and properly execute Form FHA 465–4, "Offer to Convey Security." A warranty deed using a State-approved form or a deed meeting the requirements of § 1807.2(e)(2) of this chapter and approved by OGC will be required and, whenever possible, completed and signed simultaneously with Form FHA 465–4; however, it will not be recorded until closing of the transaction. Any water rights not fully conveyed in the deed, any necessary assignments or transfers of water stock or membership certificates, or other water right title documents required will be obtained simultaneously with the execution of Form FHA 465–4 whenever possible, and in no case later than the closing of the transaction. Proposed bill of sale listing personal property items will be included.

(3) When the borrower's offer provides for less than full satisfaction of the account but is equal to the present market value of the security less any liens that are to remain outstanding, the State Director may accept the offer subject to the conditions outlined in Form FHA 465–4. If the offer provides for full satisfaction of all FHA debts, it may be accepted provided the value of the security less any liens to remain outstanding is sufficient to satisfy the FHA debt. If the offer to convey in full satisfaction of FHA debts is not acceptable, it will be returned to the county supervisor who will attempt to obtain an offer which will convey the security for its value as determined by the FHA.

(4) When an insured loan not held by the insurance fund is involved and the State Director decides to accept the offer to convey, he will request the Director, Finance Office, to have the insured loan assigned to the Agriculture Credit Insurance Fund (ACIF).

(5) Any funds remaining in the borrower's debt service, reserve or operation and maintenance accounts will be paid to FHA prior to closing the conveyance.

(6) Any funds remaining in the supervised bank account will be applied as a refund prior to assembling the voluntary conveyance docket.

(7) When a prior lien(s) exists, such lien(s) will be paid by standard Form 1034 only if it is determined that a substantially greater recovery on the Government's investment can be obtained from the sale of the real estate without the lien(s) than could be otherwise obtained, or the property is suitable for sale to an eligible applicant subject to the terms of the prior lien(s) and the holder of the prior lien(s), where his permission is necessary, will not agree for the Government to acquire the property and resell it subject to his lien(s). If the property is acquired subject to prior lien(s), any required payments on the prior lien(s) may be made while title of the property is held by the Government. All junior liens on the property except taxes and assessments which are or will become a lien on the property must be satisfied by the borrower without FHA assistance, unless in special circumstances it is clearly advantageous to FHA to make advances for the payment of such liens.

(b) *Release of liability.* Release of liability will be in accordance with the following:

(1) When the present market value of the security being conveyed less the amount of the prior lien(s) is equal to or exceeds the total FHA debt, it will be the policy to release the borrower from liability.

(2) When the present market value of the security is less than the total FHA debt, the State Director will determine whether the borrower is to be released from liability. This determination will be based upon the reasonable debt-paying ability of the borrower and recommendation of the county committee. In arriving at a determination of the reasonable debt-paying ability of the borrower, the State Director will consider its assets and income at the time of the proposed conveyance. If the county committee recommends a release of liability, a recommendation similar to the following will be recorded on Form FHA 440–2 in the blank space after item No. 10:

> In our opinion (Name of Borrower(s)) has no reasonable debt-paying ability taking into consideration its assets and income at the time of the conveyance. The borrower has cooperated in good faith, used due diligence to maintain the security property against loss, and otherwise fulfilled the covenants incident to the loan to the best of its ability. Therefore, we recommend that the borrower be released from personal liability for any balance due on the secured indebtedness upon conveyance of the property to the Government.

(c) *Processing—(1) Docket submission.* When the State Director determines that voluntary conveyance to FHA is appropriate, he will instruct the county supervisor to assemble a voluntary conveyance docket and submit it to the State office along with the borrower's county office case folder(s).

(2) *Amount.* If the amount to be conveyed is more than $250,000, the voluntary conveyance docket and other pertinent information along with the State Director's recommendation will be submitted to the national office for review and authorization to approve.

(3) *Voluntary conveyance docket.* The voluntary conveyance docket will include the forms and documents listed in instructions available in all FHA offices.

(4) *Taxes.* When Form FHA 465–4 is submitted to the State Director, standard Form 1034 will be attached thereto for the payment of any taxes and assessments which are a lien or will become a lien on the property, or water assessments, or charges to protect the right to receive water, which are due and payable and which the borrower is not required to pay by the terms of Form FHA 465–4.

(5) *Title examination and closing instructions.* When a decision to accept the borrower's offer is made, title examination will be accomplished in accordance with advice of OGC. Title defects and encumbrances will be removed by the borrower except those recited in the FHA mortgage or subsequently approved by the FHA. When title defects and encumbrances have been removed, the voluntary conveyance docket including the title examination information will be submitted to OGC for review and issuance of closing instructions. The State Director's transmittal memorandum will include information as to items of expense incident to conveyance of title which have been paid by the FHA but are not shown on the statement of account, items of expense which are to be paid by the FHA, a statement as to whether the account is to be fully satisfied, and a request for preparation of

necessary legal instruments not required to be prepared by the borrower's attorney.

(6) *Closing of conveyance.* The conveyance transaction will be closed in accordance with closing instructions issued by OGC. Expenses incident to closing the transaction to be paid by FHA will be handled in accordance with prescribed requirements. After the transaction is closed, all appropriate items will be returned to OGC for review. After OGC determines that the transaction has been properly closed, all documents will be returned to the State Director together with the advice as to the date when title to the properly was vested in the Government. A copy of OGC's memorandum to the State Director will be forwarded to the Finance Office. Property insurance will be handled in accordance with § 1806.4(b)(3) of this chapter. All other insurance such as personal liability or workmen's compensation will be canceled. Ordinarily, the fidelity bond coverage will also be dropped. However, in individual cases such as when a caretaker will continue to operate the facility and will be handling a substantial amount of revenue, the State Director may require continuance of fidelity bond coverage.

(7) *Credit of value of property on indebtedness.* The credit to be allowed on the account will be either the value of the security to be conveyed less the amount of any prior liens as determined by a present market value appraisal, or the total amount of the indebtedness owed on the account after all expense items referred to in subparagraph (6) of this paragraph have been charged thereto, whichever is less. After the transaction is closed and the amount of the credit to be allowed on the account is determined by the State Director, Form FHA 465–6, "Advice of Mortgaged Real Estate Acquired," and where applicable, Form FHA 465–8 will be completed and transmitted to the Finance Office by the State Director. The county supervisor will inventory and appraise personal property and submit list of items to the Finance Office.

(8) *Satisfied account.* The Finance Office will stamp the borrower's note "satisfied by surrender of security and release from liability" when the account is fully satisfied or the borrower is released from personal liability for any deficiency. The Finance Office will forward the stamped note to the county supervisor for delivery to the borrower.

(9) *Unsatisfied account.* When the account is not fully satisfied by surrender of the security and the borrower is not released from personal liability, the State Director will reclassify the account as collection-only by submitting Forms FHA 404–1, "Case Reclassification," FHA 450–10, "Advice of Borrower's Change of Address or Name," and FHA 465–6 to the Finance Office. He will accelerate the unpaid indebtedness by written notice to the borrower with a copy to the Finance Office. The Finance Office will retain the note(s) and send the county office a current Form FHA 451–11. Upon receipt of Form FHA 451–11, the county supervisor will reconcile the loan record card with the statement of account and service the loan as collection-only in accordance with Subpart A of this part.

**§ 1861.87 Foreclosure.**

Foreclosure action will be initiated when liquidation has been decided upon and all reasonable attempts to liquidate the loan through voluntary sale, transfer, or voluntary conveyance have been exhausted, and a substantial net recovery can be obtained on the FHA account(s).

(a) *National office authorization.* Foreclosure will not be initiated without prior authorization of the national office. The State Director will forward the docket, a report completed in accordance with the form, "Report on Association Problem Case (Association-Type Projects)," a statement of essential facts, and his recommendation to the national office requesting authority to proceed with foreclosure.

(b) *Processing foreclosure.* Upon receipt of national office authorization, the State Director will forward the docket to OGC requesting necessary instructions. The State Director, with the assistance of OGC, will be guided by the following:

(1) *Prior lienholders.* Prior lienholders will be provided an opportunity to institute the foreclosure proceedings with the FHA taking the action necessary to protect the interest of the Government. If the prior lienholder is unable or unwilling to foreclose, FHA will institute foreclosure proceedings, subject to the prior lien. Whether foreclosure of the FHA mortgage will be subject to the prior lien will depend upon such factors as the State law, the action or inaction of the prior lienholder, the condition of the prior lien account, and the amount of the prior lien debt in relation to the FHA debt. When a prior lien foreclosure sale is to be held, the State Director will immediately forward the docket, a copy of the OGC's opinion, a statement of all facts essential to a decision, and his recommendations to the national office for a review and advice as to further handling.

(2) *Existing leases or other agreements.* If the foreclosure is made subject to a lease or other agreement in which the lessor's interest is acquired by FHA through the foreclosure sale, the original or a copy of the lease will be submitted to the Finance Office along with Form FHA 465–6 for processing. Any oral lease in effect at the time the Government acquires the property will be reduced to writing in a form approved by the State Director with the concurrence of OGC, and its execution by the lessee will be obtained if possible. The lessee will be notified in writing that the Government has acquired the lessor's rights under the lease and directed to remit all payments to the county office. Payments to FHA under a lease which by its terms were due and payable prior to the date of the foreclosure sale will be applied first on any deficiency claim resulting from the foreclosure and then on any other FHA claim against the borrower. Any surplus remaining will be remitted to the borrower. Payments due and payable to the FHA after the date of acquisition pursuant to foreclosure will be collected and forwarded to the Finance Office as miscellaneous income. Receipts for collection made in accordance with this paragraph will be issued to: "Lease proceeds from property formerly owned by (borrower's name and case number) and leased to (name of lessee)." After a foreclosure sale is held, if a redemption period is involved and the borrower has possession of the property during such period or a right to lease proceeds during the redemption period, a lease will not be obtained by the Government or be sent to the Finance Office until the redemption period has expired and the Government has a right to such proceeds.

(3) *FHA debt acceleration.* Unpaid FHA debts will be accelerated unless OGC advises such action is unnecessary. Form FHA 455–21, "Notice for Acceleration and Demand for Payment," may be used as a guide for preparing the notice. After issuance of the acceleration notice, account and security servicing actions, including payment of insurance and taxes, debt acceleration will be taken only with the advice of OGC. Expenses incident to the foreclosure action which are approved by OGC for payment by FHA will be paid in accordance with prescribed requirements available in all FHA offices. If the OGC advises that a credit to the borrower's account or a standard form 1034 will not be acceptable for payment of the FHA bid, the State Director will obtain a check from the Finance Office for making the payment. Standard Form 1034 will be used for this purpose.

(4) *Obtaining notes from Finance Office.* For a direct loan or an insured loan held in ACIF, the State Director will request the Finance Office to send the original or conformed copy of the note to the county office. For an insured loan not held in ACIF, the State Director will request the Finance Office to have the loan assigned to the ACIF in accordance with Part 1873 of this chapter, and provide him with the original or conformed copy of the note.

(5) *Certified statements of account.* Form FHA 451–10, "Request for Statement of Account," will be forwarded to the Finance Office to obtain a statement of account for each account to be included in the foreclosure and to request the Finance Office not to issue any statements of account to the borrower until further notice.

(6) *Funds remaining in supervised bank account.* The State Director will prepare an order to the appropriate bank for withdrawal of any funds remaining in the supervised bank account. These funds will be applied as an extra payment.

(7) *Title evidence.* OGC will inform the State Director regarding title evidence requirements.

(8) *Title defects.* Ordinarily, no curative action will be taken with respect to title defects before foreclosure sale. However, where for special reason the State

Director, with the advice of OGC, determines it would be in the best interest of FHA to cure certain defects before the foreclosure sale, the State Director may authorize the necessary curative action.

(9) *Deficiency judgments.* If it appears that the recovery to FHA from a sale by foreclosure will be insufficient to fully satisfy the FHA debt, the foreclosure action does not automatically result in a deficiency judgment, and if there are other assets from which recovery can likely be made, a deficiency judgment will be obtained if legally permissible. When a judgment is obtained, the account will be classified as a judgment case and the county supervisor will send Form FHA 455–20, "Notice of Judgment," to the Finance Office and the account will be serviced in accordance with § 1871.35(d) of this chapter. When action to obtain a deficiency judgment is pending at the time Form FHA 465–6 is sent to the Finance Office, the fact that it is pending will be indicated on Form FHA 465–6. When a deficiency judgment is not obtained, the borrower will be classified as collection-only, if appropriate, and Forms FHA 404–1 and FHA 450–10 will be sent immediately to the Finance Office and the account will be serviced accordingly.

(10) *Bidding.* The State Director will establish the maximum amount of the FHA bid and he or an employee designated by him is authorized to bid on behalf of the FHA. The FHA employee will make only one bid which will be for the authorized maximum bid. Such bid will be the estimated resale value of the security or gross investment, whichever is less.

(i) The estimated resale value means the amount for which the FHA could expect to resell the property in its present condition, on terms of 20 percent down with the balance payable in five equal annual installments with interest calculated in accordance with § 1861.85(c) and subject to any prior liens that will remain outstanding after the foreclosure sale. In establishing the estimated resale value, the State Director will consider the effect that any outstanding mineral rights, easements, other interest, or title defects will have on the resale of the property, and any other pertinent information affecting or indicating the resale price including an appraisal report showing present market value.

(ii) Gross investment means the total amount of the FHA debt plus all advances to be made by the FHA and charged to the mortgage debt before the foreclosure sale, plus the amount of any prior liens or other costs which the OGC advises must be paid from proceeds of the foreclosure sale.

(11) *Report on sale.* Immediately after a foreclosure sale the State Director will furnish OGC a report giving complete information relative to the sale, including a copy of Form FHA 465–6. The OGC will provide a final opinion regarding the foreclosure including any necessary additional instructions. If the FHA is the successful bidder at the foreclosure sale, Form FHA 465–6 will be completed and forwarded to the Finance Office by the county supervisor as soon as all information necessary for completion of the form is available without waiting for the final opinion of OGC. The Finance Office will be advised by memorandum of the date the Government actually acquires title to the property if different from the date of the foreclosure sale and any other pertinent information relating to redemption rights. The form will be dated the date of the sale.

(12) *Cancellation of foreclosure action.* When the State Director determines that foreclosure is unnecessary, he with the concurrence of OGC will notify the Finance Office and the county supervisor. The loan account will be reinstated. Any expenses incurred prior to cancellation of foreclosure action will be paid by the borrower.

(13) *Additional information.* The county supervisor will complete Form FHA 455–22, "Information for Litigation," as additional information when legal action is recommended which will involve the U.S. Attorney.

**§ 1861.88 Mergers.**

(a) *General.* State Directors are authorized to approve mergers or consolidations (which are herein referred to as mergers) when the resulting association will be eligible for an FHA loan and assumes all liabilities and acquires all assets of the merged borrowers. Mergers may be accomplished when:

(1) The merger is in the best interest of the Government and the merging borrower.

(2) The resulting borrower can meet all required operating and maintenance expenses, debt repayment, and maintain required reserves.

(3) All security property can be legally transferred to the resulting borrower.

(4) The membership of each organization involved is made aware of the proposed merger and a majority of the members of each is in favor of the proposal.

(5) If the merger involves assumption of less than the full amount of the debt and the merging borrower (transferor) is to be released of liability, the county committee recommendation must contain the statement contained in § 1861.85(b)(6)(iii).

(6) The merger will not result in an outstanding FHA debt in excess of $4 million less the amount of any grants advanced to the merging borrowers.

(b) *Partial assumption.* Mergers which will involve assumption of less than the full amount of the FHA debt will be submitted to the national office along with the loan docket, comments of the OGC, and the State Director's recommendations for review and approval authorization.

(c) *Release of liability.* When all of the assets and liabilities of a merged borrower have been assumed by the resulting body, it will be the policy to release the merged borrower from liability.

(d) *Processing.* (1) When reamortization of one or more notes is being proposed in connection with the merger, § 1861.82(f) will be followed.

(2) Forms FHA 460–5 and 460–9 will be executed as applicable by the resulting body.

(3) A loan for which the resulting body is eligible may be made in connection with a merger subject to the policies and procedures governing the kind of loan being made.

(4) The closing date of the merger will be the actual date the documents are prepared and the merger is effective.

(5) The county supervisor will submit the county office docket and other necessary forms and documents to the State Director for approval.

(e) *Insured loan.* If an insured loan is involved, the Finance Office will have the insured note assigned to the ACIF if the assumption agreement will change the terms of the note.

(f) *Merger not completed.* If for any reason the merger is not completed after the statement of the account has been received, the Finance Office will be notified to resume servicing the account in the names of the existing borrowers.

**§ 1861.89 Special provisions applicable to Economic Opportunity (EO) cooperative loans.**

(a) *Withdrawal of member and transfer to and assumption by new members of unincorporated cooperatives.* (1) Withdrawal of a member who is no longer utilizing the services of an association and transfer of his interest in the association to a new member who will assume the entire unpaid balance of the indebtedness of the withdrawing member may be permitted, provided the remaining members agree to accept the new member, and the transfer will not adversely affect the collection of the loan. The county supervisor will submit to the State office the county office file and the following:

(i) Form FHA 460–9, executed by the proposed new member.

(ii) County supervisor's statement of the current amount of the indebtedness involved.

(iii) A description and statement of the value of the security property.

(iv) Form FHA 442–15, "Membership Survey for Cooperative Association," for the proposed new member.

(v) A memorandum to justify the transaction.

(vi) Form FHA 440–2.

(vii) Form FHA 450–12, "Bill of Sale (Transfer by Withdrawing Member)," executed by the withdrawing member.

(viii) The form, "Agreement for New Member (With or Without Withdrawing Member)," as executed by the remaining members of the association, the proposed new member and the withdrawing member.

(2) If after review of the above information the State Director determines that the proposed new member is an eligible applicant and that there is justification for the transfer, he may approve the transfer and assumption by executing Form FHA 460–9.

(3) Upon completion of the above actions, the State Director may release the outgoing member from personal liability.

Form FHA 465–8 will be used for this purpose.

(4) Form FHA 460–9 and if applicable, Form FHA 465–8 should be forwarded immediately to the Finance Office by memorandum with the advice that these forms are intended only to establish liability for a new member and to release an old member from liability.

(b) *Withdrawal of members from unincorporated cooperatives*—(1) *Withdrawal when new member not available.* Withdrawal of a member who is no longer utilizing the services of an association may be permitted even though a new member is not available, provided:

(i) The State Director determines that:

(*a*) The remaining members have sufficient need for the property, and

(*b*) The withdrawal of the member will not adversely affect the collection of the loan.

(ii) The remaining members obtain from the outgoing member an agreement conveying the outgoing member's interest in the cooperative property to them. They may also wish to agree to protect the outgoing member against liability on the debt owed to FHA as well as any other debts. The form, "Agreement for Withdrawal of Member (Without New Member)," available in all FHA offices, may be used by the cooperative for the preparation of such agreement. The agreement will be between the withdrawing member and the remaining members of the cooperative, and FHA will not be a party to it. Upon execution of such an agreement, the State Director may release the outgoing member from personal liability. Form FHA 465–8 will be used for this purpose.

(iii) Form FHA 465–8 should be forwarded immediately to the Finance Office by memorandum with the advice that the form is intended only to release a withdrawing member from liability.

(c) *Addition of new members (no withdrawing member or transfer involved) for both incorporated and unincorporated cooperatives.* (1) A new member may be admitted to the association even though there is no withdrawing member, provided:

(i) The members of the association agree to accept the proposed new member, and

(ii) The State Director determines that the association owns adequate facilities to provide service to the new member.

(2) The county supervisor will submit to the State office the county office file and the following:

(i) Form FHA 460–9 executed by the proposed new member.

(ii) County supervisor's statement of the current amount of the indebtedness involved.

(iii) A description and statement of the value of the security property.

(iv) Form FHA 442–15 for the proposed new member.

(v) A memorandum to justify the transaction.

(vi) Form FHA 440–2.

(vii) The form, "Agreement for New Member (With or Without Withdrawing Member)," available in all FHA offices, as executed by the members of the association and the proposed new member.

(3) If after review of the above information the State Director determines that the proposed new member is an eligible applicant and that there is justification for the transaction, he may approve the transaction by executing Form FHA 460–9.

(4) Form FHA 460–9 should be forwarded immediately to the Finance Office by memorandum with the advice that the form is intended only to establish liability for a new member.

(d) *Deceased members of unincorporated associations.* Paragraph 10 of Form FHA 442–24, "Operating Agreement," provides that in case of the death of any member, the heirs or personal representative of the deceased member shall take his place in the association; this provision also covers sale of the decedent's interest in the association in case such sale is necessary for the payment of the debts of the estate.

(1) If the widow or other heirs do not wish to continue membership in the association, the remaining members may be permitted to continue to operate the property provided it is determined that FHA's financial interest will not be jeopardized. The remaining members should obtain from the deceased member's estate an agreement conveying the estate's interest in the cooperative property to them. They may wish to agree to protect the estate against liability on the debt to FHA as well as any other debts of the cooperative. If an agreement is obtained transferring the estate's interest in the cooperative property to the remaining members, and if such agreement protects the estate against liability on the debt to FHA, the State Director may release the outgoing member from personal liability. Form FHA 465–8 will be used for this purpose and should be forwarded immediately to the Finance Office by memorandum with the advice that the form is intended only to release the deceased member's estate interest from liability.

(2) The requirement of § 1871.39(f) of this chapter will be followed.

(e) *Action which affects individual members of unincorporated EO cooperative security.* The borrower will be expected to protect his own interest in condemnation, trespass, quiet title, and other cases affecting the security. The county supervisor will immediately furnish the complete facts concerning any action taken against individual members of unincorporated cooperatives to the State Director together with the county office case file.

**§ 1861.90 Care, management, and disposal of acquired property.**

Property acquired by FHA will be handled in accordance with Subpart C of Part 1872 of this chapter.

**§ 1861.91 Water and waste disposal systems which have become part of an urban area.**

(a) Water and/or waste disposal systems serving what were formerly rural areas but have now become a part of an urban area due to the growth of an urban community will be serviced as follows:

(1) If it is not practical for the urban community to immediately purchase the facility by paying FHA's debt in full or accept a transfer of the debt on an ineligible applicant basis, and if both the borrower and the urban community desire that the urban community operate and maintain the borrower facilities, the FHA borrower may, with prior approval of the national office, enter into a lease-purchase type arrangement with the urban community which will include:

(i) The urban community agreeing to:

(*a*) Assume responsibility for operation and maintenance of the facility, subject to nondiscrimination requirements and other requirements, to be specified in the agreement between the parties, which are applicable to the borrower, and

(*b*) Pay the association annually an amount necessary to enable it to meet all its obligations including reserve account requirements.

(ii) The FHA borrower agreeing to:

(*a*) Retain its corporate existence until FHA has been paid in full, and if the parties desire;

(*b*) Convey title of the facility to the urban community when the FHA debt has been paid in full.

(2) The State Director, with advice and guidance of OGC, will review the proposed agreement drafted by the borrower or the urban community. This draft agreement with the docket, any additional pertinent information, the State Director's recommendation, and OGC's comments will be forwarded to the national office for review and approval authorization.

**§ 1861.92 Determining present market value.**

(a) The value of security to be subordinated, sold, transferred, voluntarily conveyed, or foreclosed under this subpart will be determined by the State Director as follows:

(1) Where real estate and/or chattels are being disposed of which represent a relatively small portion of the total value of the security property, the State Director will determine that they are being disposed of at a reasonable price. He may require a current appraisal report.

(2) Where real estate or chattels are being disposed of represent a relatively large portion of the total value of the security property, the sale price will be at least the present market value.

(3) The State Director will require a current appraisal report completed in accordance with Subpart A of Part 1809 of this chapter.

**§ 1861.93 Development grants.**

In any case where it appears that the terms of the grant agreement may have been violated, the State Director will forward the docket to OGC for review and comments. After receipt of OGC's comments, the State Director will forward the docket, a copy of OGC's comments, and a statement of essential facts

along with his recommendations to the national office.

§ 1861.94 Comprehensive planning grants.

Servicing problems with comprehensive planning grant recipients will be reviewed by the State Director with advice of OGC. The State Director will forward the grant docket, a copy of OGC's comments, and a statement of essential facts along with his recommendations to the national office.

§ 1861.95 Servicing planning advances.

Obligations incurred by recipients of planning advances may be declared nonreimbursable by the Administrator when the planned facility is not to be constructed, and the borrower does not have, nor can be reasonably expected to raise, the funds to repay such advances. In such cases the State Director will forward to the national office the following:

(a) A statement of essential facts including reasons why the borrower cannot repay the advance and his recommendation regarding declaration of all or part of the advance as nonreimbursable, and

(1) In the case involving the failure to locate an adequate water supply, copies of all well logs, survey reports, and other pertinent material supporting his recommendation, or

(2) In the case where the advance was based on particularly distressed economic conditions, the loan docket will be submitted. No commitment will be made to the borrower concerning cancellation of any obligations until written authorization has been received from the national office.

(b) In all cases where advances are not paid in full, plans, reports, well logs, and all other data assembled during investigation financed by the advance will be delivered to the county supervisor by the borrower.

§ 1861.96 Additional State Director's authorizations.

(a) State Directors are authorized to perform the following functions when they determine that such action likely will promote the loan or grant purposes without jeopardizing collectability of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectability of the loan:

(1) Approve requests for permission to make changes in rules and regulations of associations, whether included in bylaws or resolutions or ordinances, including changes in rate schedules and fees.

(2) Approve association incurring additional indebtedness.

(3) Renew existing security instruments.

(4) Approve, with the concurrence of OGC, changes in a borrower's legal organization including revisions of articles of incorporation or charter and bylaws.

(5) Approve the extension or expansion of facilities and services.

(6) Require additional security when existing security is inadequate and the loan or security instruments obligate the borrower to give additional security, or in cases where the loan is in default and additional security is acceptable in lieu of other servicing actions.

(7) Release from mortgages securing Rural Renewal (RN) loan properties being sold by the borrower, provided the notes and mortgages given by the purchaser to the borrower are equal to the present market value and are assigned and pledged to the FHA and any money payable to the borrower is applied as an extra payment on the RN loan.

(b) All proposed servicing actions which the State Director is not authorized by this subpart to approve will be referred to the national office.

§ 1861.97 Payment in full.

Payment in full of a loan will be handled in accordance with Part 1866 of this chapter. The county supervisor will notify the bonding company in writing that the Government no longer has an interest in the fidelity bond and will release the FHA's interest in insurance policies in accordance with the applicable provisions of Part 1806 of this chapter. The county supervisor will release the FHA's interest in any other security in the manner prescribed by the State Director.

§ 1861.98 State requirements.

State requirements will be prepared with the advice and guidance of OGC, as necessary, to carry out this subpart. Each State requirement will include any and all particular information necessary to comply with appropriate State laws and regulations.

§ 1861.99 Redelegation of authority.

The State Director is authorized to redelegate in writing to the chief, community programs any authority to the State Director in this subpart.

§ 1861.100 Reports and recommendations.

Reports for association problem cases referred to in this subpart on certain forms available in all FHA offices, may have to be modified to provide for corporate execution, if appropriate, rather than the individual execution for which they were designed.

§ 1861.101 Servicing public bodies.

Servicing actions involving public bodies will be processed insofar as feasible in accordance with the other provisions of this subpart. The State Director is authorized to vary from such provisions to any extent that he with the advice and concurrence of OGC, determines reasonably appropriate to accomplish the servicing action.

Dated: March 31, 1972.

JOSEPH HASPRAY,
*Deputy Administrator,*
*Farmers Home Administration.*

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# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

## [ 21 CFR Part 1 ]

## NUTRITION LABELING

### Proposed Criteria for Food Label Information Panel

*Correction*

In F.R. Doc. 72-4948 appearing at page 6493 in the issue of Thursday, March 30, 1972, in § 1.16(a) the word "must" in the second line should read "may".

## [ 21 CFR Part 121 ]

## AMINO ACIDS IN FOOD FOR HUMAN CONSUMPTION

### Proposed Conditions of Safe Use in Food and Deletion From GRAS List

The Food and Drug Administration is conducting a comprehensive study of the individual substances listed in § 121.101 *Substances that are generally recognized as safe* of the food additive regulations (21 CFR 121.101).

In the FEDERAL REGISTER of June 25, 1971 (36 F.R. 12093), criteria were promulgated by which substances henceforth are to be judged for possible classification as generally recognized as safe (GRAS). Section 121.3(c) thereof provides that substances intended for human consumption for which limitations are necessary to assure safe use are not eligible for GRAS status. Accordingly, such substances must be removed from the existing GRAS list (21 CFR 121.101).

A number of amino acids are listed in § 121.101(d)(5) under "Nutrients and/or Dietary Supplements" as GRAS without further limitation. As provided in § 121.3(b), the mere natural presence of an amino acid in unprocessed foods in free or combined (as protein) form does not qualify it as safe for addition in a pure form as a component of a formulated or processed food. A risk to health exists when a free amino acid produces toxic or other adverse effects. A potential risk to health also exists when a free amino acid is added at a level that produces an "unbalanced" protein (one used inefficiently for growth), or that produces an amino acid-imbalanced diet, which affects the body's quantitative need for an amino acid.

Experimental animal studies have shown that the adverse effects of these imbalances are suboptimal food intake, growth retardation, and degeneration of certain organs which can lead to the animal's early death. Excessive intakes of most of the nutritionally essential amino acids (for example, histidine and methionine) and several of the nutritionally nonessential amino acids (for example, tyrosine and glycine) will produce undesirable biochemical and pathological effects in animals. This indicates

a potential health risk for man if use is not limited.

The individual amino acids in whole egg protein are in such quantity and proportion that they comprise an ideal pattern for high quality protein. The content of a specific amino acid in this protein is exceptionally uniform when expressed as percent of the protein. It is therefore reasonable to conclude that the limit for safe addition of an amino acid to a food should be the difference between the amount of that amino acid present in whole egg protein (expressed as the percent of the total protein) and the amount present in the original protein to which the amino is being added. It is reasonable to conclude also that such addition of one or more amino acids is justifiable only to provide significant improvement in the nutritional quality of the original protein.

Accordingly, the Commissioner of Food and Drugs concludes:

(1) That the amino acids for nutritive purposes listed in § 121.101(d)(5) for human use should be revoked,

(2) That since the D-forms of these amino acids (except for methionine) are not metabolized as efficiently as the L-forms and the conversion of the D- to the L-form takes place only to a limited extent in the body, the safety of the D-forms is uncertain, thus limiting positive action to the L–forms (except for methionine);

(3) That a new food additive regulation (§121.1002 proposed below) should be established prescribing limitations for the safe and nutritionally significant use in human food of amino acids of specified stereochemical configuration for nutritive purposes only;

(4) That the addition of amino acids for nutritive purposes should be limited to those situations where the original protein has a protein efficiency ratio (PER) of less than 2.50, the addition of the additive(s) results in a PER of 2.50 or more for the finished food, and each individual additive included results in an increase of 0.25 or more in the PER;

(5) That exceptions can be made to the requirement of a PER of 2.50 or more for the finished food proposed in paragraph (c)(3) of § 121.1002. The Food and Drug Administration will consider petitions submitted by any interested person requesting this exception. Such petitions must include scientific data which establish the specific nutritional value (relative to human requirements) of protein in finished foods with PER values of less than 2.50 in which the biological quality of the original protein has been improved by adding an amino acid(s) in accord with all the other provisions of the proposed section.

(6) That, in lieu of requiring specific food additive approval for each use of an amino acid proposed below in order to show that it will significantly improve the biological quality of the protein, § 121.1002 should provide that it will be sufficient for the necessary test information to be retained in the user's files and to be made available upon request by representatives of FDA;

(7) That individual uses of the same or other amino acids for technological purposes other than nutritive will be authorized only by separate actions based on food additive petitions submitted to FDA; and

(8) That this action does not cover the inclusion of amino acids in foods which do not contain original intact protein; such uses will be the subject of separate actions.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409(d), 701(a), 52 Stat. 1055, 72 Stat. 1784, 1787; 21 U.S.C. 321(s), 348(d), 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that Part 121 be amended:

1. By revoking from § 121.101(d)(5) all amino acids for use in food for humans.

2. By adding to Subpart D a new section as follows:

**§ 121.1002 Amino acids.**

The food additive amino acids may be safely added as nutrients to intact protein-containing foods that are considered significant dietary protein sources in accordance with the following conditions:

(a) The food additive consists of one or more of the following individual amino acids in the free, hydrochloride salt, hydrated, or anhydrous form:

L-Alanine.
L-Arginine.
L-Aspartic acid.
L-Cysteine.
L-Cystine.
L-Glutamic acid.
Glycine.
L-Histidine.
L-Isoleucine.
L-Leucine.
L-Lysine.
DL-Methionine.
L-Methionine.
L-Phenylalanine.
L-Proline.
L-Serine.
L-Threonine.
L-Tryptophan.
L-Tyrosine.
L-Valine.

(b) The food additive meets the following specifications:

(1) As found in "Food Chemicals Codex," National Academy of Sciences-National Research Council (NAS–NRC) Publication No. 1406, First Edition (1966), and supplements thereto for the following:

L-Cystine.
L-Glutamic acid.
Glycine.
L-Leucine.
L-Lysine.
DL-Methionine.
L-Methionine.
L-Tyrosine.

(2) As found in "Specifications and Criteria for Biochemical Compounds," NAS–NRC Publication No. 1344, Second Edition (1967), for the following:

L-Alanine.
L-Arginine.
L-Aspartic acid.
L-Cysteine.
L-Histidine.
L-Isoleucine.
L-Phenylalanine.
L-Proline.
L-Serine.
L-Threonine.
L-Tryptophan.
L-Valine.

(c) The additive(s) is used or intended for use to significantly improve the biological quality of the original protein in intact protein-containing foods that are considered significant dietary protein sources, provided that:

(1) A reasonable daily adult intake of the finished food furnishes at least 6.5 grams of intact protein (based upon 10 percent of the daily allowance for the "reference" adult male recommended by the Food and Nutrition Board of the NAS–NRC ("Recommended Dietary Allowances," NAS–NRC Publication No. 1694, Seventh Edition (1968)).

(2) The original protein has a protein efficiency ratio (PER) of less than 2.50 (as determined by the method specified in paragraph (d) of this section).

(3) The additive(s) results in a PER of 2.50 or more for the finished food (as determined by the method specified in paragraph (d) of this section), unless an exception to this limitation has been authorized based on adequate data submitted in a petition. The Food and Drug Administration will consider petitions submitted by any interested person requesting such exceptions. Petitions must include scientific data establishing the specific nutritional value (relative to human requirements) of protein in finished foods with PER values of less than 2.50 in which the biological quality of the original protein has been improved by the addition of an amino acid(s) in accord with all of the other provisions of this section. When exceptions are granted, this section will be amended to indicate the approved exemptions from this limitation.

(4) Each additive results individually in an increase of 0.25 or more in the PER (as determined by the method described in paragraph (d) of this section). This increase must be substantiated by a statistically significant difference of at least a probability (P) value of less than 0.05.

(5) The amount of the additive added plus the amount naturally present in free and combined (as protein) form does not exceed the following levels of amino acids expressed as percent by weight of the total protein of the finished food:

| | *Percent by weight of total protein (expressed as free amino acid)* |
|---|---|
| L-Alanine | 6.1 |
| L-Arginine | 6.6 |
| L-Aspartic acid | 7.0 |
| L-Cystine (including L-cysteine) | 2.3 |
| L-Glutamic acid | 12.4 |
| Glycine | 3.5 |
| L-Histidine | 2.4 |
| L-Isoleucine | 6.6 |
| L-Leucine | 8.8 |
| L-Lysine | 6.4 |
| L- and DL-Methionine | 3.1 |
| L-Phenylalanine | 5.8 |
| L-Proline | 4.2 |
| L-Serine | 8.4 |
| L-Threonine | 5.0 |
| L-Tryptophan | 1.6 |
| L-Tyrosine | 4.3 |
| L-Valine | 7.4 |

(d) Compliance with the limitations concerning PER under paragraph (c) of this section shall be determined by the method described in sections 39.166–39.170, "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Edition, 1970, if applicable, or if not applicable, then by appropriate animal feeding tests. If more than one amino acid is added, it will be necessary that the tests be designed to demonstrate that each added amino acid is required to significantly improve the biological quality of the protein as described in paragraph (c) of this section. Each manufacturer or person employing the additive(s) under the provisions of this section shall keep and maintain, throughout the period of his use of the additive(s) and for a minimum of 3 years thereafter, records of the tests required by this paragraph and shall make such records available upon request at all reasonable hours by any officer or employee of the Food and Drug Administration, or any other officer or employee acting on behalf of the Secretary of Health, Education, or Welfare and shall permit such officer or employee to inspect and copy such records and to make such inventories of stock as he deems necessary and otherwise to check the correctness of such records.

(e) To assure safe use of the additive, the label and labeling of the additive and any premix thereof shall bear, in addition to the other information required by the act, the following:

(1) The name of the amino acid(s) contained therein, including the specific optical and chemical forms.

(2) The amounts of each amino acid contained in any mixture.

(3) Adequate directions for use to provide a finished food meeting the limitations prescribed by paragraph (c) of this section.

Interested persons may, within 60 days after publication hereof 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 comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: March 28, 1972.

CHARLES C. EDWARDS,
*Commissioner of Food and Drugs.*

[FR Doc.72-5278 Filed 4-5-72;8:46 am]

## [ 21 CFR Part 130 ]

## METHADONE

### Proposed Special Requirements for Use

Methadone has been under investigation for use in the maintenance treatment of narcotic addicts for approximately 9 years. For the past 2 years, interest in this use has grown steadily and intensely. In the FEDERAL REGISTER of April 2, 1971 (36 F.R. 6075), the Food and Drug Administration published § 130.44 (21 CFR 130.44) which established guidelines for investigating the use of methadone in maintenance treatment, for assuring the availability of valid data on such use, and for protecting the community from the hazards of diversion and abuse of methadone. These guidelines were developed in cooperation with the National Institute of Mental Health (NIMH) and the Bureau of Narcotics and Dangerous Drugs (BNDD), Department of Justice. To date the Food and Drug Administration and the Bureau of Narcotics and Dangerous Drugs have approved a substantial number of individual treatment units for use of methadone in treating addiction.

In addition to being used for investigational purposes, methadone has been prescribed by individual physicians and has been dispensed in medical institutions both for heroin detoxification and for maintenance therapy. It is not possible to determine how widespread the use of methadone for maintenance therapy has been outside investigational new drug plans, but there is evidence that this use is substantial.

The Food and Drug Administration, in cooperation with the National Institute of Mental Health and the Special Action Office for Drug Abuse Prevention, is undertaking an intensive inspection program to ascertain that existing programs operating under investigational new drug status (IND) meet the requirements of § 130.44. Within the immediate future, each program will be visited by an inspection team. Programs will be allowed to continue to operate if they meet the existing requirements of § 130.44. However, in addition, the proposed special requirements contained in this notice are being encompassed by the inspection in anticipation of improved requirements to be in effect in the future. To reduce the potential for diversion and misuses methadone is also being withdrawn systematically from pharmacies that are not dispensing it solely as part of approved treatment programs using methadone.

The use of methadone presents difficult and unique questions of medical judgment, law enforcement, and public policy that have not previously been encountered with other new drugs. Methadone presently represents the only drug for which there is substantial evidence of effectiveness in the treatment of heroin addiction. Although the short-term use of the drug has been shown to be relatively safe from a toxicity standpoint, more information is necessary on the toxicity of long-term use. Balancing the benefits against the risks, the Food and Drug Administration and numerous professional groups, advisory committees, and experts with whom it has consulted have concluded that the drug should be made available for all addicts who consent to use it in approved treatment programs. Retention of the drug solely on an investigational status appears to be no longer warranted.

At the same time, concern has been expressed that the usual form of NDA (new drug application) approval could lead to greater diversion or misuse of the drug, since it permits unrestricted distribution and allows physicians to use wide discretion in prescribing the drug. It has been suggested that the investigational status of the drug should be retained both to obtain additional toxicity data and as a control mechanism, at least until greater experience is obtained in reducing the potential dangers of diversion and medical misuse. The FDA recognizes these dangers and agrees that strong control must be maintained over the distribution and use of the drug. Since it is an opiod the potential for abuse is greater than for other drugs permitted for widespread medical use. The Food and Drug Administration could not conclude that it is safe if it cannot be properly controlled and would be required to disapprove its use. Some diversion and misuse will inevitably result from the availability of any drug, but it is particularly important that strong controls be available for methadone because of its known addicting potential. Finally, some have pointed out that it is premature to move completely from IND to NDA status because more information has yet to be obtained. The Commissioner concurs that unlimited approval of an NDA for methadone would not be appropriate at this time.

To provide the strongest possible control over the distribution and use of methadone, the Commissioner has concluded that both the IND and NDA control mechanisms should be utilized together with the authority granted under the Comprehensive Drug Abuse Control Act of 1970. Like an NDA, the drug will be available for treatment in all cases where there is medical justification. Like an IND controlled drug, there will be a permanent record showing the pattern of distribution of the drug because the institutions using the drug and the physicians and pharmacists operating in cooperation with the institution will be required to register all use of the drug. It will permit the Food and Drug Administration to withdraw methadone from its present unqualified approval status in pharmacies for detoxification, analgesic,

and antitussive purposes. Thus, a new closed system of distribution will be established, under which any diversion or misuse can immediately be stopped at the source of supply. At the same time the drug will be available for use without all the IND restrictions for all addicts for whom it is medically justified.

The Commissioner recognizes that this is a novel form of control designed to reflect the unique problems posed by this drug. It has not previously been necessary to utilize IND and the NDA procedures concurrently in order to assure the safe and effective use of a new drug. Because of the seriousness of the medical and social problems associated with heroin addiction and because methadone is the only drug available for the treatment of heroin addiction, the Commissioner has concluded that it is no longer feasible to retain methadone solely for investigational use. It is therefore appropriate to add the special requirements set forth in this proposal in order to permit the drug to be available wherever medical opinion concludes that it should be used in the treatment of heroin addiction.

The Commissioner feels that the mandate in section 4 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 can be appropriately applied to determining the conditions under which methadone may be safely used in treating narcotic addicts. This section requires the Secretary of Health, Education, and Welfare * * * after consultation with the Attorney General and with national organizations representative of persons with knowledge and experience in the treatment of narcotic addicts, to determine the appropriate methods of professional practice in the medical treatment of narcotic addiction. * * * The Secretary has delegated the authority to make this determination to the Commissioner of Food and Drugs.

In carrying out the requirements of the Comprehensive Drug Abuse Prevention and Control Act, the Commissioner has widely consulted and maintained close communications with the medical profession regarding use of methadone. Among those associations or groups consulted are the American Medical Association's Council on Mental Health, the National Research Council's Committee on Problems of Drug Dependence, the American Psychiatric Association's Commission on Drug Abuse, a task force of the American Society of Pharmacology and Experimental Therapeutics, the Joint Food and Drug Administration/National Institutes of Mental Health Psychotomimetic Advisory Committee, the FDA Drug Abuse Advisory Committee, the Special Action Office of the White House, and the National Institute of Mental Health. The consensus is strong among medical experts and the Food and Drug Administration that currently available evidence on the safety and effectiveness of methadone is sufficient to permit its use for the maintenance treatment of narcotic addiction as proposed in this notice.

On the basis of the above considerations, the Commissioner of Food and Drugs, after consultation with the associations and groups listed above and the Bureau of Narcotics and Dangerous Drugs, and with the endorsement of the Special Action Office of the White House, proposes that the special requirements set out in this notice be imposed upon the use of methadone. These new controls should not interfere with the availability of methadone in the treatment of severe pain or for detoxification of hospitalized addicts. Methadone for the treatment of severe pain on either an inpatient or outpatient basis will be available from hospital pharmacies.

It is proposed that patients under 18 not be admitted to a treatment program using methadone until additional study is completed to determine whether methadone may be safely and effectively used in their treatment. Such additional study must be conducted pursuant to all the requirements of the usual investigational new drug plan. This will mean that juveniles will be excluded from virtually all ongoing treatment programs using methadone except investigational programs with an IND approval. Comment is solicited as to whether the benefits of completing additional studies outweigh the risks of excluding these patients from treatment programs at this time with the likely result that they will continue to use injected heroin.

Under this proposal, the distribution of the drug is limited to treatment programs using methadone and to hospital pharmacies approved by the Food and Drug Administration. Requests for approval of programs received by FDA will be sent to BNDD for any comment it may have prior to FDA approval. BNDD may inspect any such program or may furnish FDA any relevant information from its files. FDA will give great weight to any information, comments, or recommendation received from BNDD in determining whether approval should be granted or, once granted, should be revoked. Methadone will no longer be permitted for antitussive use as the benefits of methadone for this use do not outweigh the risk involved from unsafe and ineffective use.

The Food and Drug Administration believes that State health or mental health authorities are essential to adequately controlling methadone, to assuring that the need for a methadone program exists, and to establishing criteria and guidance for rehabilitation efforts. Approval of a program by the State health or mental health authority designated under the provisions of section 314(d) of the Public Health Service Act or by his designee will be a part of approval of the treatment programs using methadone by FDA. The Food and Drug Administration will contact each State to establish the necessary channels of communication and to establish procedure for the implementation of the program, and will provide information upon request.

Section 130.44 *Conditions for investigational use of methadone for maintenance programs for narcotic addicts* (21 CFR 130.44) will continue in effect until a final order is issued after consideration of the comments submitted on this proposal. To increase control over methadone and to improve patient care prior to the finalization of this proposal, however, the guidelines in § 130.44 will be enforced as a requirement for a methadone maintenance investigational program. Any IND that varies in any material respect from the protocol in § 130.44 will require justification.

The following additional provisions will be required of all methadone maintenance investigational programs during the time between the publication of this proposal and its final promulgation:

1. Only oral dosage forms of methadone formulated in such a way as to reduce its potential for parenteral abuse and accidental ingestion will be provided patients for unsupervised use under approved programs.

2. The selection of patients is to be carried out in accordance with the requirements of item V, B, of the form "Application for Approval of Treatment Program Using Methadone" which appears in proposed § 130.48(b)(2)(i).

3. Dosage for detoxification and maintenance is to be in accordance with the requirements of item VIII, A, of the form "Application for Approval of Treatment Program Using Methadone" which appears in proposed § 130.48(b)(2)(i).

4. The recordkeeping requirements are to be in accordance with the information requested in the form "Annual Report for Treatment Program Using Methadone" which appears in proposed § 130.48(b)(2)(iii).

5. All patients in the methadone investigational program are to be given careful consideration for discontinuance of methadone in accordance with item VIII, D, of the form "Application for Approval of Treatment Program Using Methadone" which appears in proposed § 130.48(b)(2)(i).

6. Distribution of methadone will be restricted to direct shipments to approved investigational programs and hospital pharmacies, unless an alternative method of distribution is approved by FDA after consultation with BNDD.

The above stated provisions will be required of all new and ongoing methadone investigational programs within 30 days of the date of publication of this notice. An amended "Notice of Claimed Investigational Exemption for Methadone for Use in the Maintenance Treatment of Narcotic Addicts" shall be submitted by all ongoing programs and by new programs. These amended forms may be obtained from the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20852.

Accordingly, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 505, 701(a), 52 Stat. 1052–53 as amended, 1055; 21 U.S.C. 355, 371(a)) and the Comprehensive Drug Abuse Prevention and Control Act of 1970 (sec. 4, 84 Stat. 1241; 42 U.S.C. 257a) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs proposes that § 130.48 be amended by adding a new paragraph (b), as follows:

**§ 130.48 Drugs that are subjects of approved new drug applications and that require special studies, records, and reports.**

* * * * *

(b) *Methadone.* Methadone is an approved drug for marketing as an analgesic and for the detoxification and treatment of narcotic addicts. Methadone has been under investigation for a number of years for use as an oral substitute for heroin in the maintenance treatment of narcotic addicts. The nature of the use of methadone in maintenance treatment is such that the drug may be used for long periods of time. Further chronic toxicity studies are needed to establish the safety of long-term use. In view of the usefulness of methadone and the tremendous social problems associated with the narcotics problem, the Commissioner of Food and Drugs finds that it is not in the public interest to withhold the drug from the market until further long-term studies have been completed. In view of problems of abuse and misuse associated with the widespread availability of methadone, adequate controls are essential for the safe use of the drug. The drug should nevertheless continue to be available for treatment of severe pain in patients where no substitute therapy is suitable. In view of these considerations, the Commissioner of Food and Drugs has concluded that it is essential to the public interest to prescribe detailed conditions for safe and effective use of methadone. Methadone maintenance treatment will be permitted under both the IND and NDA control mechanisms established in the statute and regulations. These conditions of use are intended to assure that the required studies for assessing the safety of the long-term administration are performed, to monitor records and determine that required reports are maintained, to maintain close control over distribution and availability of the drug, and to detail responsibilities for such control:

(1) The following conditions must be met in order for methadone to be used for maintenance and detoxification in connection with a treatment program using methadone:

(i) The drug is limited to oral dosage forms formulated in such a way as to reduce its potential for parenteral abuse and accidental ingestion.

(ii) The manufacturers of methadone will develop additional data from chronic animal toxicity studies in which the drug is administered orally at high doses to dogs or monkeys for 1 year and rats for 18 months or mice for 2 years. Observations will include effects on behavior, growth, food and water consumption, blood and urine chemistry, hematological systems, cardiovascular and respiratory systems. Postmortem examinations will include complete gross and histopathological examinations. Reproduction studies following the FDA 1966 guidelines will be performed.

(iii) Further chronic clinical studies with particular attention to the toxicity of methadone in the hematopoietic, cardiovascular, endocrine, hepatic, and immunological systems will be performed under federally sponsored programs.

(iv) Reports of studies will be submitted pursuant to § 130.13.

(v) At the end of each year after the date of approval, representatives of the Food and Drug Administration, the applicant, appropriate experts, and, if necessary, the investigator(s) will meet to determine whether or not clinical studies should be continued.

(vi) Shipments of the drug are restricted to direct shipments by the holders of approved or investigational new drug applications for methadone to approved treatment programs using methadone. Alternative methods of distribution may be used if they are approved by FDA after consultation with the Bureau of Narcotics and Dangerous Drugs. These treatment programs using methadone must have been reviewed by the appropriate State health or mental health authority designated pursuant to section 314(d) of the Public Health Service Act, or his designee, and notification of the program's approval must have been received from the Food and Drug Administration. Prior to such notification, applications for treatment programs using methadone shall be reviewed by FDA and shall be sent by FDA to BNDD for any information, comments, or recommendations it may have.

(2) A treatment program using methadone shall be approved by FDA if all of the following conditions are met:

(i) The person assuming responsibility for the program must complete, sign, and file in triplicate with the Food and Drug Administration a Form FD _____, "Application for Approval of Treatment Program Using Methadone" as follows:

Form FD _____ —Application for Approval of Treatment Program Using Methadone

Name of other identification of program ____
Address _____

COMMISSIONER,
*Food and Drug Administration,*
*Bureau of Drugs (BD–22),*
*Rockville, Md. 20852.*

DEAR SIR: As the person (program director) responsible for this program, I submit this request for approval of a treatment program using methadone to provide maintenance treatment and detoxification for narcotic addicts. I understand that failure to abide by the requirements described below are a violation of the law and may result in revocation of approval of my application, seizure of my drug supply, an injunction, and criminal prosecution.

I. Attached is evidence to indicate approval of the program by the State authority designated pursuant to section 314(d) of the Public Health Service Act (or his designee).

II. Attached is the name, complete address, and a summary of the scientific training and experience of each physician and all other professional personnel having major responsibilities for the program and rehabilitative efforts and a signed Form FD _____, "Medical Responsibility Statement for Treatment Program Using Methadone" for every licensed practitioner authorized to prescribe, dispense, or administer methadone under the program. (Copies of the required form are obtainable from this agency at the same address to which this application is mailed.)

III. Attached is the name, address, and description of each hospital, institution, clinical laboratory facility, or other facility available to provide the necessary services. The program must have ready access to a comprehensive range of medical and rehabilitative services. These shall be described and shall comply with any guidelines established by Federal or State authorities.

IV. Attached is a statement of the approximate number of addicts to be included in the program.

V. The following minimal treatment standards will be used:

A. Attached is a statement which will be given to the addicts to inform them about the program. Participation in the program should be voluntary.

B. Care will be exercised in the selection of patients to prevent the possibility of admitting a person who has not been dependent upon heroin or other morphine-like drugs and thereby creating de novo a state of dependence upon methadone. The mere use of an opiate, even if periodic or intermittent, cannot be equated with drug dependence. Admission to the program will be dependent upon a history of physiological dependence on one or more opiate drugs (which will be recorded in the applicant's medical record) and evidence of current physiological dependence on opiates as demonstrated by the results of urinalysis and signs of opiate withdrawal. It is highly unlikely that an individual would be currently dependent on opiates without a positive urinalysis for opiates and/or without demonstrating at least the early signs of withdrawal (lacrimation, rhinorrhea, pupillary dilatation, and piloerection) during the initial period of abstinence. Other positive evidence of use can be obtained by noting the presence of needle tracks and by obtaining additional history from relatives and friends. The withdrawal signs may be observed during an initial period of hospitalization or while the individual is an outpatient undergoing diagnostic evaluation (history, physical examination, and laboratory studies). Loss of appetite and increased body temperature, pulse rate, blood pressure, and respiratory rate are also signs of withdrawal, but their detection requires inpatient observations.

C. An exception to the requirement for evidence of current physiological dependence on opiates will be allowed under exceptional circumstances. For example, methadone treatment may be initiated for an individual with a history of opiate addiction a short time prior to or upon release from a stay of 1 month or longer in a penal or chronic care institution. In these circumstances, the reasons for this exception, appropriate descriptions of the facilities, procedures, and qualifications of the personnel of the institution or other appropriate justification will be sent to the Food and Drug Administration at the time of filing this application or with the Annual Report.

D. Additional study is necessary to determine whether methadone may be safely and effectively used in the treatment of patients under 18. No such patients will be admitted to a treatment program using methadone unless prior approval of a Form FD 1571, "Notice of Claimed Investigational Exemption for a New Drug," has been obtained. Such approval will be granted only for a controlled clinical study and not for an ongoing treatment program.

VI. I agree that an admission evaluation and record will be made and maintained for each patient upon admission to the program and will consist of the following:

A. Personal, history including age, sex, educational level, employment history, criminal history, and past history of drug abuse of all types;

B. Medical history and history of psychiatric illness and current legal problems, if any; and

C. Physical examination results.

VII. I understand that there is a danger of drug dependent persons attempting to enroll in more than one methadone maintenance program in order to obtain quantities of methadone either for the purpose of self-administration or illicit marketing. To prevent such multiple enrollments, I will participate in whatever local, regional, or national patient identification system exists or is developed. Except in an emergency situation, methadone shall not be provided to a patient who is known to be currently receiving the drug from any other treatment program using methadone. Except as provided in item XV of this form, information that would identify the patient will be kept confidential pursuant to section 303 of the Public Health Service Act and will not be divulged in any civil, criminal, administrative, legislative, or other proceedings conducted by Federal, State, or local authorities.

VIII. The following minimal procedures will be used for ongoing care:

A. Dosage and administration for detoxification and maintenance:

1. The methadone will be administered in oral form.

2. In detoxification, the patient may be placed on a substitutive methadone administration schedule when there are significant symptoms of withdrawal. The dosage schedule indicated below is recommended but should be varied depending upon clinical judgment. Initially, a single oral dose of 15–20 milligrams of methadone will often be sufficient. Additional methadone can be provided if withdrawal symptoms are not suppressed or whenever symptoms reappear. When patients are physically dependent on high doses of methadone, it may be necessary to exceed these levels. With the exception of such patients, 40 milligrams per day in single or divided doses will usually constitute an adequate stabilizing dose level. Stabilization can be continued for 2 to 3 days and then the amount of methadone can be gradually decreased. The rate at which methadone is decreased will be determined separately for each patient. The dose of methadone can be decreased on a daily basis or, at most, in 2-day intervals. However, the amount of intake must always be sufficient to keep withdrawal symptoms at a tolerable level. In hospitalized patients a daily reduction of 20 percent of the total daily dose usually will be tolerated and causes little discomfort. When the total dosage has decreased to 20 milligrams per day, the dose can be reduced by 50 percent per day without producing significant discomfort. If a patient complains of undue distress, phenothiazine may be used in lieu of increasing the methadone dose. In ambulatory patients, a somewhat slower schedule may be needed.

In any event, if methadone is administered for more than 3 weeks, the procedure will be considered to have progressed from detoxification or treatment of the acute withdrawal syndrome to that of methadone maintenance even though the goal and intent may be eventual total withdrawal:

3. In maintenance treatment the initial dosage of methadone should control the abstinenece symptoms that follow withdrawal of heroin but should not be so great as to cause marked sedation or respiratory depression. It is important that the initial dosage be adjusted to the narcotic tolerance of the new patient. If such a patient has been a heavy user of heroin up to the day of admission, he may be given 20 milligrams orally for the first dose and another 20 milligrams 4 to 8 hours later or 40 milligrams in a single oral dose. If he enters treatment with little or no narcotic tolerance (e.g., if he has recently been released from jail or other confinement), the initial dosage can be one half these quantities. When there is any doubt, a smaller dose can be used initially. Then the patient should be kept under observation, and, if symptoms of abstinence are distressing, 10-milligram doses may be repeated as needed. Subsequently the dosage can be adjusted individually as tolerated and required with a maintenance level of approximately 40 to 100 milligrams daily. Occasionally, higher dosage levels may be required but must be justified in the medical record.

4. The methadone will be dispensed by a practitioner licensed by law to administer drugs and administered by him or under close supervision. For maintenance, initially (the first several weeks), the subject will receive the medication under observation daily, or at least 6 days a week. For detoxification, the drug will be administered daily under close observation. It is recognized that diversion occurs primarily when patients take medication from the clinic for self-administration. It is also recognized, however, that daily attendance at a clinic may be incompatible with gainful employment, education, and responsible homemaking. Therefore, in maintenance treatment, after demonstrating satisfactory adherence to the program regulations for at least 3 months and showing substantial progress in his rehabilitation, the patient may be permitted to reduce to twice weekly the times when he must receive the drug under observation. The rest of the time he may administer the drug himself, but no more than a 3-day supply will routinely be allowed in his possession. However, the requirement that the drug always be administered under supervision will be relaxed only in the following instances: (a) If the patient is responsibly employed on a regular and full-time basis, or (b) if the patient is a full-time student in a recognized institution of learning and is regularly in attendance and performing satisfactorily, or (c) if the patient is a part-time employee and part-time student and otherwise meets the criteria set forth in (a) and (b) above, or (d) if the patient is directly responsible, as a parent or as one in *loco parentis*, for the day-to-day welfare of one or more children under the age of 10 and customary observed medication intake would cause such a child or children to be without adequate supervision. Additional medication may also be provided in exceptional circumstances such as illness, family crises, or necessary travel when hardship would result from requiring the customary observed medication intake for such specific period as may be in question. In such circumstances the reasons for providing additional medication will be recorded.

B. In maintenance treatment, a urinalysis will be performed at least once a week for morphine and any other drug clinically indicated. Patients with take-home privileges for methadone should also be tested weekly for methadone. Urine specimens will be collected under direct observation. It is recommended but not required that patients be followed for other drug and alcohol abuse.

C. An adequate clinical record will be maintained for each patient. This record will contain the date of each visit, the results of each urinalysis, a detailed account of any adverse reactions, any significant physical or psychological disability, and other relevant aspects of the treatment programs. If a patient misses appointments for 2 weeks or more without notifying the program, the episode of care will be considered terminated, and this will be noted on his clinical record. If he returns for care, he will be readmitted and his record will be reopened.

D. All patients in the maintenance program will be given careful consideration for discontinuance of methadone after social rehabilitation has been maintained for a reasonable period of time. The patient will be given sufficient information regarding the methadone maintenance technique, so that he can elect to pursue the goal of eventually withdrawing from methadone and becoming drug-free.

IX. A report on Form FD ------, "Annual Report for Treatment Program Using Methadone" will be submitted to the Food and Drug Administration by January 30 of each year. (Copies of the form are available from this agency at the same address to which this application is mailed.)

X. To prevent diversion into illicit channels, adequate security will be maintained over stocks of methadone and over the manner in which it is distributed, as required by the Bureau of Narcotics and Dangerous Drugs.

XI. Accurate records traceable to patients will be maintained showing dates, quantity, and batch or code marks of the drug used. These records should be retained for a period of 3 years.

XII. In a maintenance program, the program director may establish satellite operations for treatment and dispensing of medication but will obtain and submit to FDA a signed FD ------, "Medical Responsibility Statement for Treatment Program Using Methadone," for every such operation. Only after patients have been stabilized at their optimal dosage level may they be referred to the satellite operations for obtaining medication and other treatment including any appropriate rehabilitative services. Subsequent to such referral, the program director will retain continuing responsibility for the patient's care, and the patient must be periodically checked at the primary facility of the program. No satellite operation will provide care for more than 10 patients at any one time, unless the program director has justified an increase and obtained approval from the State authority.

XIII. All representations in this application are currently accurate, and no changes will be made in the program until they have been approved by the Food and Drug Administration.

XIV. If the program or any individual under the program is disapproved, the program director will recall the methadone from the disapproved sources and return the drug to the manufacturer.

XV. Inspections of this program may be undertaken by the State authority and the Food and Drug Administration. The identity of the patient will be kept confidential except when the patient or his legal representative consents to the release of such information, when it is necessary to make followup investigations on adverse effect information related to the drug, when the medical welfare of the patient would be threatened by a failure to reveal such information, or when it is necessary to verify records pursuant to proceedings to revoke approval of the program.

Signature: ----------
(Program Director)

(ii) The following completed and signed form referred to in items II and XII of Form FD ------ is submitted in duplicate to the Food and Drug Administration:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD ------—Medical Responsibility Statement for Treatment Program Using Methadone

(To be completed by the individual responsible for the dispensing of medication in

each facility and every physician working in an approved program, whether ultimately responsible for dispensing medication or not.)

Name of practitioner licensed by law to administer drugs _____.
Name of program or program director _____.
Program address _____.
Date _____.

The undersigned _____ agrees to assume responsibility for the prescribing and administering of methadone under the above identified program and to abide by the standards for maintenance treatment and detoxification.

The name of each patient treated at a satellite facility and the frequency of visits will be registered with the program director. An annual report (Form FD _____), "Annual Report for Methadone Maintenance Programs" will be submitted to the program director for submission to FDA. The patient must always report to the same satellite operation unless prior approval is obtained from the program director for treatment at another satellite operation.

I. The following minimal treatment standards will be used:

A. A program statement will be given to the addicts to inform them about the program. Participation in the program should be voluntary.

B. Care will be exercised in the selection of patients to prevent the possibility of admitting a person who has not been dependent upon heroin or other morphine-like drugs and thereby creating de novo a state of dependence upon methadone. The mere use of an opiate, even if it is periodic or intermittent, cannot be equated with drug dependence. Admission to the program will depend upon a history of physiological dependence on one or more opiate drugs (which will be recorded in the applicant's medical record) and evidence of current physiological dependence on opiates as demonstrated by the results of urinalysis and signs of opiate withdrawal. It is highly unlikely that an individual would be currently dependent on opiates without a positive urinalysis for opiates and/or without demonstrating at least the early signs of withdrawal (lacrimation, rhinorrhea, pupillary dilatation, and piloerection) during the initial period of abstinence. Other positive evidence of use can be obtained by noting the presence of needle tracks and by obtaining additional history from relatives and friends. The withdrawal signs may be observed during an initial period of hospitalization or while the individual is an outpatient undergoing diagnostic evaluation (history, physical examination, and laboratory studies). Loss of appetite and increased body temperature, pulse rate, blood pressure, and respiratory rate are also signs of withdrawal, but their detection requires inpatient observation.

C. An exception to the requirement for evidence of current physiological dependence on opiates will be allowed under exceptional circumstances. For example, methadone treatment may be initiated for an individual with a history of opiate addiction a short time prior to or upon release from a stay of 1 month or longer in a penal or chronic care institution. In these circumstances, the reasons for this exception, appropriate descriptions of the facilities, procedures, and qualifications of the personnel of the institution or other appropriate justification will be sent to the Food and Drug Administration at the time of filing this form or with the annual report.

D. Additional study is necessary to determine whether methadone may be safely and effectively used in the treatment of patients under 18. No such patients will be admitted to a treatment program using methadone unless prior approval of Form FD 1571, "Notice of Claimed Investigational Exemption for a New Drug," has been obtained. Such approval will be granted only for a controlled clinical study and not for an ongoing treatment program.

II. I agree that an admission evaluation and record will be made and maintained for each patient upon admission to the program and will consist of the following:

A. Personal history including age, sex, educational level, employment history, criminal history, and past history of drug abuse of all types;

B. Medical history and history of psychiatric illness and current legal problems, if any; and

C. Physical examination results.

III. The following minimal procedures will be used for on-going care;

A. Dosage and administration for detoxification and maintenance:

1. The methadone will be administered in oral form.

2. In detoxification, the patient may be placed on a substitutive methadone administration schedule when there are significant symptoms of withdrawal. The dosage schedule indicated below is recommended but should be varied depending upon clinical judgment. Initially, a single oral dose of 15–20 milligrams of methadone will often be sufficient. Additional methadone can be provided if withdrawal symptoms are not suppressed or whenever symptoms reappear. When patients are physically dependent on high doses of methadone it may be necessary to exceed these levels. With the exception of such patients, 40 milligrams per day in single or divided doses will usually constitute an adequate stabilizing dose level. Stabilization can be continued for 2 to 3 days and then the amount of methadone can be gradually decreased. The rate at which methadone is decreased will be determined separately for each patient. The dose of methadone can be decreased on a daily basis or, at most, in 2-day intervals. However, the amount of intake must always be sufficient to keep withdrawal symptoms at a tolerable level. In hospitalized patients a daily reduction of 20 percent of the total daily dose usually will be tolerated and causes little discomfort. When the total dosage has decreased to 20 milligrams per day, the dose can be reduced by 50 percent per day without producing significant discomfort. If a patient complains of undue distress, phenothiazine may be used in lieu of increasing the methadone dose. In ambulatory patients, a somewhat slower schedule may be needed.

In any event, if methadone is administered for more than 3 weeks, the procedure will be considered to have progressed from detoxification or treatment of the acute withdrawal syndrome to that of methadone maintenance even though the goal and intent may be eventual total withdrawal.

3. In maintenance treatment, the initial dosage of methadone should control the abstinence symptoms that follow withdrawal of heroin but should not be so great as to cause marked sedation or respiratory depression. It is important that the initial dosage be adjusted to the narcotic tolerance of the new patient. If such a patient has been a heavy user of heroin up to the day of admission, he may be given 20 milligrams orally for the first dose and another 20 milligrams 4 to 8 hours later or 40 milligrams in a single oral does, If he enters treatment with little or no narcotic tolerance (e.g., if he has recently been released from jail or other confinement), the initial dosage can be one half these quantities. When there is any doubt, a smaller dose can be used initially. Then the patient should be kept under observation, and, if symptoms of abstinence are distressing, the administration of 10-milligram doses may be repeated as needed. Subsequently the dosage can be adjusted individually as tolerated and required with a maintenance level of approximately 40 to 100 milligrams daily. Occasionally, higher dosage levels may be required but must be justified in the medical record.

4. The methadone will be dispensed by a practitioner licensed by law to administer drugs and administered by him or under close supervision. For maintenance, initially (the first several weeks) the subject will receive the medication under observation daily, or at least 6 days a week. For detoxification, the drug will be administered daily under close observation. It is recognized that diversion occurs primarily when patients take medication from the clinic for self-administration. It is also recognized, however, that daily attendance at a clinic may be incompatible with gainful employment, education, and responsible homemaking. Therefore, in maintenance treatment, after demonstrating satisfactory adherence to the program regulations for at least 3 months and showing substantial progress in his rehabilitation, the patient may be permitted to reduce to twice weekly the times when he must receive the drug under observation. The rest of the time he may administer the drug himself, but no more than a 3-day supply will routinely be allowed in his possession. However, the requirement that the drug always be administered under supervision will be relaxed only in the following instances: (a) If the patient is responsibly employed on a regular and full-time basis, or (b) if the patient is a full-time student in a recognized institution of learning and is regularly in attendance and performing satisfactorily, or (c) if the patient is a part-time employee and/or part-time student and otherwise meets the criteria set forth in (a) and (b) above, or (d) if the patient is directly responsible, as a parent or as one in *loco parentis*, for the day-to-day welfare of one or more children under the age of 10 and customary observed medication intake would cause such a child or children to be without adequate supervision. Additional medication may also be provided in exceptional circumstances such as illness, family crisis, or necessary travel when hardship would result from requiring the customary observed medication intake for such specific period as may be in question. In such circumstances the reasons for providing additional medication will be recorded.

B. In maintenance treatment, a urinalysis will be performed at least once a week for morphine and any other drug clinically indicated. Patients with take-home privileges for methadone should also be tested weekly for methadone. Urine specimens will be collected under direct observation. It is recommended but not required that patients be followed for other drug and alcohol abuse.

C. An adequate clinical record will be maintained for each patient. This record will contain the date of each visit, the results of each urinalysis, a detailed account of any adverse reactions, any significant physical or psychological disability, and other relevant aspects of the treatment program. If a patient misses appointments for 2 weeks or more without notifying the program, the episode of care will be considered terminated, and this will be noted on his clinical record. If he returns for care, he will be readmitted and his record will be reopened.

D. All patients in the maintenance program will be given careful consideration for discontinuance of methadone maintenance after social rehabilitation has been maintained for a reasonable period of time. The patient will be given sufficient information regarding the methadone maintenance technique, so that he can elect to pursue the

goal of eventually withdrawing from methadone and becoming drug-free.

IV. To prevent diversion into illicit channels, adequate security will be maintained over stocks of methadone under my control, and over the manner in which it is distributed, as required by the Bureau of Narcotics and Dangerous Drugs.

V. All representations in this application are currently accurate, and no changes will be made in the program until they have been approved by the program director and the Food and Drug Administration.

VI. If I am disqualified, I agree to return any remaining stock of methadone to the parent program.

VII. Inspections of this program may be undertaken by the State authority and the Food and Drug Administration. The identity of the patient will be kept confidential except when the patient or his legal representative consents to the release of such information, when it is necessary to make followup investigations on adverse effect information related to the drug, when the medical welfare of the patient would be threatened by a failure to reveal such information, or when it is necessary to verify records pursuant to proceedings to revoke approval of the program.

Signature: _____
(Participating physician)

(iii) The following completed and signed form refered to in item IX of Form FD _____, "Application for Approval of Methadone Program," is submitted in duplicate in accordance with the instructions in item IX.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD _____—Annual Report for Treatment Program Using Methadone

This form is to be completed in duplicate for each calendar year. One copy is to be sent to the Food and Drug Administration and one copy to the State authority on or before January 30.

1. Name of other identification of program _____

Address _____

Number of satellite units _____ (Attach a list showing address and person responsible for each unit).

2. Total Treatment Capacity _____

3. Drug Forms Dispensed:

Amount of each formulation dispensed (in grams) during the year:

| *Formulation* | *Amount* |
|---|---|
| a. _____ | _____ |
| b. _____ | _____ |
| c. _____ | _____ |

4. Number of individuals who applied to the program but were not admitted or given admission evaluation _____.

5. Census of Patients Maintained on Methadone:

a. Number under care at the beginning of the year being reported _____.

Of those in treatment at the beginning of the year:

(1) Number continuously under care through the year being reported (still under care) _____.

(2) Number discharged or transferred to other types of programs and not readmitted _____.

(3) Number discharged or transferred to other types of programs and readmitted (still under care) _____.

(4) Number discharged and readmitted (no longer under care) _____.

b. Number admitted to care during year—not previously treated in this program:

(1) Number still under care at the end of the year _____.

(2) Number discharged or transferred to other types of programs and not readmitted _____.

(3) Number discharged or transferred to other types of programs and readmitted (still under care) _____.

(4) Number discharged and readmitted (no longer under care) _____.

c. Number admitted to care during the year—previously treated in this program prior to the past year:

(1) Number still under care at the end of the year _____.

(2) Number discharged or transferred to other types of programs and not readmitted _____.

(3) Number discharged and transferred to other types of programs and readmitted (still under care) _____.

(4) Number discharged and readmitted (no longer under care) _____.

6. Demographic and treatment characteristics of patients under care at the end of the year being reported:

a. Give the number of males and females in each age category:

| *Age* | *Sex* | |
|---|---|---|
| | *Male* | *Female* |
| Under 18 | _____ | _____ |
| 18–20 | _____ | _____ |
| 21–25 | _____ | _____ |
| 26–35 | _____ | _____ |
| 36–45 | _____ | _____ |
| 46+ | _____ | _____ |

b. For the year being reported, give the number of patients who have been under continuous care for the following periods of time:

| | |
|---|---|
| Under three months | _____ |
| 3 months to one year | _____ |
| One to two years | _____ |
| Two to five years | _____ |
| Over five years | _____ |

c. Total number of individuals treated to date _____.

d. For the year being reported, give the number of patients stabilized at each dosage level:

| *Daily dosage, mgm.* | *No. of patients* |
|---|---|
| Under 40 | _____ |
| 40–59 | _____ |
| 60–79 | _____ |
| 80–99 | _____ |
| 100–119 | _____ |
| 120–160 | _____ |
| Over 160 | _____ |

e. For the year being reported, give the number of patients in the past 8 weeks who have fallen in the following categories:

| | *No. of Patients* |
|---|---|
| No positive urinalysis for opiates for 2 months or more | _____ |
| Occasional positive urinalysis for opiates (monthly or less) | _____ |
| Frequent positive urinalysis for opiates (more than once per month; still dependent) | _____ |
| In program for less than 2 months | _____ |

7. Give the number of patients having significant adverse reactions, particularly reactions related to hematopoietic, cardiovascular, endocrine, and immunological functions (attach a completed copy of Form FD–1639 "Drug Experience Report" for each incident; forms obtainable from the Food and Drug Administration):

| *Type of reaction* | *No. of patients* |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

8. Give the number of patients who have died while under methadone care (attach a completed copy of Form FD–1639 "Drug Experience Report" for each incident; forms obtainable from the Food and Drug Administration):

| | *No. of patients* |
|---|---|
| a. Definitely methadone-related | _____ |
| b. Not methadone-related | _____ |

Signature: _____
Program Director

3. Within 60 days after receipt of an application for a treatment program using methadone, the applicant will receive notification of approval or refusal.

4. Refusal or revocation of a program approval.

(i) Refusal or revocation of approval of a program may be proposed to the Commissioner of Food and Drugs by the Director of the FDA Bureau of Drugs, on his own initiative or at the request of representatives of the Bureau of Narcotics and Dangerous Drugs or the designated State authority.

(ii) Before presenting such a proposal to the Commissioner, the Director of the Bureau of Drugs or his representative will notify the program applicant of the proposed action and the reasons therefor and will offer him an opportunity to explain the matters in question in an informal conference and/or in writing. If an explanation is offered by the applicant but not accepted by the Bureau of Drugs and if the hearing is requested within 10 days after receipt of notification that the explanation is unacceptable, the Commissioner will provide the program applicant an opportunity for an informal hearing on the question of whether the applicant should be entitled to receive methadone for use in a treatment program. Representatives of the State authority and/or BNDD may participate in the conference with the Bureau official or with the Commissioner.

(iii) The Commissioner will evaluate all available information, including any explanation or assurance presented by the program applicant. If he finds that the program applicant has failed to submit adequate assurance that the conditions for receiving methadone for use in a program will be met or that the program applicant has repeatedly or deliberately failed to comply with the conditions for receiving methadone for treatment of addicts or that the applicant has deliberately submitted false information to the Food and Drug Administration, the Commissioner will notify the program applicant, the appropriate State officials, BNDD, and all other appropriate persons that the program applicant is not entitled to receive methadone for treatment of narcotic addicts.

(iv) If a program applicant has had a program application refused or revoked, such refusal or revocation may be reversed when the Commissioner determines that the applicant has presented adequate assurance that he will employ such drugs solely in compliance with the requirements for a methadone program.

5. Program directors will be allowed 3 months from the final promulgation of this paragraph in order to obtain the necessary approvals and establish procedures for adhering to these conditions. During this interim period the State authority may permit one or more hospitals in areas of the State without approved programs to dispense methadone for the detoxification and maintenance treatment of narcotic addicts. The holders of approved new drug applications will be notified by the Food and Drug

Administration that methadone can be distributed to these hospital pharmacies after the State authority has so informed FDA.

6. Conditions for approving the use of methadone in analgesia and in hospitalized patients in detoxification.

(i) The drug is in oral or parenteral form.

(ii) Transportation is restricted to direct shipments to hospitals which have submitted a notification (FD _____ "Application for approval of Methadone Program,") to the Food and Drug Administration that they wish to receive the drug. The Food and Drug Administration will provide methadone manufacturers with the names of the hospitals that have submitted signed Forms FD _____, "Hospital Request for Methadone for Analgesia in Severe Pain and for Detoxification".

(iii) For a hospital to receive shipments of methadone for use as an analgesic and for detoxification, a responsible hospital official must complete, sign, and file in triplicate with the Food and Drug Administration a Form FD _____, "Hospital Request for Methadone for Analgesia in Severe Pain and for Detoxification," as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FOOD AND DRUG ADMINISTRATION

Form FD _____

Hospital Request for Methadone for Analgesia in Severe Pain and for Detoxification

Name of Hospital _____
Address _____

COMMISSIONER,
*Food and Drug Administration,*
*Bureau of Drugs (BD–22),*
*Rockville, Md. 20852.*

DEAR SIR: I submit this notice of intent to receive supplies of methadone to be used for analgesia and detoxification. I understand that the failure to abide by the requirements described below may result in discontinuance of shipments of methadone, seizure of the drug supply on hand, injunction, and criminal prosecution.

1. The name of the individual (pharmacist) responsible for receiving and securing supplies of methadone is _____.

2. There are _____ beds in the hospital. (Give the number.)

3. A general description of the hospital and nature of patient care undertaken is attached.

4. The anticipated quantity of supply needed per year is _____.

5. Adequate security will be maintained over stocks of methadone to prevent diversion into illicit channels. All stocks will be secured in a locked cabinet or safe.

6. Methadone will be dispensed for detoxification of hospitalized patients only and for analgesia in severe pain for hospitalized and outpatients. If methadone is administered for treatment of heroin dependence for more than 3 weeks, the procedure passes from treatment of the acute withdrawal syndrome (detoxification) to methadone maintenance. Such treatment can be undertaken only by approved methadone maintenance programs. This does not preclude the maintenance of an addict who is hospitalized for treatment for medical conditions other than addiction and whose enrollment in a specific maintenance program has been verified by the hospital.

7. Prior to filling a physician's prescription for methadone for outpatients, I will obtain from the physician a statement indicating that all such prescriptions will be limited to use for analgesia in severe pain and his agreement to maintain records to substantiate such use. These records will be available in the hospital or made available at the request of the hospital administrator. On January 30 of each year, the hospital will report to the Food and Drug Administration the names of all physicians who prescribed methadone for analgesia on an outpatient basis during the previous year.

8. Prescriptions will not be filled if they are written by a physician who has not submitted the required commitment to the hospital.

9. Accurate records are maintained showing dates, quantity, and batch or code marks of the drug used. The records are to be retained for a period of 3 years.

10. The Food and Drug Administration may inspect the supplies or use of the drug. The identity of the patient will be kept confidential except when the patient or his legal representative consents to the release of such information, when it is necessary to make followup investigations on adverse effect information related to the drug, when the medical welfare of the patient would be threatened by a failure to reveal such information, or when it is necessary to verify records pursuant to proceedings to revoke approval of the hospital.

Signature: _____
(Hospital Official)

Interested persons may, within 90 days after publication hereof 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 comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: April 3, 1972.

CHARLES C. EDWARDS,
*Commissioner of Food and Drugs.*

[FR Doc.72–5297 Filed 4–5–72;8:48 am]

# DEPARTMENT OF TRANSPORTATION

## Coast Guard

## [ 33 CFR Part 82 ]

[CGD 72–67P]

## CALCASIEU CHANNEL, LA., SABINE PASS, TEX. AND VENTURA MARINA, CALIF.

### Boundary Lines of Inland Waters

The Coast Guard is considering amending the lines of demarcation for inland waters at Calcasieu Channel, La., Sabine Pass, Tex., and Ventura Marina, Calif. This amendment is being proposed to bring the line of demarcation descriptions into conformance with recent changes to aids to navigation in the affected locations.

Calcasieu Channel Lighted Whistle Buoy 1 has been discontinued in connection with the deepening and extension of the channel. Therefore, it is proposed to use Calcasieu Channel Lighted Whistle Buoy 20 in the boundary description. This proposed change moves the line of demarcation at Calcasieu Channel 500 yards to seaward.

Sabine Pass Lighted Whistle Buoy 1 has been discontinued in connection with the deepening and extension of the channel. Therefore, it is proposed to use Sabine Bank Channel Lighted Bell Buoy 18 in the boundary description. This proposed change moves the line of demarcation 900 yards seaward.

Because of a detached, offshore breakwater, Ventura Marina presents an unusual harbor entrance not clearly described by the general rules for boundary lines for inland waters (33 CFR 82.2). The proposed regulation provides a specific line of demarcation at the entrance to Ventura Marina.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Executive Secretary, Marine Safety Council, U.S. Coast Guard Headquarters, Room 8234, 400 Seventh Street SW., Washington, DC 20590. Each person submitting comments should include his name and address and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Executive Secretary, Marine Safety Council.

All comments received before May 8, 1972, will be considered before final action is taken on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 82 be amended by revising §§ 82.103, and 82.106 and adding § 82.144 to read as follows:

**§ 82.103 Mississippi Passes, La., to Sabine Pass, Tex.**

A line drawn from a point 5.1 miles, 107° true, from Pass a Loutre Abandoned Lighthouse to South Pass Lighted Whistle Buoy 2; thence to southwest Pass Entrance Midchannel Lighted Whistle Buoy; thence to Ship Shoal Daybeacon; thence to Calcasieu Channel Lighted Whistle Buoy 20; thence to Sabine Bank Channel Lighted Bell Buoy 18.

**§ 82.106 Sabine Pass, Tex., to Galveston, Tex.**

A line drawn from Sabine Bank Channel Lighted Bell Buoy 18 to Galveston Bay Entrance Channel Lighted Whistle Buoy 1.

**§ 82.144 Ventura Marina.**

(a) A line drawn from the south end of the detached breakwater to Ventura Marina Light 4.

(b) A line drawn 080° true from the north end of the detached breakwater to shore.

(Sec. 2, 28 Stat. 672, as amended, sec. 6(b)(1), 80 Stat. 938; 33 U.S.C. 151, 49 U.S.C. 1655(b); 49 CFR 1.46(b))

Dated: March 31, 1972.

G. H. READ,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.72–5288 Filed 4–5–72;8:47 am]

## [ 46 CFR Part 177 ]

[CGD 72-68P]

## HULL STRUCTURE

### Notice of Proposed Rule Making

The Coast Guard is considering amending the small passenger vessel (under 100 gross tons) regulations to require fire retardant fibrous glass reinforced plastic (FRP) construction for all FRP vessels built or certified after the date of promulgation of this rule. Currently certificated FRP vessels would be allowed to continue in service.

Interested persons may participate in this proposed rule making by submitting written data, views, or arguments to the Coast Guard (CMC), Room 8234, 400 Seventh Street SW., Washington, DC 20590. Each person submitting comments should identify the notice number, CGD 72-68P, any specific wording recommended, reasons for any recommended change, and the name, address and organization, if any, of the commentator. All comments received by May 8, 1972, will be fully considered and evaluated before final action is taken on this proposal.

Copies of all written communications received will be available for examination in Room 8234, Nassif Building, 400 Seventh Street SW., Washington, DC, both before and after May 8, 1972. The proposal contained in this document may be changed in the light of the comments received.

In the February 24, 1971 issue of the FEDERAL REGISTER (36 F.R. 3425), the Coast Guard published a notice of proposed rule making to amend the navigation and vessel inspection regulations. Included in the notice, and in the Merchant Marine Council Public Hearing Agenda, March 29, 1971 (CG-249), was Item PH 9-71, which proposed amendments to 46 CFR 177.10-1(c).

The Coast Guard held a public hearing on March 29, 1971 in Washington, D.C., on the amendments proposed in the notice. Interested persons were given the opportunity to submit comments both before and at the public hearing and to make oral comments concerning all the proposed amendments at the public hearing. Extension of time to submit written comments on the proposals was granted by a notice published in the April 10, 1971, issue of the FEDERAL REGISTER (36 F.R. 6902).

Eleven written comments were received on Item PH 9-71. In general, the comments evidenced confusion regarding the implementation and application of the proposed amendment. In order to eliminate possible sources of confusion, the original proposal is hereby withdrawn, and a new amendment is now being proposed.

The original proposal would have added paragraph (c) to 46 CFR 177.10-1 to require fibrous glass reinforced plastic constructed hulls of vessels regulated by Subchapter T to be of materials acceptable to the Officer in Charge, Marine Inspection, and to require resins used in general construction to be of a fire retardant type.

The proposal in this document would amend § 177.10-5 of Title 46, Code of Federal Regulations to require that each hull, structural bulkhead, deck, or deckhouse made of fibrous glass reinforced plastic on vessels that carry 150 passengers or less must be constructed with fire retardant resins, laminates of which meet military specification MIL-R-21607, except those vessels that were certificated on the date of promulgation of the rule and in continuous service under the certificate of inspection will be permitted to operate so long as they conform to maintenance requirements.

The Coast Guard has found that vessels of fibrous glass reinforced plastic that are constructed with resins that are not fire retardant do not have sufficient protection against fires. The proposal in this document is made to minimize such hazards on small passenger-carrying vessels constructed of fibrous glass reinforced plastic. In order not to create an undue burden on owners of existing vessels not constructed with this material, certification for carriage of 150 passengers or less would be permitted until approximately 6 months after promulgation of this rule.

In consideration of the foregoing, it is proposed to amend § 177.10-5 by adding paragraphs (a-1) and (a-2) to read as follows:

**§ 177.10-5 Fire protection.**

* * * * *

(a-1) Except for a vessel complying with the requirements contained in paragraph (a-2) of this section, each hull, structural bulkhead, deck or deckhouse made of fibrous glass reinforced plastic on each vessel that carries 150 passengers or less must be constructed with fire retardant resins, laminates of which have been demonstrated to meet military specification MIL-R-21607 after a 1-year exposure to weather. Military specification MIL-R-21607 may be obtained from the Commanding Officer, Naval Supply Depot, 5801 Tabor Avenue, Philadelphia, PA 19120.

(a-2) Each hull, structural bulkhead, deck or deckhouse made of fibrous reinforced plastic on a vessel that carries 150 passengers or less, that was certificated on (date to be inserted will be 6 months after date of promulgation of the rule), and that has a valid certificate of inspection on the date of reinspection, may continue in service. Any repairs must be as follows:

(1) Minor repairs and alterations must be made to the same standard as the original construction or a higher standard; and

(2) Major alterations and conversions must comply with the requirements of this subpart.

* * * * *

This proposal is made under the authority of R.S. 4405, as amended (46 U.S.C. 375), section 3, 70 Stat. 152 (46 U.S.C. 390b), R.S. 4462, as amended (46 U.SC 416), section 6(b)(1), 80 Stat 937 (46 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

Dated: March 31, 1972.

G. H. READ,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.72-5287 Filed 4-5-72;8:47 am]

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## Federal Aviation Administration

## [ 14 CFR Part 71 ]

[Airspace Docket No. 72-SO-26]

## TRANSITION AREA

### Proposed Designation

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Tallassee, Ala., transition area.

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, Post Office Box 20636, Atlanta, GA 30320. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 724, 3400 Whipple Street, East Point, GA.

The Tallassee transition area would be designated as:

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Tallassee Municipal Airport (lat. 32°29'00" N., long. 85°53'00" W.); within 2 miles each side of Tuskegee VOR 270° radial, extending from the VOR to 19 miles west of the VOR.

The proposed designation is required to provide controlled airspace protection for IFR operations at Tallassee Municipal Airport. Prescribed instrument approach procedures to this airport, utilizing the Tuskegee VOR, are proposed in conjunction with the designation of this transition area.

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

Issued in East Point, Ga., on March 28, 1972.

DUANE W. FREER,
*Acting Director, Southern Region.*

[FR Doc.72-5278 Filed 4-5-72;8:46 am]

# ATOMIC ENERGY COMMISSION

## [ 10 CFR Part 50 ]

[Docket No. RM-50-2]

## EFFLUENTS FROM LIGHT-WATER-COOLED NUCLEAR REACTORS

### Rescheduling of Hearing

The hearing previously scheduled for Wednesday, April 5 (37 F.R. 6408), at 10 a.m., has been rescheduled to convene on Monday, April 10, at 10 a.m., in Room 500, Woodmont Building, Bethesda, Md. Matters scheduled for the April 5 hearing, as specified in the order of March 22, 1972, will be taken up at the April 10 hearing.

Dated this 31st day of March 1972, at Washington, D.C.

Ordered by the Hearing Board.

ALGIE A. WELLS,
*Chairman.*

[FR Doc.72-5280 Filed 4-5-72;8:47 am]

# Notices

## DEPARTMENT OF THE TREASURY

### Bureau of Customs

[T.D. 72-95]

### CERTAIN STEEL CORES

### Designation as Instruments of International Traffic

MARCH 30, 1972.

It has been established to the satisfaction of the Bureau that steel cores, 14 feet 6 inches in length by 11¼ inches in diameter and weighing 410 pounds, used for the transportation of felt paper, are substantial, suitable for and capable of repeated use, and used in significant numbers in international traffic.

Under the authority of § 10.41a(a)(1), Customs Regulations (19 CFR 10.41a (a)(1)), I hereby designate the above-described steel cores as "instruments of international traffic" within the meaning of section 322(a), Tariff Act of 1930, as amended. These cores may be released under the procedures provided for in § 10.41a, Customs Regulations.

[SEAL] LEONARD LEHMAN,
*Acting Commissioner of Customs.*

[FR Doc.72-5295 Filed 4-5-72;8:48 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

[Sacramento Area Office Redelegation Order 1, Amdt. 3]

### SUPERINTENDENTS AND AREA FIELD REPRESENTATIVE

### Name Changes in Field Offices and Their Heads

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Commissioner of Indian Affairs by 230 DM 2 (32 F.R. 13938).

This delegation is issued under the authority delegated to the Commissioner of Indian Affairs from the Secretary of the Interior in section 25 of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the Area Directors in 10 BIAM 3.

The Sacramento Area Office Redelegation Order 1 was published on page 14036 of the September 4, 1969 FEDERAL REGISTER (34 F.R. 14036) and subsequently amended on page 4142 of the March 5, 1970, FEDERAL REGISTER (35 F.R. 4142) and page 23258 of the December 7, 1971, FEDERAL REGISTER (36 F.R. 23258). Sacramento Area Office Redelegation Order 1 is being amended to reflect a recent change in the names of the field offices and their heads.

As amended, Sacramento Area Office Redelegation Order 1 is further amended as follows:

1. In the heading, "Area Field Representative and Director of Palm Springs, Sacramento Area Office" is changed to read "Superintendents and Area Field Representative, Sacramento Area Office".

2. In section 1.2, "Area Field Representative, Director" is changed to read "Superintendent, Area Field Representative".

3. In section 1.3, "Area Field Representative and Director" is changed to read "Superintendent and Area Field Representative".

4. In the heading and text of Part 2, "Area Field Representatives and Director of Palm Springs" is changed to read "Superintendents and Area Field Representative, Palm Springs Area Field Office".

5. In sections 2.5(b) and 3.1, "Director of the Palm Springs Office" and "Director, Palm Springs Office" are changed to read "Area Field Representative, Palm Springs Area Field Office".

6. In sections 2.5(c) and 2.50, "Area Field Representative, Hoopa Area Field Office" is changed to read "Superintendent, Hoopa Agency".

7. In section 2.5(d), "Area Field Representative, Riverside Area Field Office" is changed to read "Superintendent, Southern California Agency" and "Riverside Area Field Office" is changed to read "Southern California Agency".

The effective date of this delegation will be the date of signature by the Area Director.

WILLIAM E. FINALE,
*Area Director.*

MARCH 24, 1972.

Approved: March 30, 1972.

JOHN O. CROW,
*Deputy Commissioner of Indian Affairs.*

[FR Doc.72-5274 Filed 4-5-72;8:46 am]

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### Bureau of Land Management

[Sacramento 075930]

### CALIFORNIA

### Order Providing for Opening of Lands

MARCH 28, 1972.

In accordance with the authority redelegated to me by the State Director, California State Office, Bureau of Land Management, effective January 12, 1972 (37 F.R. 491), it is ordered as follows:

1. Pursuant to publication of Notice (36 F.R. 19343, October 2, 1971) the U.S. Geological Survey canceled Power Site Classification No. 144 of May 15, 1926; Power Site Classification No. 185 of July 14, 1927 (as interpreted January 17, 1936); and Power Site Classification No. 290 of January 17, 1936, to the extent that they affect the following described land:

MOUNT DIABLO MERIDIAN, CALIFORNIA

POWER SITE CLASSIFICATION 144

T. 20 S., R. 30 E.,
Sec. 22, SE¼;
Sec. 23, SW¼SW¼ and SE¼SE¼;
Sec. 24, S½S½;
Sec. 25, N½N½;
Sec. 26, NE¼, NE¼NW¼, S½NW¼, NE¼SW¼, and N½SE¼.
T. 20 S., R. 31 E.,
Sec. 19, lot 4;
Sec. 29, SW¼SW¼;
Sec. 30, lots 1 and 2, W½NE¼, NE¼NW¼, and SE¼;
Sec. 31, NE¼NE¼;
Sec. 32, W½.

POWER SITE CLASSIFICATION 185

T. 17 S., R. 29 E.,
Sec. 2, lot 9;
Sec. 3, lots 5 to 9, inclusive;
Sec. 4, SW¼NW¼ and NE¼SE¼;
Sec. 13, lot 1 and NW¼SW¼;
Sec. 15, N½SW¼ and NW¼SE¼;
Sec. 24, NE¼NW¼ and SE¼SE¼.
T. 18 S., R. 29 E.,
Sec. 13, NW¼SW¼;
Sec. 14, NE¼SE¼ and S½SE¼;
Sec. 15, SW¼SW¼ and SE¼SE¼;
Sec. 16, SW¼ and SE¼SE¼;
Sec. 22, N½NW¼;
Sec. 23, W½NE¼ and S½NW¼.

POWER SITE CLASSIFICATION 290

T. 17 S., R. 29 E.,
Sec. 38, lot 2, NE¼, and E½SE¼;
Sec. 39, lots 1 to 6, inclusive; SW¼NE¼, S½NW¼, and NW¼SE¼;
Sec. 40, lot 1 and SE¼NE¼.

The areas described, including public lands, nonpublic lands, and lands within the Sequoia National Forest aggregate approximately 3,517 acres.

The State of California has waived its preference right of application for highway rights-of-way or material sites afforded it by section 24 of the Federal Power Act of June 10, 1920.

2. At 10 a.m., on May 8, 1972, the public lands shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m., on May 8, 1972, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m., on May 8, 1972, the national forest lands shall be open to such forms of disposition as may by law be made of such lands.

3. The public lands have been and will continue to be open to applications and offers under the mineral leasing laws,

and to location under the U.S. mining laws.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, CA 95825.

WALTER F. HOLMES,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.72-5296 Filed 4-5-72;8:48 am]

# DEPARTMENT OF AGRICULTURE

## Animal and Plant Health Inspection Service

### OFFICE OF THE DEPUTY ADMINISTRATOR FOR PLANT PROTECTION AND QUARANTINE ET AL.

### Delegation of Authority

By order 37 F.R. 6327 effective April 2, 1972, the Secretary of Agriculture established the Animal and Plant Health Inspection Service in the Department of Agriculture and vested in the Assistant Secretary for Marketing and Consumer Services certain functions and responsibilities relating to the animal and plant health activities of the Animal and Plant Health Service and the meat and poultry inspection activities of the Consumer and Marketing Service, including the functions prescribed in the provisions in Title 7, Code of Federal Regulations, Chapter I, Parts 54, 70, and 81, and Chapter III and in Title 9, Code of Federal Regulations, Chapters I and III.

By order 37 F.R. 6505 effective April 2, 1972, the Assistant Secretary for Marketing and Consumer Services delegated on a temporary basis, to the Administrator, Animal and Plant Health Inspection Service, the functions and responsibilities vested in the said Assistant Secretary relating to animal and plant health activities and meat and poultry inspection activities.

For the purpose of providing for the orderly exercise of the functions and responsibilities so delegated, including administration of the provisions in the aforesaid chapters of the Code of Federal Regulations, pending further organizational structuring in the Animal and Plant Health Inspection Service, authority is hereby delegated on a temporary basis to all persons in or organizationally under the following components of the Animal and Plant Health Service and the Consumer and Marketing Service which were transferred to the Administrator, Animal and Plant Health Inspection Service, to continue to perform the functions heretofore performed by them as members of such components, including functions under aforesaid chapters:

Office of the Deputy Administrator for Plant Protection and Quarrantine, Animal and Plant Health Service.

Office of the Deputy Administrator for Veterinary Services, Animal and Plant Health Service.

Office of the Deputy Administrator for Meat and Poultry Inspection, Consumer and Marketing Service.

This delegation shall also apply to the successors in office of such persons. All actions heretofore taken by such persons or their successors in accordance with delegations are hereby ratified.

This action shall become effective April 2, 1972.

Done in Washington, D.C., this 2d day of April 1972.

F. J. MULHERN,
*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.72-5281 Filed 4-5-72;8:47 am]

## Commodity Credit Corporation

### BARLEY LOAN PROGRAMS

### Notice of Voluntary Early Delivery Provisions for Farm Stored Barley Loans

Notwithstanding the provisions of § 1421.23(g) and 1421.537(c) of 7 CFR Part 1421, producers who have outstanding farm stored Commodity Credit Corporation loans from the 1968, 1969, 1970, and 1971 crops of barley will be permitted to make voluntary early delivery of such barley and receive storage payments for the balance of the 1971-72 storage period on resealed crops of farm stored barley and will be charged with no storage deductions with respect to 1971 crop farm stored barley delivered prior to the loan maturity date.

Since this notice implements the announcement made by press release on February 18, 1972, in view of the urgency for informing producers of the voluntary early delivery option, compliance with the notice of proposed rule making and public participation procedure would be impracticable and contrary to the public interest. Therefore, this notice is issued without compliance with such procedure.

Signed at Washington, D.C., on March 30, 1972.

KENNETH E. FRICK,
*Executive Vice President, Commodity Credit Corporation.*

[FR Doc.72-5282 Filed 4-5-72;8:47 am]

# DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

[Docket No. B-537]

### DAVID A. CARLSON

### Notice of Loan Application

MARCH 29, 1972.

David A. Carlson, Minturn, Maine 04659, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a new fiberglass vessel, about 30-foot length, to engage in the fishery for lobsters, shrimp, and scallops.

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

PHILIP M. ROEDEL,
*Director.*

[FR Doc.72-5275 Filed 4-5-72;8:46 am]

[Docket No. G-526]

### AYLMER GORDON GRAY, JR.

### Notice of Loan Application

MARCH 29, 1972.

Aylmer Gordon Gray, Jr., 2807 Broome Lane, Beaufort, S.C. 29902, has applied for a loan from the Fisheries Loan Fund to aid in financing the purchase of a used wood vessel, about 73-foot length, to engage in the fishery for shrimp.

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

PHILIP M. ROEDEL,
*Director.*

[FR Doc.72-5276 Filed 4-5-72;8:46 am]

## Office of Import Programs

### CHILDREN'S HOSPITAL MEDICAL CENTER

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

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

Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

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

Docket No. 71–00577–33–46040. Applicant: The Children's Hospital Medical Center, 300 Longwood Avenue, Boston, MA 02115. Article: Electron microscope, Model EM 300. Manufacturer: Philips Electronic, The Netherlands. Intended use of article: The article will be used for a project concerning a study of congenital heart disease that involves the examination of embryonic hearts and the embryonic cardiac connective tissue. Another area of research concerns electron microscope examination of connective tissue, particularly calcified tissue (bone and tooth).

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

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

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU–4C electron microscope manufactured by the Forgflo Corp. The Model EMU–4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated December 30, 1971 that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU–4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

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

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

[FR Doc. 72–5263 Filed 4–5–72;8:45 am]

## DEPARTMENT OF AGRICULTURE ET AL.

### Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(c).)

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

Docket No. 71–00517–33–46040. Applicant: U.S. Department of Agriculture, ARS Plant Science Research Division, Plant Virology Laboratory, Plant Industry Stations, Beltsville, Md. 20705. Article: Electron microscope, Model JEM–100B. Manufacturer: Japan Electron Optics Laboratory Co., Ltd., Japan. Intended use of article: This article will be used for research aimed at improving the freeze-etching and related techniques of preparing biological specimens for electron microscopy and studying the molecular morphology of viruses and other pathogens, both within the infected cells and isolated form. Application received by Commissioner of Customs: April 29, 1971. Advice submitted by Department of Health, Education, and Welfare on: September 3, 1971.

Docket No. 72–00020–33–46040. Applicant: University of Pennsylvania, Biology Department, 27th and Hamilton Walk, Philadelphia, PA 19104. Article: Electron microscope, Model JEM–100B and accessories. Manufacturer: Japan Electron Optics Laboratory, Ltd., Japan. Intended use of article: The article will be used in research studies of the membrane systems in muscle cells and in an educational course teaching the electron microscope. Application received by Commissioner of Customs July 9, 1971. Advice submitted by Department of Health, Education, and Welfare on January 14, 1972.

Docket No. 72–00035–33–46040. Applicant: Duke University Medical Center, Department of Pathology, Post Office Box 3712, Durham, N.C. 27710. Article: Electron microscope, Model JEM–100B. Manufacturer: Japan Electron Optics Lab. Co., Ltd., Japan. Intended use of article: The article will be used in research to determine the ultrastructure of a number of biological materials notably various cell membranes, especially those of heart muscle; and of viruses, in order to correlate these anatomical observations with functional biological phenomenon. The article will also be used in teaching medical students a course in ultrastructural and molecular pathology and in training residents, postdoctoral fellows and graduate students in electron microscopy. Application received by Commissioner of Customs July 19, 1971. Advice submitted by Department of Health, Education, and Welfare on January 28, 1972.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: Each foreign article has a specified resolving capability of 3.0 angstroms. The most closely comparable domestic instrument is the Model EMU–4C electron microscope which is manufactured by the Forgflo Corp. (Forgflo). The Model EMU–4C has a specified resolving capability of 5 angstroms. (Resolving capability bears an inverse relationship to its numerical rating in angstrom units, i.e., the lower the rating, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. We, therefore, find that the Forgflo Model EMU–4C is not of equivalent scientific value to any of the articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

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

[FR Doc.72–5262 Filed 4–5–72;8:45 am]

## GEORGETOWN UNIVERSITY SCHOOL OF MEDICINE ET AL.

### Notice of Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

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

Docket No. 72–00055–33–46500. Applicant: Georgetown University School of Medicine, 3900 Reservoir Road NW., Washington, DC 20007. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used in studies of materials of a diverse biological nature; mainly mammalian tissues derived from human biopsy specimens and various experimental laboratory animals in the various

research projects to be performed. In addition, the article will be used to instruct beginning graduate students in the principles of ultramicrotomy and electron microscopy and to provide an opportunity to gain essential laboratory experience. Application received by Commissioner of Customs: July 26, 1971. Advice submitted by Department of Health, Education, and Welfare on February 11, 1972.

Docket No. 72-00056-33-46500. Applicant: West Virginia University, Department of Anatomy, Room 4052 BSB, Medical Center, Morgantown, W. Va. 26506. Article: Ultramicrotome, Model LKB Produkter AB, Sweden. Intended use of article: The article will be used in the preparation of tissues for a variety of projects which include:

1. An ultrastructural comparison of human basal cell carcinomas of different etiologies;

2. An electron microscopic study of developing mechanotransducers in certain insects;

3. An electron microscopic study of developing teeth in frogs;

4. An electron microscopic study of coal dust deposition in the lungs of mice;

5. An electron microscopic study of microtubule development in a variety of tissues; and

6. An ultrastructural study of calcification in developing Amphibia. Application received by Commissioner of Customs, July 26, 1971. Advice submitted by Department of Health, Education, and Welfare on February 11, 1972.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States.

Reasons: Each of the foreign articles provides a range of cutting speeds from 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorval, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.09 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket No. 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section."

In connection with another prior application (Docket No. 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

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

[FR Doc.72-5261 Filed 4-5-72;8:45 am]

## MOUNT SINAI HOSPITAL ET AL.

### Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

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

Docket No. 71-00561-33-46040. Applicant: The Mount Sinai Hospital, University Circle, Cleveland, Ohio 44106. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for the training of graduate students and postdoctorates in the techniques and application of electron microscopy. M.D.'s and Ph. D.'s whose major interest is to obtain results as rapidly and as simply as possible will use the electron microscope as a tool to accomplish their projects. Detailed projects concern ultrastructure of pathology calcified tissues and localization of tritiated parathyroid hormone in bone. Application received by Commissioner of Customs May 19, 1971. Advice submitted by Department of Health, Education, and Welfare on December 17, 1971.

Docket No. 71-00619-33-46040. Applicant: VA Hospital No. 614, 1030 Jefferson Avenue, Memphis, TN 38104. Article: Electron microscope, Model HU-12. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used in an intensive research program underway to identify an enzyme produced by basal cell epithelioma important to the cure of this the most common skin cancer; investigation of various keratinizing tissues of the skin such as hair and nail; and train residents in electron microscopy. Application received by Commissioner of Customs June 28, 1971. Advice submitted by Department of Health, Education, and Welfare on December 30, 1971.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: Each foreign article has a specified resolving capability of 3.0 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope which is manufactured by the Forgflo Corp. (Forgflo). The Model EMU-4C has a specified resolving capability of 5 angstroms. (Resolving capability bears an inverse relationship to its numerical rating in angstrom units, i.e., the lower the rating, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. We, therefore, find that the Forgflo Model EMU-4C is not of equivalent scientific value to any of the articles to which the foregoing applications relate, for such purposes as these articles are intended to be used. The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

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

[FR Doc.72-5264 Filed 4-5-72;8:45 am]

## NEW YORK STATE OFFICE OF GENERAL SERVICES

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

The following is a decision on an application for duty-free entry of a scientific article, pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

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

Docket No. 72–00072–33–46040. Applicant: New York State Office of General Services, Alfred E. Smith State Office Building, Albany, N.Y. 12225. Article: Electron microscope, Model EM–7. Manufacturer: Associated Electronic Industries, United Kingdom. Intended use of article: The article will be used for a wide range of biological and medical studies; including the examination of living cells, whole and component parts, normal and abnormal; and whole microorganisms including bacteria and viruses.

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

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

Reasons: The foreign article provides a maximum accelerating voltage of 1200 kilovolts. The most closely comparable domestic instrument is the Model EMU–4C manufactured by the Forgflo Corp. (Forgflo). The Model EMU–4C has a specified maximum accelerating voltage of 100 kilovolts.

We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 18, 1972, that the higher accelerating voltage provides proportionately greater penetrating power and, consequently, higher resolution for a specimen of a given thickness. HEW further advises that due to the nature of the material on which research will be conducted with the use of the foreign article, relatively thick specimens must be used in the experiments and, therefore, the higher accelerating voltage of the foreign article is a pertinent characteristic. For these reasons, we find that the Model EMU–4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

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

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

[FR Doc.72–5265 Filed 4–5–72;8:45 am]

## NEW YORK UNIVERSITY MEDICAL CENTER ET AL.

### Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

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

Docket No. 71–00506–33–46040. Applicant: New York University Medical Center, 560 First Avenue, New York, NY 10016. Article: Electron microscope, Model Elmiskop 101. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article will be used for high resolution electron micrography of biologically important macromolecules to measure the size and shape (stained or unstained) by ultrathin support films. DNA studies will be made and the enzymes to be studied will include those involved in fatty acid biosynthesis and in protein biosynthesis such as ribosomal particles. Application received by Commissioner of Customs April 20, 1971. Advice submitted by Department of Health, Education, and Welfare on August 27, 1971.

Docket No. 72–00065–33–46040. Applicant: The University of Iowa, Iowa City, Iowa 52240. Article: Electron microscope, Model Elmiskop 101 and accessories. Manufacturer: Siemens A.G., West Germany. Intended use of article: The article will be used to study biological tissue specimens removed from mammalian reproductive tracts and certain portions of the central nervous system in investigations directed toward a better understanding of the mechanism of action of contraceptive devices and drugs. These investigations are related to a multidisciplinary approach to the problem of interference with implementation of the fertilized ovum, and employment of existing drugs to enhance the effect of current contraceptive measures, as well as possible design of new and different contraceptive drugs. The article will also be used in a lecture and laboratory course covering all aspects of electron microscopy. Application received by Commissioner of Customs July 29, 1971. Advice submitted by Department of Health, Education, and Welfare on February 11, 1972.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: Each foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU–4C electron microscope which is manufactured by the Forgflo Corp. (Forgflo). The Model EMU–4C has a specified resolving capability of five angstroms. (Resolving capability bears an inverse relationship to its numerical rating in angstrom units, i.e., the lower the rating, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. We, therefore, find that the Forgflo Model EMU–4C is not of equivalent scientific value to any of the articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

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

[FR Doc.72–5259 Filed 4–5–72;8:45 am]

## SOUTHWEST MISSOURI STATE COLLEGE

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

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6 (c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

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

Docket No. 71–00078–33–46040. Applicant: Southwest Missouri State College, 901 South National Springfield, MO 65802. Article: Electron microscope, Model HU–11F. Manufacturer: Hitachi Perkin-Elmer, Japan. Intended use of article: The article is intended to be used in various research projects which include:

1. Direct and indirect study of noncrystalline biomolecules;

2. Ultrastructural study of light-induced changes in tomato pitch cells;

3. Significance of the different properties of various plant peroxidases as marker proteins in protein tracer studies;

4. A study on the development or more specified enzyme localizations at the ultrastructural level; and

5. Origin, transport, and deposition of induced peroxidase protein in plant cell walls.

The article will also be used in teaching a course, "Methods in Electron Microscopy" to graduate students.

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

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

Reasons: The foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corp. The Model EMU-4C has a specified resolving capability of 5 angstroms. (The lower the numerical rating in terms of angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 18, 1972 that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

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

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

[FR Doc.72-5266 Filed 4-5-72;8:46 am]

## STATE UNIVERSITY OF NEW YORK AT ALBANY

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

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

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

Docket No. 71-00496-33-46500. Applicant: State University of New York, at Albany, Department of Biological Sciences, Albany, N.Y. 12203. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produckter A.B., Sweden. Intended use of article: The article will be used in a study of the reticulopodia of allogromia and cell movement systems; the ultrastructure of closely identified tips of growing pollen tubes; and the ultrastructure and physiology of the accoustic receptor of the noctuid moth.

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

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

Reasons: Examination of the applicant's thin sections under the electron microscope will provide optimal information when such sections are uniform in thickness and have smoothly cut surfaces. Conditions for obtaining high quality sections depend to a large extent on the properties of the specimen being sectioned (e.g., hardness, consistency, toughness, etc.), the properties of the embedding media and the geometry of the block. In connection with a prior case (Docket No. 69-00665-33-46500) which relates to the duty-free entry of an identical foreign article, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting (among such [other] factors as knife edge condition and angle), is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior case (Docket No. 70-00077-33-46500) relating to the duty-free entry of an identical foreign article, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness etc." requires a maximum range in cutting speed and, further, that "The production of ultrathin serial sections of specimens that have great variation in physical properties is very difficult." The foreign article has a cutting speed range of 0.1 to 20 millimeters/second (mm/sec). The most closely comparable domestic instrument is the Model MT-2B ultramicrotome manufactured by Ivan Sorvall, Inc. (Sorvall). The Sorvall Model MT-2B ultramicrotome has a cutting speed range of 0.09 to 3.2 mm/sec. We are advised by HEW in its memorandum of August 27, 1971 that cutting speeds higher than those available on the MT-2B are pertinent to the purposes for which the article is intended to be used.

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

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

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

[FR Doc.72-5267 Filed 4-5-72;8:46 am]

## STATE UNIVERSITY OF NEW YORK AT BUFFALO ET AL.

### Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles; Correction

In the notice of consolidated decision on applications for Duty-Free Entry of scientific articles appearing at page 6328 in the FEDERAL REGISTER of Tuesday, March 28, 1972, the following docket should be deleted.

Docket No. 71-00067-01-77040. Applicant: University of Wyoming, Department of Chemistry, Box 3838 University Station, Laramie, WY 82070. Article: Mass Spectrometer, Model CH-5. Date of denial without prejudice to resubmission: October 21, 1971.

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

[FR Doc.72-5258 Filed 4-5-72;8:45 am]

## STATE UNIVERSITY OF NEW YORK AT STONY BROOK ET AL.

### Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

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

Docket No. 72-00054-99-46040. Applicant: State University of New York at Stony Brook, Stony Brook, N.Y. 11790. Article: Electron microscope, HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used to instruct students, residents and fellows in the principles of electron microscopy. Application received by Commissioner of Customs July 26, 1971. Advice submitted by Department of Health, Education, and Welfare on February 11, 1972.

Docket No. 72-00060-99-46040. Applicant: Mankato State College, Mankato, Minn. 56001. Article: Electron microscope, HS-8. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used investigating mammalian sperm surfaces and surface reactions using ruthenium red staining techniques, in investigating the effect of various hormones in the fine structure of the caput epidiymus, and in investigating centrifugally prepared cell fractions employed in metabolism studies of selected insecticides. The article will also

be used to train students in the operation and use of the electron microscope as a part of courses of zoology, botany, and microbiology. Application received by Commissioner of Customs. July 29, 1971. Advice submitted by Department of Health, Education, and Welfare on February 11, 1972.

Comments: No comments have been received with respect to any of the foregoing applications.

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

Reasons: Each applicant requires an electron microscope which is suitable for instruction in the basic principles of electron microscopy. Each of the foreign articles to which the foregoing applications relate is a relatively simple, medium resolution electron microscope designed for confident use by beginning students with a minimum of detailed programing. The most closely comparable domestic instrument is the Model EMU–4C electron microscope which is a relatively complex instrument designed primarily for research, which requires a skilled electron microscopist for its operation. We are advised by the Department of Health, Education, and Welfare in its respectively cited memoranda, that the relative simplicity of design and ease of operation of the foreign articles described above are pertinent to the applicants' educational purposes. We, therefore, find that the Forgflo Model EMU–4C electron microscope is not of equivalent scientific value to any of the foreign articles described above for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

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

[FR Doc.72–5260 Filed 4–5–72;8:45 am]

## UNIVERSITY OF CINCINNATI

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

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

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

Docket No. 72–00077–33–43780. Applicant: University of Cincinnati, College of Medicine, Eden and Bethesda Avenues, Cincinnati, Ohio 45219. Article: Laryngo-Synchronstroboscope KS3. Manufacturer: Rolf Timcke, West Germany. Intended use of article: The article will be used to teach medical students, interns, and residents the anatomic and physiologic action of the vocal cords and the voice box.

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

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

Reasons: The foreign article is an integrated system for controlled examination of vocal cord mechanics coupled with microphonic sensing over a broad range of frequency and intensity. In addition the article provides stopped-action type photography or observation synchronized by phase detection of sound waves, in manual or automatic modes. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 18, 1972, that the characteristics described above are pertinent to the purposes for which the foreign article is intended to be used. HEW further advises that it knows of no domestic manufacturer that provides an integrated device having the pertinent specifications of the foreign article.

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

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

[FR Doc.72–5269 Filed 4–5–72;8:46 am]

## UNIVERSITY OF IOWA

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

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

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

Docket No. 72–00057–33–20700. Applicant: University of Iowa, Iowa City, Iowa 52240. Article: Distansense, proximity probe. Manufacturer: Beta Engineering Co., Israel. Intended use of article: The article will be used in research studies of patients with disease of the right hemisphere who show a specific deficit in controlling movements under a condition in which they have to depend on "muscle sense" rather than vision for guidance. This research will be replication and extension of a study of impaired utilization of kinesthetic feedback in the right hemispheric lesion done by an Israeli neurologist.

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

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

Reasons: The foreign article is tailormade to a particular type of research which the applicant is trying to confirm and extend and is essentially the same instrument used by the original investigator. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated February 11, 1972, that the use of an instrument which is, as nearly as possible, the same instrument used initially is pertinent to the applicant's intended purposes. HEW further advises that it knows of no scientifically equivalent domestic instrument for the applicant's intended purposes.

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

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

[FR Doc.72–5270 Filed 4–5–72;8:46 am]

## UNIVERSITY OF WASHINGTON

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

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.).

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

Docket No. 71–00508–33–46040. Applicant: University of Washington, Dental School, Department of Oral Biology, B–122–HSB–RD–50, Seattle, Wash. 98105. Article: Electron microscope, Model EM 801. Manufacturer: Associated Electrical Industries, Ltd., United Kingdom. Intended use of article: The article will be used for the study of the formation of the byssus attachment apparatus in bivalves and the complex interaction of three cell types of the synthesis, secretion and polymerization of extraorganismal collagen. Another

project involves the changes in mammalian exocrine glands resulting from malnutrition and undernutrition.

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

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

Reasons: The foreign article provides a specimen holder capable of taking 2 centimeters of serial sections. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by Forgflo Corp. (Forgflo). We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated August 27, 1971, that the specimen holder capacity of 2 centimeters of serial sections of the article is pertinent to the applicant's research studies. HEW further advises that the EMU-4C does not have an equivalent specimen holder.

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

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

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

[FR Doc.72-5271 Filed 4-5-72;8:46 am]

## YALE UNIVERSITY ET AL.

### Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 F.R. 3892 et seq.). (See especially § 701.11(e).)

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

Docket No. 71-00354-33-46040. Applicant: Yale University, Purchasing Department, 20 Ashmun Street, New Haven, CT 06520. Article: Electron miscroscope, Model HU-11E. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used for research combining cytochemistry and electron microscopy, inquiring into the relationship of biochemical activity to the fine structural elements of cells. Investigations concern the fine structural localization of enzymes, lipoprotein lipase, hormone sensitive lipase, and synthesized gold ligands adenosine monophosphate. Application received by Commissioner of Customs January 18, 1971. Advice submitted by Department of Health, Education, and Welfare on November 19, 1971.

Docket No. 71-00554-33-46040. Applicant: Philadelphia General Hospital, 34th Street and Civic Center Boulevard, Philadelphia, PA 19104. Article: Electron microscope, Model HU-11E. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article will be used to study the biosynthesis and degradation of collagen, the major protein found in tissues such as skin, bone, and small blood vessels. Sections of tissues and cells which are either synthesizing or degrading collagen will be examined by the electron microscope. Also molecules such as emzymes which are involved in either the biosynthesis or degradation of collagen will be examined. Application received by Commissioner of Customs May 18, 1971. Advice submitted by Department of Health, Education, and Welfare on September 23, 1971.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: Each foreign article has a specified resolving capability of 3.5 angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope which is manufactured by the Forgflo Corp. (Forgflo). The Model EMU-4C has a specified resolving capability of 5 angstroms. (Resolving capability bears an inverse relationship to its numerical rating in angstrom units, i.e., the lower the rating, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. We, therefore, find that the Forgflo Model EMU-4C is not of equivalent scientific value to any of the articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

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

[FR Doc.72-5268 Filed 4-5-72;8:46 am]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

[Docket No. FDC-D-453]

## BEECHAM-MASSENGILL PHARMACEUTICALS

### Certain Drug Products Containing Neomycin Sulfate and Polymyxin B Sulfate; Notice of Drugs Deemed Adulterated

An announcement concerning the products, (1) Swinex, (2) Daribiotic Liquid, (3) Daribiotic Boloids, and (4) Daribiotic Soluble Powder marketed by Beecham-Massengill Pharmaceuticals, Division of Beecham Inc. (formerly the S. E. Massingill Co.), Bristol, Tenn. 37620, was published in the FEDERAL REGISTER of August 12, 1970 (35 F.R. 12789, DESI 9928V). The announcement set forth the findings of the Food and Drug Administration following review of reports received from the National Academy of Sciences—National Research Council, Drug Efficacy Study Group.

Said announcement provided the manufacturer and all interested persons a 6-month period in which to submit new animal drug applications. Beecham-Massengill Pharmaceuticals has not submitted new animal drug applications for the above products. However, they advised the Commissioner of Food and Drugs that Daribiotic Soluble Powder has been discontinued.

Based on the foregoing and the information before him, the Commissioner concludes that the above named drugs are adulterated within the meaning of section 501(a)(5) of the Federal Food, Drug, and Cosmetic Act in that they are not the subject of approved new animal drug applications pursuant to section 512 of the act. Therefore, notice is given to Beecham - Massengill Pharmaceuticals, and all interested persons that all stocks of said drugs within the jurisdiction of the act are deemed adulterated within the meaning of the act, and are subject to appropriate regulatory action.

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

Dated: March 30, 1972.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.72-5294 Filed 4-5-72;8:48 am]

# CIVIL AERONAUTICS BOARD

[Docket 24353; Order 72-3-94]

## AMERICAN AIRLINES, INC., ET AL.

### Order of Investigation and Suspension of Fare Increases

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 29th day of March 1972.

By tariff revisions marked to become effective April 1, 1972, American Airlines, Inc. (American)[1] Eastern Air Lines, Inc. (Eastern),[2] and Pan American World Airways, Inc (Pan American)[3] propose to increase their fares between northeastern U.S.-gateway points, on the one hand, and Puerto Rico and the U.S. Virgin Islands, on the other hand, by approximately 9 percent.

Earlier this year the carriers proposed essentially the same increases. By Order 72-1-85 dated January 24, 1972, the Board rejected those filings since in its opinion, the carriers had not adequately demonstrated that the proposed increases were within the stabilization guidelines or otherwise consistent with the purposes of the Economic Stabilization Act of 1970. The Board indicated that any refiling of the fare proposals must be accompanied by data specifically enumerated in that order.

The carriers have accompanied their present filings with additional material which consists primarily of future year forecasts, with and without the proposed fare increases, and certain other data required by the Board's economic regulation 723 necessary for the Board to certify the increases to the Price Commission. All carriers submitted forecasts based upon a 65-percent load factor (66.7-percent load factor in the case of Eastern) in the San Juan market rather than the aggregate 58.2 percent experienced in the year ended September 1971.

American's estimate indicates that with an adjusted load factor of 65 percent, it would earn a 7.8-percent return on investment with the requested fare increase, and a 3.6-percent return without the increase. The estimated return for its Virgin Islands operation would be a negative 9.4 percent even with the proposed increase. American further alleges that its forecast assumes no increase in 1971 unit costs, and that it reflects a downward adjustment of 3 percent in the wages and salaries of ground personnel to reflect increased productivity associated with the use of wide-bodied equipment. Since only known contracted increases are included, the carrier alleges that its forecast is in effect unrealistic, and that cost increases which it will incur in 1972 but were not included would add at least $1 million to forecast expenses.

Eastern estimates that its return on investment for the future year will be 8.07 percent with the proposed increase and a capacity adjustment which would result in a 66.8-percent load factor. Eastern alleges that without a fare increase (but also with a 66.8-percent load factor) its future year return would be 4.98 percent—woefully inadequate to meet future needs.

Pan American indicates that the proposed increases are clearly justified by cost considerations since present revenues are far below actual costs, and that the increases will serve to offset some but not all of its present loss. The fare increase will allegedly not enable Pan American to achieve even a minimum return on investment. Its forecast is alleged to reflect only cost increases actually experienced or known contractual increases, and to include a potential improvement in productivity estimated at 10 percent on all salaries and related payroll expenses, excluding cockpit and cabin crews.

The Commonwealth of Puerto Rico (Commonwealth) and the Government of the U.S. Virgin Island (Virgin Islands) have filed complaints against the proposals requesting their suspension and investigation. The Virgin Islands indicates that it fully agrees with the arguments and economic data advanced by the Commonwealth and requests that it be associated with those comments. Otherwise, its complaint is limited to the allegations that the economy of the Virgin Islands is dependent upon tourism and that the proposed increases would have an adverse impact.

The Commonwealth alleges that, at load factors the carriers agreed are attainable during capacity discussions in February 1972, profits for northeast U.S.-Puerto Rico operations would be more than adequate at current fares. It further contends that the nature of the San Juan market (high density turnaround service) justifies a higher load factor than the 65 percent used by the carriers in their forecasts, and that the Board's 1963 decision in the Puerto Rico Third-Class Fares case (30 CAB 244, 266-67) requires use of a 75-percent load factor for rate-making purposes.

With respect to the individual forecasts, the Commonwealth alleges that Pan American's overall results are so far out of line that it cannot be considered a rate-making carrier in the market, and notes in particular that Pan American's indirect costs are substantially higher than those of either American and Eastern. The Commonwealth alleges that American's forecast revenues are at odds with its earlier submission, and that its passenger service and general and administrative expenses should be adjusted downward to reflect Latin American Division unit costs rather than system unit costs. When these adjustments are made, it is claimed that American's profit would exceed $9 million annually—more than a fair return.

The Commonwealth alleges that Eastern's forecast should be adjusted to reflect a 75-percent load factor, and that if this were done its profit would be $10,255,000, representing a return on investment of 10.8 percent. It further states that there are substantial discrepancies between Eastern's unit costs and the lower unit costs projected by American. Finally, the Commonwealth alleges that the proposed increases are inconsistent with the Price Commission's goal of holding price increases to 2.5 percent per year, and that price increases totaling 27 percent in less than 3 years are clearly inflationary, excessive, and unnecessary.

In answer to the complaints, the three carriers contend that there was no agreement, individually or collectively, during the capacity discussions that an annual load factor of 75 percent is attainable. At one point in the discussions a 66-percent load factor (which approximates the current break-even point) was used as a starting point from which to begin discussion, but they emphasize that in no way did this mean that the carriers arrived at any agreement that 66 percent was reasonably attainable, and certainly not 75 percent. The carriers assert that the 75-percent load factor found reasonable in a 9-year-old case (Puerto Rico Third-Class Fares) has little or no validity today. Eastern notes that forecast break-even load factor is 66.8 percent, while at domestic fare levels it would be 43 percent. It questions the Commonwealth's position which would require the carriers to conduct Puerto Rican operations at an overall fare level, which results in a break-even load factor 55 percent higher than would be experienced at the domestic fare level.

With respect to the individual forecasts, American asserts that it used its experienced passenger mile yield for mainland-Puerto Rico operations, as reflected in reports on file with the Board. With respect to its expense forecast, American asserts that, had it used its Latin American Division unit costs as suggested by the Commonwealth, its forecast costs would be $2.8 million higher than estimated.

Pan American contends that its operating expenses per available ton mile are not out of line with other carriers, and that it has experienced a steady reduction in cost per available ton mile over the last 3 years. It alleges that one of the primary reasons it is not faring as well as other carriers is that its operating revenue per revenue ton mile is far less, on a system basis, than that obtained by such carriers as American, Eastern, TWA, and United; that a large proportion of its services are in very low yield areas; and that it does not have the benefit of an extensive domestic network enjoying much higher-yield levels.

Eastern states that even by the Commonwealth's own calculations it would not achieve its allowable return operating at a 75-percent load factor, a level which it believes is totally unreasonable. It further asserts that the focus of a comparison between it and American should be on the basis of the cost of carrying passengers, and that the relevant units for measurement are therefore available and revenue passenger miles, not ton

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[1] Revisions to American Airlines, Inc., Tariff CAB No. 244.

[2] Revisions to International Air Traffic Tariff CAB No. 326.

[3] Revisions to International Air Traffic Tariff Corp., Agent, Tariffs CAB No. 334 and CAB No. 404.

miles which it claims place inappropriate emphasis on the B–747 belly cargo capacity. When compared on a seat mile basis, Eastern alleges that its costs are quite similar to American's.

With respect to price stabilization criteria, the carriers claim that the proposed increases will increase system revenues by less than 1 percent, that even with a 9-percent increase they will be unable to recover all costs (including the cost of capital) in the forecast year, and that the increase is the minimum required to assure safe and adequate service and attain the profit margin needed to attract capital at reasonable costs.

In our opinion the carriers have demonstrated a need for some revenue increase in their northeast U.S.-Puerto Rico/Virgin Islands services. We have carefully reviewed the carriers' respective forecasts and conclude that those of American and Eastern are substantially reliable from a cost standpoint,[4] and that the fares proposed are cost based. We have also carefully analyzed the contentions of the various parties, as well as the traffic-flow data in the San Juan market available to us. This market is characterized by an extreme directional imbalance in traffic flow as indicated in Appendix C and also by wide seasonal fluctuations. While daytime services in low traffic months appear fairly equally utilized in both directions (albeit at load factors below 50 percent), night services show a disparity of between 10- and 15-percentage points in favor of southbound flights. By way of contrast, during the month of December 1971 southbound services both day and night showed load factors for the three carriers generally ranging between 75 and 85 percent. On the other hand, load factors on return northbound day services were from 20- to 40-percentage points lower, and from 37- to 50-percentage points lower in night services. For these reasons, we believe the average annual load factor of 65 percent (somewhat higher for Eastern) relied upon by the carriers in developing their forecasts is appropriate at this time for rate-making purposes in the San Juan market. On this basis, American and Eastern forecast returns on investment of 6.1 percent and 8.1 percent, respectively, and Pan American would remain in a loss position.

Nevertheless, we are not persuaded that the full 9-percent across-the-board increase requested is warranted pending investigation. It is our belief that the fare structure which has evolved in the Puerto Rican market and its impact upon traffic flows raise a broad question as to the economics of the services now provided which should be fully explored in an evidentiary hearing. While the instant proposal deals only with fares between points in the northeast United States, on the one hand, and Puerto Rico/Virgin Islands, on the other hand, we believe all fares between the U.S. mainland and Puerto Rico and the Virgin Islands warrant investigation since there is clearly an interrelationship between the fares in all markets. Moreover, the question of the proper construction of fares to interior U.S. points has posed problems in recent years.

In the interim, we will permit the carriers to increase, as proposed, both night third-class and night first-class fares in the New York-San Juan market and to increase their various excursion fares in all markets in the amounts proposed. However, in view of the problems with the proposed fare structure, we have decided to suspend the remaining fare increases. In reaching this determination we have also taken into account the rather sudden and strong resurgence in traffic growth which has occurred generally in recent months and which could materially alter the profit picture in this market. Moreover, we are concerned with the fact that the present proposal would compound with the two fare increases permitted in 1969 to total over 27 percent in less than 3 years.

The present night third-class fares in the New York-San Juan market are $57 and $61 for midweek and weekend travel respectively, and yield between 3.5 and 3.8 cents. The carriers propose to increase the midweek night fare by $5 to $62, and the weekend night fare by $6 to $67. By way of comparison application of the domestic coach formula to the New York-San Juan market, assuming night coach fares at 80 percent of day coach, would result in a night coach fare of $83.33.

It is also important to bear in mind that approximately 50 percent of third-class travel is in night service, far more than is the case domestically. This would appear, in our opinion, to raise a very real question whether a fare structure which has resulted in carriage of almost half the traffic on extremely low yield, so-called "off-peak," services is economically sound, particularly since it seems also to have accentuated the directional peaking problem.[5] Today, the spread between night and daytime third-class fares is $14 (midweek) and $15 (weekend) one way. By permitting the carriers to increase the night fares, the spread will be reduced to $9 one-way, which we believe will bring the respective fare levels more in line with the cost and relative value of the services.

The Price Commission has issued regulations governing price increases by regulated enterprises.[6] These regulations require inter alia that the regulatory agency certify certain information to the Commission in connection with the increases the agency approves[7] and also certify that certain criteria established by the Commission are met.[8] The former includes such information as a comparison of the new and former prices, the percentage increase, the amount of increased revenues expected, and the effect on the company's profits. The latter criteria are that the increase is cost-based and does not reflect future inflationary expectations, the increase is the minimum required to assure continued service, and provide earnings needed to attract capital at reasonable cost and maintain credit.

On the basis of the information furnished by the carriers, otherwise available to the Board, and discussed earlier in this order, the Board certifies as follows:

1. The increases permitted to become effective pending investigation amount to approximately 9 percent of present first class and third class night fares in the New York-San Juan market, and various excursion fares in all northeast United States-Puerto Rico/Virgin Islands markets. Examples of the new and prior fares are set forth in Appendix D.[8a]

2. Based on traffic volume estimated for a future year[9] the increased fares are forecast to raise American's revenues by $1.7 million, Eastern's revenues by $1.8 million and Pan American's revenues by $1.5 million or an average of 3.2 percent for American, 2.4 percent for Eastern, and 2.4 percent for Pan American. For the three carriers combined, the estimated increase in revenues approximates 2.7 percent. In relation to system operations, the increases are estimated to amount to less than one quarter of one percent.

3. Without an increase, none of the three carriers would realize a profit margin (net income after interest and taxes as a percent of revenues). With the increase permitted herein, Eastern will realize a profit margin of 1.2 percent, while American and Pan American will still not realize a profit margin.

4. The increased fares permitted herein are forecast to increase return (income before interest expense and after taxes) on investment for northeast U.S.-Puerto Rico/Virgin Islands operations from 1.8 percent without an increase to 3.3 percent, or an increase of 1.5 percentage points for American, and from 5.0 percent without an increase to 6.2 percent, or an increase of 1.2 percentage points for Eastern. Pan American would realize no return before or after the increase permitted. The increase is

[4] Pan American's costs appear to be significantly out of line with American and Eastern, particularly in certain functional expense categories. However, it is to be expected that Pan American's problems are temporary and that on-going programs will restore it to a more favorable earnings position. In these circumstances we need not give much weight to Pan American's relatively unfavorable earnings, but rather will rely primarily on the results of American and Eastern in our evaluation of the proposals before us.

[5] We are similarly concerned with the carriers' current rules which permit departures at night coach fares as late as 7:30 a.m. We are not convinced that departures at this time are consistent with the objectives of night services, as opposed to creating an unnecessary dilution in revenues.

[6] 37 F.R. 652, Jan. 14, 1972; 37 F.R. 5701, Mar. 18, 1972.

[7] Section 300.16(e).

[8] Section 300.16(d).

[8a] Filed as part of the original document.

[9] Calendar year 1972 for American, and the year ended Mar. 31, 1973 for Eastern and Pan American.

expected to effect a change of less than one-tenth of one percent on system return on investment for all three carriers. All forecast data assumes at least a 65 percent load factor in the San Juan market.

5. There is sufficient evidence before us in connection with these increases to enable the Board to conclude that:

a. the increase is cost based and does not reflect inflationary expectations;

b. the increase is the minimum required to assure continued, adequate and safe service, and to provide for necessary expansion to meet future requirements; and

c. the increase is the minimum required to avoid impairment of the carriers' credit in the short term pending full investigation of the Puerto Rico/Virgin Islands fare structure.

In view of the above, and upon consideration of all relevant matters, the Board has determined that passenger fares between the U.S. mainland, on the one hand, and Puerto Rico and the U.S. Virgin Islands, on the other hand, may be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that, except to the extent indicated above, the proposals contained in the instant tariff filings should be suspended pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204, 403, 404, and 1002 thereof,

*It is ordered*, That:

1. An investigation be instituted to determine whether the fares and provisions described in Appendix F [10] and Appendix G [10] hereto, and rules, regulations, or practices affecting such fares and provisions, including subsequent revisions and reissues thereof, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful maximum and/or minimum fares and the lawful provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix F hereto are suspended and their use deferred to and including June 29, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaints in Docket 24175, Docket 24300, and Docket 24301 are hereby dismissed;

4. The investigation ordered herein be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

5. Copies of this order be filed on the aforesaid tariffs and served upon American Airlines, Inc., Caribbean-Atlantic Airlines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., and Pan American World Airways, Inc., the Commonwealth of Puerto Rico, and the Government of the U.S. Virgin Islands, which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[11] [12]

[SEAL] HARRY J. ZINK,
*Secretary.*

[FR Doc.72-5305 Filed 4-5-72;8:49 am]

[10] Filed as part of the original document.

[Docket 21866-9; Order 72-3-113]

## EASTERN AIR LINES, INC.

### Order of Suspension Concerning Revised Application of Night Coach Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of March 1972.

By tariff revisions [1] effective April 2 and 16, 1972, Eastern Air Lines, Inc. (Eastern) proposes to revise the application of deluxe night coach and night coach fares in certain markets by adding the following exceptions to the usual hourly parameters (10 p.m. and 3:59 a.m.) for night coach service.

1. Flights from Atlanta to Houston, Louisville, New York, Orlando, Philadelphia, and Tampa will be scheduled to depart between 10 p.m. and 6:45 a.m.

2. Flights from St. Louis to Atlanta will be scheduled to depart between 9 p.m. and 3:59 a.m.

3. Flights from Baltimore to Miami will be scheduled to depart between 9 p.m. and 3:59 a.m.

4. Flights from New York to Orlando and Tampa will also be scheduled to depart between 4 a.m. and 6:30 a.m.

In addition, Eastern proposes that night coach fares would apply in the Houston-Columbus, Ohio market on flights departing Houston between the hours of 10 p.m. and 6:27 a.m., and departing the intermediate point Atlanta between the hours of 6:28 a.m. and 9:50 a.m., or the intermediate point Charlotte between the hours of 6:28 a.m. and 11:05 a.m.

In support of the proposed 6:45 a.m. exception for selected Atlanta markets, Eastern alleges that it is presently operating at a disadvantage in these markets and contends that the proposed night coach service will equalize its competitive position while at the same time offering the public savings afforded by lower night coach fares. Eastern submitted a comparison of its contemplated early-morning flights in these markets with flights now operated by Delta at night coach fares out of Atlanta, which indicates that its flights are scheduled to depart within 30 minutes before or after Delta's flights.

The carrier contends that the exception relating to St. Louis is necessary to provide through night coach service from St. Louis to the many destinations available via connection at the Atlanta night coach complex, and that the 9 p.m. departure is dictated by the difference in time zones between St. Louis and Atlanta.

In support of the exception relating to the Baltimore-Washington-Miami service, Eastern alleges that in view of the 10 p.m. departure curfew in effect at National Airport, it cannot schedule this flight at a later hour. Accordingly, Eastern is requesting an exception for Baltimore so that the entire flight can be designated as night coach service.

Lastly, Eastern alleges that it proposes to provide a 6:30 a.m. departure in the New York-Orlando/Tampa market on an experimental basis to determine the generative effect of scheduling a low-fare flight at this early hour of the morning. The carrier states that the earliest flights in the market currently depart at 7:45 a.m.; and that since the New York-Orlando/Tampa market is primarily a vacation market the 6:30 a.m. departure is certainly off-peak. It is contended that by establishing a flight at this hour a family making a one- or two-day excursion will have a maximum amount of time at their final destination, and that a price incentive is necessary to induce people to travel at this early hour.

Delta Air Lines, Inc. (Delta) has filed a complaint [2] requesting that the proposal be suspended and investigated, the essential thrust of which is that the exceptions violate the Board's off-peak coach policy, that they might spread in domino fashion to other markets, and that the exceptions would seriously disrupt the existing fare structure. Delta alleges that the Board's present night coach policy provides that night coach fares shall apply to flights originating between the hours of 10 p.m. and 3:59 a.m., or to later departures on continuing segments of flights that originate within these time parameters; that Delta's exceptions which Eastern cites in support of its proposal are departures on continuing segments of flights that originated at points other than Atlanta between the 10 p.m.–3:59 a.m. period, and thereby are in full accord with the Board's present policy; and that Eastern's proposed exceptions would apply to originating flights and are thus not consistent with the present night coach parameters.

Delta alleges that it has carefully nurtured and developed night coach traffic over the years at considerable expense, and has spent a great deal of time solving various scheduling problems in an attempt to comply with the Board's policy that the hour of origination governs the designation of a flight as night coach. The complainant contends that, on the other hand, Eastern now intends to "siphon-off" this traffic without bothering with schedule complexities, by

[11] Appendices A, B, C, and E, filed as part of the original document.

[12] Partial dissenting opinion of Member, Minetti, filed as part of the original document.

[1] Revisions to Airline Tariff Publishers, Inc., Agent C.A.B. No. 136.

[2] Northeast Airlines, Inc. (Northeast) has filed an answer supporting Delta's complaint.

proposing to tailor the Board's policy to fit its flight origination times.

In answer to the complaint, Eastern alleges with respect to the Atlanta proposal that Delta is incorrect in its claim that, since Delta's night coach flights comply with Board policy, Eastern is not at a competitive disadvantage by being required to charge a fare 20 percent higher for flights departing at approximately the same time in the same markets. Eastern also contends that a flight designation should not be of any decisional significance in evaluating Eastern's proposal—the fact that Delta gives the same flight number to a 3 a.m. departure at New Orleans and a 6:21 a.m. departure at Atlanta does not distinguish Eastern's originating departure at the same time from Atlanta in any meaningful way.

Eastern states that Delta itself feels that passenger originations at the hours Eastern has proposed at Atlanta are off-peak, or it would have converted the flights to normal day fares when they passed through Atlanta. Eastern also contends that Delta's attempt to raise the spectre of a wholesale alteration in off-peak fare service if Eastern is allowed to meet Delta's fares is erroneous, and that it was Delta, not Eastern, which introduced these fares at these times in these Atlanta markets.

With respect to the New York-Orlando/Tampa market, Eastern alleges that the proposed 6:30 a.m. departure is off-peak, and that scheduling an early morning departure from New York allows Eastern to increase its equipment utilization and position an aircraft at Orlando for a prime time northbound departure without the need for ferrying. Eastern alleges that its proposed Baltimore exception would serve as precedent only for the proposition that a carrier may operate a flight from Friendship or Dulles through National at off-peak fares if the departure from National is within the normal off-peak departure hours.

Upon consideration of the tariff proposals, the complaint, the answers thereto, and other relevant matters, the Board finds that the proposals to provide night coach services in the New York-Orlando/Tampa markets as late as 6:30 a.m., in the Houston-Columbus market as late as 6:27 a.m., and the Baltimore-Miami market as early as 9 p.m. may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be suspended. The Board finds that on the basis of the facts and information before us, the complaint does not set forth sufficient facts to warrant suspension of the 6:45 a.m. exception proposed in selected Atlanta markets, and the 9 p.m. exception in the St. Louis-Atlanta market, and the request therefore will be denied. The proposals are already under investigation in the Domestic Passenger-Fare Investigation, Docket 21866-9.[3]

We recognize that the proposed 6:45 a.m. exception applicable to selected Atlanta markets is a departure from the Board's present night coach policy which is under investigation in the ongoing investigation in Docket 21866-9. Nevertheless, in the circumstances which result from use of Atlanta as a hub for connecting night coach service, we do not believe Eastern should be required to charge higher fares than Delta on flights with approximately the same departure times and itineraries, merely because its early morning departures originate in Atlanta. It is the departure time which is of interest to the passenger boarding at Atlanta, not the technicality of where the flight originates. The proposed 9 p.m. exception for St. Louis departures is for the purpose of making connections with flights out of Atlanta after midnight, and the Board has previously permitted similar exceptions for this purpose. Moreover, we note that TWA, the only carrier providing competitive through service between St. Louis and Atlanta, did not file a complaint against Eastern's proposal.

Turning to the 6:30 a.m. departure in the New York-Orlando/Tampa markets, Eastern's justification appears to be couched essentially in terms of its desire to generate family travel rather than achieving the customary objectives stemming from provision of night coach service. The carrier has not supplied the type of supporting information which should properly accompany a promotional fare proposal, particularly since a plethora of promotional fares are already available in these markets. For these reasons, and since we believe that this proposed exception has the potential for spreading to other markets, we conclude that it should not be permitted without investigation.[4]

We will suspend the proposed 9 p.m. night coach departure at Baltimore, since, as worded, this provision would permit a much broader departure from the night coach policy than Eastern has justified or allegedly desires at this time. The exception is apparently intended to enable a flight to depart the origin point Baltimore early enough to depart the intermediate point Washington prior to the 10 p.m. curfew at the latter airport. However, the exception as proposed would permit any flight departing Baltimore at 9 p.m. (including nonstops) to be designated as night coach, and Eastern has in no way attempted to demonstrate that such departures would be off-peak.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

*It is ordered,* That:

1. Pending hearing and decision by the Board, "Exception 7" and "Exception 8" to the Application of Fare Class FN and Fare Class YN appearing on 23d revised page 305 and the addition of Houston and the provisions in connection therewith in Table 1 on 23d revised page 306 of Airline Tariff Publishers, Inc., Agent CAB No. 136 are suspended and their use deferred to and including June 30, 1972, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

2. Except to the extent granted herein, the complaint in Docket 24309 is hereby dismissed; and

3. Copies of this order be filed with the aforesaid tariffs and be served upon Delta Air Lines, Inc., Eastern Air Lines, Inc., and Northeast Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
*Secretary.*

[FR Doc.72-5306 Filed 4-5-72;8:49 am]

[3] Our action herein is without prejudice to our final decision in Docket 21866-9.

[4] We are also suspending the proposed Houston exception (providing for 6:27 a.m. departures) since there appears in fact, to be no competitive necessity involved. Eastern has indicated that it will withdraw the proposal on this basis.

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[Docket 23486; Order 72-3-112]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order To Show Cause and Order Approving Agreement Relating to Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of March 1972.

There has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958, as amended, and Part 261 of the Board's Economic Regulations, an agreement among various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA) adopted at meetings recently held in Miami and Geneva, and assigned the above designated CAB agreement number. The agreement relates to IATA Resolution 045 governing passenger charters for various areas.[1] The resolutions are proposed for effectiveness April 1, 1972.[2] The effect of the resolutions would be to revalidate the IATA Charter Resolution for most areas of the world through March 31, 1973, with minor amendments.

The amendments proposed would alter the provision concerning the maximum size of membership of a chartering group by raising it from 20,000 members to 50,000 members except with respect to charters originating in Scandinavia, which would remain at 20,000 members.

For the reasons hereinafter set forth, the Board has decided to approve the above resolutions through June 30, 1972,

[1] R-147 is IATA Standard Revalidation Resolution 002, and so our action herein is only insofar as it concerns IATA Resolution 045.

[2] R-35 was to have been effective Feb. 1, 1972.

subject to conditions similar to those applied when the IATA Charter Resolution was last revalidated (Order 71-2-5, adopted February 1, 1971),[3] and to afford interested parties an opportunity to show cause by May 1, 1972, why the agreements embodying the IATA Charter Resolution should not be disapproved after June 30, 1972 insofar as they apply to air transportation to or from the United States.[4]

The Board is mindful of the incompatibility of the new and evolving charter concepts and the essentially unchanging character of the IATA Charter Resolution with its many charter limiting provisions. This incompatibility raises a basic question as to whether the present charter agreement, or in fact any charter agreement between IATA members, continues to serve a useful regulatory purpose. It is on this question that we especially seek the comments of interested parties.

The Board has not been satisfied with the disparity between its charter rules and the charter rules agreed to by the members of IATA. The IATA agreement is in some respects more restrictive than the Board's rules, and in other respects more liberal. To the extent the IATA Resolution is more restrictive than the Board's rules, it prevents the public from taking advantage of charter services to the same extent as the Board has found to be required in the public interest, and limits the IATA carriers in their competition for the mass air transportation market. To the extent the IATA carriers have agreed to rules that are more liberal than the Board's rules, the Board has historically conditioned its approval of the Resolution to preclude such operations in air transportation. Since the Board extended its charter rules to cover both on-route and off-route charter operations by both U.S. and foreign scheduled carriers, there may be no valid basis for having two sets of differing charter regulations, one by the U.S. Government and one by certain air carriers. We note that certain IATA carriers appear to be so disenchanted with their Charter Resolution as to set up subsidiary companies to engage in charter operations, thus, in effect, circumventing the requirements of 045.

For the foregoing reasons, the Board tentatively finds that the IATA Charter Resolution is adverse to the public interest. However, the Board recognizes that the resolution has been in effect, and has been approved by the Board, for many years, and that it would be appropriate to afford interested parties an opportunity to show cause why we should not make our tentative finding final. In order that interested parties may have sufficient time to prepare their comments, and the Board may have time to consider the comments, we will approve the subject resolutions through June 30, 1972. The Board therefore finds that these resolutions, as conditioned, will not be adverse to the public interest or in violation of the Act, and should be approved through June 30, 1972.

*Accordingly, it is ordered:*

1. That resolutions R-35, R-69, R-147 (insofar as it relates to Resolution 045), R-199, R-259, and R-298, all filed as part of Agreement CAB 22663, be and they hereby are approved, subject to the conditions stated in the Appendix hereto,[5] and provided that the Board's approval shall be limited to the period ending June 30, 1972, insofar as such resolutions relate to air transportation, as defined in the Act.

2. That interested parties are hereby directed to show cause why the IATA Charter Resolution (045) should not be disapproved to the extent that the resolution relates to air transportation, as defined in the Act, after June 30, 1972;

3. That such comments shall be filed in this docket on or before May 1, 1972;[6] and

4. That this order shall be served on all holders of foreign air carrier permits or certificates of public convenience and necessity, and upon the Departments of Justice, State, and Transportation.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] HARRY J. ZINK,
*Secretary.*

[FR Doc.72-5307 Filed 4-5-72;8:49 am]

[Docket 23486; Order 72-3-107]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Regarding Agreements on Fare Matters

Issued under delegated authority March 30, 1972.

By Order 72-3-35, dated March 13, 1972, action was deferred, with a view toward eventual approval, on certain resolutions incorporated in an agreement adopted by Joint Conferences 1-2 and 1-2-3 of the International Air Transport Association (IATA). The subject resolutions, which are a part of those adopted at January 1972 meetings in Geneva for application on Mid-Atlantic routes, involve administrative, technical, and procedural matters and do not affect basic fare levels.

In deferring action on the subject resolutions, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period, and the tentative conclusions in Order 72-3-35 will herein be made final.

*Accordingly, it is ordered,* That the subject portions of Agreement CAB 22663 be and hereby are approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
*Secretary.*

[FR Doc.72-5308 Filed 4-5-72;8:49 am]

[Docket 23486; Order 72-3-108]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Regarding Agreements on Fare Matters

Issued under delegated authority March 30, 1972.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Joint Conference 1-2 of the International Air Transport Association (IATA). The agreement, which has been assigned the above-designated CAB agreement number, was adopted by mail vote.

The agreement relates to the sale in foreign currencies of winter group inclusive tour (GIT) fares[1] during the month of April.[2] It provides that the carrier exchange rates to be used in converting from basic fare levels, which are specified in U.S. dollars, shall be those which prevailed on December 20, 1971, rather than those slated to become effective on April 1, 1972, with respect to most worldwide fares. The latter reflect general currency adjustments necessitated by the devaluation of the U.S. dollar and the resulting revaluation of foreign currencies. Inasmuch as the basic dollar fare levels for winter GIT travel during the 1-month extended period of validity are not slated to be adjusted upward on April 1 as in the case of other transatlantic fares, the application of new currency conversion rates in the absence of the instant agreement would result in lower fare levels in foreign currencies relative to those in U.S. dollars.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found, on a tentative basis, that Resolutions JT12 (Mail 790) 084 p. and JT12 (Mail 790) 084 pp., which are incorporated in Agreement CAB 22990, are adverse to the public interest or in violation of the Act.

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[3] The language of the conditions has been changed somewhat to eliminate redundancy. Also, the condition on one-way passengers and intermingling has been revised to conform to changes in the Board's charter rules effected since the IATA Charter Resolution was last approved.

[4] The resolutions presently before us cover all areas except TC2 (Europe) and JT123 (North Atlantic). Agreement has not been reached in TC2 (Europe). Since the IATA Charter Resolution as it applies to JT123 (North Atlantic) has been approved until Mar. 31, 1973, we would propose to withdraw that approval effective July 1, 1972.

[5] Filed as a part of the original document.

[6] Twelve (12) copies of such comments shall be filed.

[1] As approved by the Board in Order 72-1-17 (dated Jan. 7, 1972) for 7/8-day travel to/from Europe and 9/16-day travel to/from Africa by 10 or more passengers.

[2] By Order 72-3-58 of Mar. 17, 1972, the Board approved carrier provisions to extend, through Apr. 30, 1972, the availability of current winter GIT fare levels to passengers. These were initially scheduled to expire on Mar. 31, 1972.

*Accordingly, it is ordered,* That action on Agreement CAB 22990 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may, within 10 days from the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
*Secretary.*

[FR Doc.72-5309 Filed 4-5-72;8:49 am]

[Docket No. 24024]

## PIAIR LTD.

### Notice of Postponement of Hearing Regarding Foreign Air Carrier Permit

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that hearing in this proceeding, set for April 10, 1972 (37 F.R. 4928, March 7, 1972), is indefinitely postponed.

Dated at Washington, D.C., March 31, 1972.

[SEAL] HENRY WHITEHOUSE,
*Hearing Examiner.*

[FR Doc.72-5310 Filed 4-5-72;8:49 am]

# CIVIL SERVICE COMMISSION

## U.S. ARMS CONTROL AND DISARMAMENT AGENCY

### Notice of Revocation of Authority To Make Noncareer Executive Assignment

*Correction*

In F.R. Doc. 72-4285 appearing on page 5766 in the issue of Tuesday, March 21, 1972, the word "Army" in the fourth line should read "Arms".

# FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 16495]

## DOMESTIC COMMUNICATIONS SATELLITE SERVICE [1]

### Applications Accepted for Filing

MARCH 28, 1972.

The following amendments to pending applications for domestic satellite facilities are accepted for filing for consideration in Docket No. 16495 in accordance with the procedures specified in previous public notices (FCC 70-953; FCC 71-174; FCC Public Notice 65963, issued on April 13, 1971; and FCC Public Notice 69147, issued on June 15, 1971):

[1] The amendments submitted by each applicant are grouped together rather than listed separtaely under "Space Stations" and "Earth Stations."

The following amendments to the applications listed below are hereby accepted for filing:

| File No. | Applicant | Amendments |
|---|---|---|
| 11-DSE(R)-P-71 through 15-DSE (R)-P-71. | Teleprompter Corp. et al. | This amendment reflects changes in the Board of Directors of Teleprompter Corp. (Details are contained in amendments, January 19, 1972, to applications of Teleprompter Transmission of Kansas, Inc., for renewal of license of Stations KTQ 55 et al. |
| 19-DSS-P-71. | Fairchild Industries. | This amendment revises the frequency and polarization plan; decreases the sensitivity of the satellite receivers; increases power from the earth stations (from 73 dBW per 34 MHz channel to 85 dBW, resulting from an increase in power output from 12 W nominal to 190 W.); and a change in orbit location of one space station from 115° to 100° and of the reserved orbit location from 124° to 96° W. longitude. |

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

[FR Doc.72-5313 Filed 4-5-72;8:50 am]

[Docket Nos. 15461, etc.; FCC 72R-83]

## CHAPMAN RADIO AND TELEVISION CO. ET AL.

### Memorandum Opinion and Order Enlarging Issues

In regard applications of William A. Chapman and, George K. Chapman, d/b/a, Chapman Radio and Television Company, Homewood, Ala., Docket No. 15461, File No. BPCT-3282; Alabama Television, Inc., Birmingham, Ala., Docket No. 16760, File No. BPCT-3706; Birmingham Broadcasting Company, Birmingham, Ala., for construction permit for new television broadcast station, Docket No. 16761, File No. BPCT-3707; Birmingham Television Corporation (WBMG), Birmingham, Ala., for modification of construction permit, Docket No. 16758, File No. BPCT-3663.

1. This proceeding involves the applications of Chapman Radio and Television Company (Chapman), Alabama Television, Inc. (Alabama Television), (BBC), and Birmingham Television Corporation (WBMG), for authorization to construct a new UHF television broadcast station.[1] Hearing Examiner David I. Kraushaar released a Supplemental Initial Decision,[2] FCC 71D-20, on April 27, 1971, in which he concluded that grant of Alabama Television's application was warranted since it had demonstrated its superior comparative qualifications in the initial hearing in this proceeding and that nothing adduced during the remand hearing affected this original determination.[3] Exceptions and briefs in support thereof were filed by the parties.[4 5] Subsequently, on May 21, 1971, BBC and WBMG filed a joint petition to enlarge issues and reopen the record and for prompt action on this joint petition.[6 7] Petitioners seek the addition of the following issues against Alabama Television:

[1] Chapman, Alabama Television and BBC are mutually exclusive applicants seeking authorization to construct a new UHF television broadcast station; WBMG, the fourth applicant and permittee of Station WBMG (TV), Channel 42, in Birmingham, seeks modification of its construction permit to specify operation on the same channel. With the exception of Chapman which proposes to operate its facility in Homewood, Ala., each of the applicants has specified Birmingham, Ala., as its station location.

[2] The following is a brief recitation of the history of this proceeding. The proceeding was designated for hearing by Order, FCC 66-636, released July 20, 1966. On Aug. 30, 1968, Hearing Examiner David I. Kraushaar released an Initial Decision (19 FCC 2d 185, 14 RR 2d 6), recommending a grant of the application of Alabama Television under the comparative issue. The Review Board, after oral argument on exceptions, affirmed the Examiner's ultimate resolution of the proceeding (19 FCC 2d 157, 17 RR 2d 60, reconsideration denied 20 FCC 2d 556, 17 RR 2d 1028). By Order, FCC 70-744, 24 FCC 2d 282, released July 13, 1970, the Commission, inter alia, granted a petition for enlargement of issues filed by BBC and dismissed petitions for review pending before it as moot. The proceeding was thus remanded to the Hearing Examiner for the preparation of a Supplemental Initial Decision under misrepresentation and equal opportunity employment requirement issues with respect to Alabama Television, and a comparative efforts issue; subsequently, a § 1.65 issue was specified against BBC.

[3] The Hearing Examiner favorably resolved the outstanding issues concerning lack of candor and equal opportunity employment requirements specified against Alabama Television.

[4] The following pleadings were filed: (1) Exceptions, filed June 24, 1971, by Chapman; (2) exceptions, brief in support thereof and request for oral argument, filed June 24, 1971, by BBC; (3) exceptions, brief in support thereof and request for oral argument, filed June 29, 1971, by WBMG; (4) brief in reply to exceptions of (a) WBMG, filed July 19, 1971, (b) Chapman, filed July 6, 1971, and (c) BBC, filed July 6, 1971, by Alabama Television; and (5) Broadcast Bureau's reply to exceptions, filed July 8, 1971.

[5] Oral argument was held before a panel of the Review Board on Jan. 25, 1972.

[6] BBC and WBMG also filed a joint petition for institution of inquiry pursuant to section 403 of the Communications Act of 1934, as amended, and for other relief with the Commission. The Commission, by Order, FCC 72-34, released Jan. 14, 1972, dismissed the request for institution of a section 403 inquiry and denied alternate relief, which would have directed the Review Board to reopen the record and enlarge the issues in the proceeding, stating: "* * * the full sweep of this adjudicatory proceeding now awaits action by the Review Board, and it, therefore, is in a better position at this juncture to assess the contentions advanced before it in support of the petition to enlarge issues and reopen the record * * *."

[7] Other related pleadings before the Board for consideration are: (a) Opposition, filed June 3, 1971, by Alabama Television; (b) Broadcast Bureau's opposition, filed June 3, 1971; (c) supplement to petition, filed Feb. 10, 1972, by BBC and WBMG; (d) supplemental opposition, filed Feb. 23, 1972, by Alabama Television; and (e) joint reply to supplemental opposition, filed Mar. 10, 1972, by BBC and WBMG.

1. To determine, in light of all the facts and circumstances surrounding the Complaint of the U.S. Attorney General, whether George J. Mitnick and Joseph Engel and consequently Alabama Television, Inc., are qualified to own and operate a television broadcasting station in Birmingham, Ala.

2. To determine, in light of the actions in Federal Courts charging Civil Rights violations against 3 of Alabama Television, Inc.'s principals, the history of civil rights compliance of all companies of Alabama's Directors in their own businesses, and whether the facts there deduced impeach the Equal Employment Program, only recently adopted, which is the subject of Issue 3 added by the Commission.

The Review Board will reopen the record and enlarge the issues in order to determine the significance of the civil judgment which has been entered against two of Alabama Television's principals.[8] In addition to the adduction of evidence under the newly-framed issue, the Board is of the view that remand is compelled in order to insure a full and true disclosure of the facts with respect to the equal opportunity employment issue. In this connection, the Board will also consider those exceptions of BBC and WBMG which directly relate to the disposition of that issue.

2. BBC and WBMG allege that, as of the time the joint petition was filed, three of Alabama Television's principals, representing more than one-third ownership in the applicant, have been charged with violating the civil rights of persons of the Negro race.[9] The joint petitioners note that the most recent incident, involving two additional Alabama Television principals and directors, is a complaint instituted by the U.S. Justice Department, which alleges that Mitnick and Engel, among others, violated Title VIII of the Civil Rights Act of 1968.[10] The existence of this complaint and the subsequent judgment warrant the addition of an issue inquiring into the character qualifications of Alabama Television, BBC and WBMG assert. Further, in light of this additional incident, petitioners contend, it is important to allay any doubts as to the sincerity or willingness of Alabama Television's principals to practice nondiscrimination in accordance with the Commission's equal employment opportunity requirements. As a means to this end, BBC and WBMG request a specific issue inquiring into the past business practices of the applicants' principals.

3. A specific issue is required, petitioners suggest, since their efforts to elicit this information under the equal employment opportunities issue have been frustrated by the Hearing Examiner's evidentiary rulings. Initially, BBC and WBMG relate, the Examiner ruled (in response to their request that he permit examination of the hiring policies of all companies owned by Alabama Television principals) that only the employment practices of companies of principals who will be integrated into the day-to-day operations of the station are relevant for purposes of discovery.[11] Thereafter, petitioners point out, in response to two further pretrial requests for information from Alabama Television by BBC,[12] the Examiner reaffirmed this position and ruled that the applicant had adequately responded in an opposition pleading and in its objections and conditional answers to the request for admission of facts (FCC 70M–1499, released November 3, 1971); thus, petitioners complain, with the exception of information relating to the hiring policies of the Birmingham Trust National Bank, they received only partial information with respect to two Alabama Television principals. Subsequently, BBC and WBMG continue, they made an informal request to Alabama Television to make its Board of Directors available for cross-examination; but only two directors, John S. Jemison and Paul Aiken, were produced. Even in this regard, however, examination was unduly restricted, petitioners contend, since objections to the line of questioning with respect to these directors were repeatedly sustained during the hearing (citing Tr. 5588–92).

4. In their exceptions, BBC and WBMG argue that the Hearing Examiner foreclosed the adduction of relevant and material evidence under the equal opportunity employment issue. They assert that the Examiner not only unduly limited the scope of information deemed relevant for purposes of discovery, but that he adhered to the same constrictive standard with respect to the scope of cross-examination he would permit during the hearing.

5. In opposition, Alabama Television argues that an independent Commission inquiry into the facts and circumstances surrounding the complaint would be inappropriate until the case is fully and finally decided by the Federal courts.[13] In any event, the applicant contends, an adverse determination in that case would have no bearing upon the qualifications of Alabama Television, because Mitnick and Engel play only a passive role in the apartment operation and, similarly, neither director will be integrated into the day-to-day operation of the proposed station. In a supplementary pleading, Alabama Television notes that although the district court found the defendants guilty of civil rights violations, it specifically found that Engel and Mitnick were "in the nature of silent partners" in the apartment operation and further that "defendants Engel and Mitnick did not participate in business decisions in the operation of the apartment." Thus, Alabama Television argues, its character qualifications should not be drawn into question because of an innocent violation of civil rights legislation. With respect to the second requested issue, Alabama Television contends that there is nothing in the record which would indicate any insincerity or unwillingness to comply with the equal employment requirements on the part of Engel and Mitnick in light of the affidavits in which both principals affirm their personal support for the principle of equal employment and their unqualified endorsement of the applicants' affirmative action employment program.

6. Noting that the joint petition may suffer from some technical deficiencies,[14] the Broadcast Bureau nevertheless expresses the view that the allegations contained in the civil complaint are of a very serious nature and, accordingly, raise questions which could affect the qualifications of Alabama Television to be a Commission licensee. Therefore, the Bureau concludes that it would not be in the public interest to grant the application of Alabama Television until after the outcome of the court proceeding. Accordingly, the Bureau recommends that the Review Board withhold its decision until the civil action is resolved (citing "Grayson Television Company, Inc.," FCC 67–1094, released October 4, 1967). Similarly, the Bureau argues that since the second requested issue is also based in part on the existence of the

[8] The predicate for the joint petition was the filing of a civil complaint against two of Alabama Television's principals (J. George Mitnick and Joseph Engel) and others for alleged violations of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. section 3610 et seq. An adverse judgment was entered in that proceeding on Jan. 27, 1972, by the U.S. Court for the Southern District of Alabama, Southern Division. Subsequently, a notice of appeal was filed with the U.S. Court of Appeals for the Fifth Circuit on behalf of the defendants.

[9] The first instance of this nature was discussed in a memorandum opinion and order, FCC 70–744, 24 FCC 2d 282, released July 13, 1970, in which the Commission refused to add a character qualifications issue against Alabama Television because of the conduct of its president, 16.2 percent stockholder and director, John S. Jemison. Mr. Jemison is the controlling stockholder and owner of Elmwood Cemetery which refused, on racial grounds, to inter a young Negro soldier who had died in Vietnam. A lawsuit was instituted by the soldier's family. Thereupon judgment was entered for the plaintiffs (Terry v. Elmwood, No. 69–490, U.S. District Court for the Northern District of Alabama, Southern Division). The Commission noted that Mr. Jemison had taken affirmative action to expedite resolution of the controversy and that the restrictive covenants constituted extenuating circumstances for the conduct charged. Moreover, the Commission found that Mr. Jemison would not be involved in the day-to-day operation of the station, and that no question had been raised as to the qualifications of the principals of Alabama Television who will be responsible for its management and the making of policy decision.

[10] Specifically, the complaint alleges that Mitnick and Engel, among others, because of racial considerations discriminated against persons in the rental of apartments in an apartment building owned by them.

[11] Citing Tr. 5124–5125; 5129–5130.

[12] BBC filed a petition for production of information and documents and a request for admission of facts.

[13] Citing Report on Uniform Policy as to Violation by Applicants of Laws of the United States, 1 RR Part 3, 91:495 (1951).

[14] Specifically, the Bureau points out that the petitioners waited at least 42 days after learning of the existence of the complaint before filing the joint petition; additionally, the Bureau questions whether or not the allegations contained in the complaint are sufficiently particular to satisfy Commission requirements.

civil rights complaint, Review Board action should be withheld until the resolution of the court action.

7. The Commission can grant an application for a broadcast authorization only upon finding that the "public interest, convenience, and necessity" would be served by a grant. In making this determination, the Commission has long held that certain violations of law are appropriate considerations in determining whether an applicant possesses the requisite qualifications to be a licensee. See "Uniform Policy," supra. Although the question of whether the violation is of sufficient importance to reflect on an applicant's qualifications depends upon various circumstances, violations of certain laws, such as antitrust violations, have been singled out as being so directly related to an applicant's fitness that such violations ordinarily must be considered. The Board is of the view that violations of civil rights legislation demand similar scrutiny.[15] As stated in "notice of proposed rule making to require broadcast licensees to show nondiscrimination in their employment practices," supra, "it follows that the Commission should take into account allegations raising substantial questions whether an applicant has violated, or is in violation of, the Civil Rights Act or a pertinent State law in this field." Accordingly, if a violation has been established, as it has in this case on the Federal district court level, this clearly raises a question as to the applicant's qualifications to be a broadcast licensee. The Review Board will therefore add an issue inquiring into the significance of the civil judgment in the evaluation of the qualifications of Alabama Television. However, since the judgment is pending on appeal, the Board is of the view that the inquiry under this issue should be withheld pending a full and final determination by the Federal courts.

8. In addition to the foregoing, further hearing is required under the existing equal opportunity employment issue. In the Board's view, an inquiry into the civil rights compliance of the companies owned by Alabama Television's directors[16] is encompassed within the issue. Thus, while we are not convinced that alleged past discriminatory conduct is dispositive of the question of an applicant's "willingness"[17] to pursue a nondiscriminatory hiring policy or to operate in the public interest, we believe that such conduct constitutes clear cause for exploration by the Commission in the form of a more searching scrutiny of the applicant in this important respect.[18] In this connection, the Board is of the opinion that the Eaxminer's restriction of the scope of evidence deprived the other applicants of their right to a full and true disclosure of the facts under the equal opportunity employment issue. As correctly noted by the joint petitioners, the Examiner not only unduly limited the scope of information deemed relevant for purposes of discovery, but he also adhered to that same constrictive standard with respect to the scope of cross-examination he would permit during the hearing.[19] Thus, further hearing is also required under this issue in order to remedy a deficient record.

9. In view of the foregoing, the Review Board will reopen the record and remand the proceeding to the Hearing Examiner for further hearing.[20] The Examiner is instructed to conduct further hearing under the equal opportunity employment issue and the issues added herein,[21] and prepare a further Supplemental Initial Decision re-evaluating his findings and conclusions under the equal opportunity employment issue, the additional issues, and to the extent necessary, the standard comparative issue.

10. *Accordingly, it is ordered,* That the joint petition to enlarge issues and reopen the record and prayer for prompt action on this joint petition, filed May 21, 1971, by Birmingham Broadcasting Company and Birmingham Television Corporation (WBMG), is granted to the extent indicated herein, and is denied in all other respects; and

11. *It is further ordered,* That the issues in this proceeding are enlarged to include the following:

1. To determine the facts and circumstances surrounding the civil suit filed by the United States Attorney General against Joseph Engel, George J. Mitnick, and three other named defendants, under Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601, et seq.,

2. To determine the effect, if any, of the evidence adduced pursuant to the foregoing issue on the basic or comparative qualifications of Alabama Television, Inc.

and

12. *It is further ordered,* That the burden of proceeding with the introduction of evidence under the issues added herein shall be on Birmingham Broadcasting Company and Birmingham Television Corporation (WBMG), and the burden of proof under these issues shall be on Alabama Television, Inc.

13. *It is further ordered,* That the record in this proceeding is reopened and that this proceeding is remanded to the Examiner for further hearing on the equal opportunity employment issue in addition to the above-specified issues.

Adopted: March 28, 1972.

Released: March 31, 1972.

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

[FR Doc.72-5311 Filed 4-5-72;8:49 am]

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[15] In this connection, the Commission stated in Notice of Proposed Rule Making to Require Broadcast Licensees to Show Nondiscrimination in Their Employment Practices, FCC 68-702, 13 FCC 2d 766, that its concern with such violations is twofold. One aspect is its concern with the National policy against discrimination in hiring. The other consideration is that since broadcasting is an important mass media form which makes use of the airwaves belonging to the public, an applicant must obtain a Federal license under a public interest standard and must operate in the public interest.

[16] We disagree with the Hearing Examiner's ruling that past business practices of principals are relevant only if such principals are integrated into the day-to-day operation of the station. The business practices of directors who control the applicant and who will be responsible for making policy decisions are also relevant to the issue. Accordingly, aside from its independent significance, the civil proceeding instituted against, inter alia, Mitnick and Engel is relevant to the resolution of the equal opportunity employment issue.

[17] When adding this issue, the Commission indicated that its concern was broader in scope and significance than mere assurances on the part of Alabama Television that it would comply with the Commission's requirements. The Commission stated:

Finally, we deem it appropriate to delve into the matter of Alabama Television's employment policies. In light of the cemetery incident (and particularly Alabama Television's possible misrepresentations concerning the incident) and Alabama Television's apparent failure to contact members of minority groups with regard to community needs, we are concerned about Alabama Television's willingness to practice equal-opportunity employment.

[18] It should be noted in this regard that even where no violation of a specific statute is established or alleged, specific allegations may raise serious public interest issues warranting a full hearing. (See Uniform Policy, par. 15 at 91:499; National Broadcasting Co. v. United States, 319 U.S. 190; Mansfield Journal Co. v. F.C.C., 180 F2d. 28 (CADC)); and Notice of Proposed Rule making, supra.

[19] Recognizing that the right of cross-examination is not unlimited and that the presiding officer, of necessity, must make an initial determination as to whether or not cross-examination is being pressed to unreasonable lengths, the Board is of the opinion that the Examiner was not warranted in foreclosing cross-examination necessary to the development of a full and meaningful record. See section 7(c) of the Administrative Procedure Act, 5 USC section 1006(c); Jupiter Associates, Inc., 6 FCC 2d 13, 8 RR 2d 1254 (1966); NLRB v. Miami Coca-Cola Bottling Company, 360 F 2d. 569 (5th Cir. 1966); Chapman Radio and Television, Inc., 6 FCC 2d 768, 9 RR 2d 595 (1967).

[20] Cf. Babcom, Inc., 31 FCC 2d 425, 22 RR 2d 828 (1971).

[21] The hearing under the new issues must, of course, await the outcome of the civil suit now under appeal. Although the further hearing under the equal opportunity employment issue may commence earlier, it cannot be completed until the suit is resolved, since the suit may be relevant to the resolution of the equal opportunity employment issue.

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[Docket Nos. 18711, 18712; FCC 72R-88]

## WPIX, INC., AND FORUM COMMUNICATIONS, INC.

### Memorandum Opinion and Order Enlarging Issues

In regard applications of WPIX, Inc. (WPIX), New York, N.Y., for renewal of broadcast license, Docket No. 18711, File No. BRCT-98; Forum Communications, Inc., New York, N.Y., for construction

permit for new television broadcast station, Docket No. 18712, File No. BPCT-4249.

1. This proceeding involves the mutually exclusive applications of WPIX, Inc. (WPIX), seeking renewal of its television broadcast license at New York, N.Y., and Forum Communications, Inc. (Forum), requesting a construction permit for a similar facility at New York. The applications were designated for hearing on various issues by Commission Order, released October 28, 1969 (FCC 69-1162, 20 FCC 2d 298, 17 RR 2d 782).[1] Presently before the Review Board is a petition to enlarge issues, filed December 13, 1971, by WPIX, which requests the addition of a "Suburban" issue against Forum.[2]

2. In its petition, WPIX questions the efforts Forum has made to ascertain the community needs and interests of the area and the means by which Forum intends to meet those needs and interests. Specifically, WPIX argues that Forum's ascertainment efforts are deficient in the following particulars: (1) Loss of supporting records for interviews summarized in Forum's application as filed on May 22, 1969; (2) failure to determine the composition and distinctive attributes of the community; (3) no information concerning the number of interviews conducted with black or Puerto Rican leaders or with other representatives of racial, ethnic, and poverty groups; (4) lack of involvement of Forum's principals in the interviews; (5) the use of professional research organizations to conduct interviews of community leaders; (6) lack of survey of the general public; and (7) failure of the questionnaires to elicit views concerning community needs and interests. WPIX then argues that even though the Commission found that Forum had complied with contemporaneous survey requirements[3] the Board should enlarge the issues as requested because the deficiencies in Forum's survey efforts were not revealed until "cross-examination of Forum's principals at the hearing" (November 29, 1971, through December 7, 1971). Furthermore, WPIX argues, Forum's ascertainment efforts must be judged by the "Primer's"[4] new standards and are therefore patently deficient.

3. In its opposition, Forum initially argues that WPIX's petition is untimely under § 1.229 of the Commission's rules, because no new information was produced at the hearings commencing on November 29, 1971, which would warrant an ascertainment issue against Forum. Forum goes on, however, to attempt to demonstrate that its ascertainment efforts are adequate, whether judged by standards pertaining at the time the Forum application was filed or under the "Primer" standards. In reference to the loss of supporting records for the interviews it conducted, Forum concedes the loss but contends that since no real question has been raised as to whether the interviews were in fact properly conducted and abstracted the loss does not detract from the efforts Forum has made. Further, Forum notes, the originals were available for more than 2 years, or until the summer of 1971. Referring to the composition and attributes of the community, Forum argues that it "did indeed conduct an exhaustive demographic study * * *" and goes on to list various reference works utilized. In regard to Forum's principals' involvement in the interviews, Forum contends that it designated a "full-time management-level employee" (Mrs. Theodora Sklover) to work directly with Forum's President to coordinate and develop its continuing community ascertainment efforts. In reference to the use of professional research organizations to gather survey information, Forum contends that such use is allowable if, as here, it is done in conjunction with extensive personal consultations with community leaders and the public by an applicant's management-level employees (citing Alvin L. Korngold, 27 FCC 2d 222, 20 RR 2d 1244 (1971)). In reference to WPIX's criticism of the questionnaires used by Forum during its interviews, Forum contends that the "major purpose" of the questionnaires was to "pin-point the needs and interests of the community leader's organization and then to determine whether these needs and interests were being adequately served * * *" Forum also points to the interviews by Mrs. Sklover and the professional research organization with respect to the alleged deficiencies regarding the survey of the general public.

4. The Broadcast Bureau, in its opposition to WPIX's petition, argues that WPIX's petition is grossly untimely and good cause has not been shown for its untimeliness.[5] In reference to the loss of supporting records by Forum, the Bureau contends that it would be pointless at this late date to conclude that such loss flaws the entire survey. Overall, the Broadcast Bureau expresses the view that it is satisfied that Forum's opposition and attached affidavits "have demonstrated compliance with the Commission's ascertainment requirements as codified by the Primer." WPIX, in its reply to the oppositions, reiterates the points raised in its initial petition and argues that the documents referred to by Forum's opposition do not adequately answer the questions raised in the petition to enlarge. Specifically, argues WPIX, Forum's opposition does not resolve deficiencies in the areas of: (1) Consultation with a true cross-section of community leaders; (2) a valid survey of the general public; and (3) derivation of information concerning community problems.

5. The Board will grant petitioner's request for a "Suburban" issue. In our view, although there is no one deficiency in Forum's survey which would, standing alone, necessitate addition of an issue, the cumulative effect of the apparent deficiencies in Forum's ascertainment efforts is sufficient to raise a substantial question as to whether or not Forum has complied with the "Primer's" requirements.[6] First, Forum concedes violation of the "Primer" by the loss of supporting records. In reference to Forum's determination of the composition and attributes of the community, the Board points out that the "Primer" (Q. & A. 10) states that even if the applicant shows consultations with a wide variety of groups it is "still required to submit a showing in support of its determination of the composition of the community. The purpose * * * is to inform the applicant and the Commission what groups comprise the community." It appears that no formal demographic study was made by Forum and only FCC documents were initially relied upon (Tr. 12006-10). Similarly, Forum has nowhere shown that it prepared an adequate summary of the applicable data or that its determination is based upon anything more than generalities and estimates. Forum has simply supplied no concrete information on which a determination of the composition of the community can be based. The "Primer" (Q. & A. 4) also requires an applicant to consult with the "leaders of the significant groups in the community" and this specifically includes racial and ethnic groups. Yet, Forum has not established an adequate breakdown of these groups, other than the general heading of "minority interests," and Forum does not show, for example, how many blacks and/or Puerto Ricans have been interviewed. Another "Primer" requirement is that consultations with community leaders must be conducted by principals or management-level employees and not by a professional research or survey service ("Primer" Q. & A. 11(a) and 12). It appears that Forum's actions in this regard may not be

[1] The Commission recently redesignated this proceeding for hearing (FCC 72-144, released Feb. 24, 1972); as a result, the instant petition will be regarded as having been timely filed.

[2] Also before the Board are the following related pleadings: (a) Opposition, filed Jan. 13, 1972, by Forum; (b) opposition, filed Jan. 20, 1972, by the Broadcast Bureau; (c) reply, filed Feb. 1, 1972, by WPIX; (d) motion for leave to file rejoinder and rejoinder to WPIX's reply to oppositions, filed Feb. 4, 1972, by Forum; (e) response to motion for leave to file rejoinder, filed Feb. 10, 1972, by WPIX. Forum requests leave to file rejoinder, (d) above, because WPIX's reply allegedly "contains a number of distortions of fact" and "also raises one new matter." The Review Board will deny Forum's request. The alleged "distortions of fact" are not sufficiently serious to permit a response and, also, WPIX's reply will be treated as if it is "limited to matters raised within the oppositions," as required by Commission § 1.45(b).

[3] WPIX, Inc., 20 FCC 2d 298, 17 RR 2d 782 (1969).

[4] Primer on Ascertainment of Community Problems by Broadcast Applicants, 27 FCC 2d 650, 21 RR 2d 1507 (1971), hereinafter referred to as Primer.

[5] Because this is no longer a valid argument (see footnote 1, supra) the Board will not discuss it further.

[6] The Board notes that the Primer explicitly applies to all applications for "construction permits for new broadcast stations" (Primer, Q. & A. 1), and applicants were given 90 days to amend their applications if they believed it necessary. Primer, paragraph 79. See Harry D. Stephenson and Robert E. Stephenson, FCC 72R-31, ------ FCC 2d ------, released Feb. 8, 1972.

totally satisfactory. First, the designation of Mrs. Theodora Sklover as a "management-level employee" is questionable in the present circumstances. The employment of a consultant to aid in an applicant's survey efforts is not sufficient, standing alone, to qualify the consultant as a "management-level employee." A showing should be made that a dialog can be established and maintained between the community and the decisionmaking personnel of the applicant. Another area that the Board believes raises a serious question of Forum's compliance with "Primer" requirements (Q. & A. 4) involves the adequacy of Forum's survey of the general public. One of Forum's principals stated that Forum did not undertake a full-dress survey of the general public (Tr. 12036–39). In fact, the only efforts to survey the general public apparently consists of four "focused group interviews" and four "Forum Forums," which were part of a "disproportionate, stratified sampling approach" recommended by a professional research organization. Overall, it appears that no more than 200 people were involved. The Board is unable to find on the basis of the pleading that such a sampling complies with the requirement for a survey of the general public. Cf. "The Tuscarawas Broadcasting Company," FCC 72–213, ------ FCC 2d ------, released March 15, 1972. Finally, the Board has reviewed the questionnaires used by Forum in conducting its surveys and it appears that there may be serious deficiencies. The questions used do not specifically elicit the views of the person interviewed concerning community needs and interests or community problems ("Primer" Q. & A. 3 and 18). Instead, the questions asked during the interviews sought information concerning: (1) The "principal activities" or "major concerns and interests" of the interviewee's organization; (2) whether the programing of existing New York stations adequately served the needs and interests of that organization; and (3) the ways in which Forum's station can stay in closer contact with the community or contribute to serving the needs and interests of the leader's organization. Such questions and information are only peripherally related to the basic purpose of ascertaining what the person consulted believes to be the problems of the "community." Indeed, the determination of community problems and how the applicant proposes to meet them are the basic purpose of the "Primer" as a whole and strict compliance in this regard is essential. In view of the foregoing, the Board believes that an evidentiary exploration of Forum's efforts to ascertain community needs is warranted.

7. *Accordingly, it is ordered,* That the motion for leave to file rejoinder, filed February 4, 1972, by Forum Communications, Inc., is denied; that the rejoinder and the response thereto, filed February 10, 1972, by WPIX, Inc., are dismissed; that the petition to enlarge issues, filed December 13, 1971, by WPIX, Inc., is granted; and that the issues in this proceeding, are enlarged to include the following:

To determine the efforts made by Forum Communications, Inc., to ascertain the community needs and interests of the area to be served and the means by which it proposes to meet those needs and interests.

8. *It is further ordered,* That the burdens of proceeding with the introduction of evidence and proof under the issue added herein, shall be on Forum Communications, Inc.

Adopted: March 29, 1972.

Released: March 31, 1972.

FEDERAL COMMUNICATIONS COMMISSION,[7]
[SEAL] BEN F. WAPLE,
*Secretary.*

[FR Doc.72-5312 Filed 4-5-72;8:49 am]

[FCC 72-252]

## CERTAIN PUBLIC AND LIMITED COAST CLASSES I AND II RADIOTELEPHONE STATIONS

### Memorandum Opinion and Order Regarding Waivers

In the matter of waiver of §§ 81.132, 81.304, and 81.360 of the Commission's rules to permit certain Public and Limited Coast Classes I and II Radiotelephone Stations to continue the use of double sideband (DSB) emissions on the medium and/or high frequency bands after January 1, 1972.

1. The Commission has received waiver requests from certain Public and Limited Coast Classes I and II Radiotelephone Station licensees requesting waiver of the Commission's rules to permit their continued use of double sideband (DSB) emissions on the medium and/or high frequency bands after January 1, 1972. These classes of coast stations provide regional service or service up to several thousand miles, to ships on medium and high maritime frequencies. Public and Limited Classes I and II Radiotelephone Stations, except in Alaska or on inland waters other than the Great Lakes or the Mississippi River, are authorized pursuant to §§ 81.132, 81.304, 81.360 and 81.361 of our rules to emit only single sideband (SSB) on the medium and high frequency bands commencing January 1, 1972.

2. The waiver requests here under consideration concern coast stations subject to the above-mentioned SSB emission requirements. Such requirements for the medium frequencies were contained in a first report and order released June 16, 1970, in Docket No. 18307 and for the high frequencies in a third report and order released December 22, 1969, in Docket No. 18271. For discussion purposes the requests have been grouped below according to reasons given for the requests.

[7] Board Member Nelson dissenting and voting to deny for the reasons advanced by the Bureau.

3. The first group of waiver requests for public coast stations are based upon the asserted present unavailability of suitable new SSB equipment and/or a lack of time in which to convert presently used DSB equipment to SSB operation. The licensees indicate that specially designed SSB equipment is on order and/or in the process of construction. In this connection the American Telephone and Telegraph Co. states that for the Bell System, which operates most of the stations in this group, development of suitable SSB equipment, contracted for in August 1970, has been delayed because of unanticipated circuit design problems. The company states that (a) only the prototype level has been achieved with field trials expected to commence in April or May 1972; (b) manufacture and delivery of the first unit is expected in the third quarter of 1972 and installation and operation of this initial unit should be completed in the fourth quarter of 1972; and (c) total Bell System conversion to SSB will be effectuated by December 31, 1973. The Commission licensing records indicate that many of the Bell System receiving and transmitting locations are separated and therefore this may require transmitters and receivers that are not integrated into a single piece of electronic equipment such as the units now generally available on the commercial market.

4. The Hawaiian Telephone Co. requests a delay because, like Bell, it has experienced a delay in delivery of station equipment that is specially designed to provide the best possible service to the public during "the difficult period when a multimode capability is required".

5. A request by General Telephone of Florida is also included in this group because of equipment delivery delays. The company states that on October 29, 1971, it completed all acts necessary for it, as assignee, to assume control of its station from a previous licensee, and since that date has been negotiating for new SSB equipment with the same firm that is supplying the Bell System and with an additional firm.

6. An additional request from a licensee in this group has been received from Great Lakes Marine Radio, Inc., which states that it needs additional time to design, develop, and obtain Commission type acceptance of SSB equipment that will be superior to any now available on the market. The applicant states that the station is equipped to receive SSB transmissions and that there will be no degradation of service during the extension period since to its knowledge there are only two vessels on the Great Lakes equipped with SSB radio equipment and they believe these are for experimental purposes only. All of the licensees and pertinent information concerning the stations in this first group are attached hereto as Annex A.

7. Another group of requests for waivers until, in some cases, 1977, are

from public coast station licensees generally who state that they have petitioned, or intend to petition, the Commission for permission to discontinue operation of Class I or II (medium and high frequency) public coast facilities and they are reluctant to undergo the financial expense of conversion to SSB. The licensees assert, essentially, that in some cases conversion to VHF operations or complete termination of service is contemplated, and revenues from medium and high frequency operations are not sufficient to justify the expenditure of the considerable amounts of money required to convert to SSB operations for the relatively short interim period. A list of all licensees and pertinent information concerning the stations involved in this group are attacher hereto as Annex B.

8. Another waiver request received is for Public Coast Class II–B Station, call sign WMI, with a transmitter location at Lorain, Ohio. The licensee of that station, Lorain Electronics Corp., states it is disadvantaged by the decrease in Great Lakes shipping in the last 20 years and has already petitioned to discontinue service at two of its three public coast stations and is uncertain at this time whether to petition to discontinue service at WMI, its third location. The company seeks waiver until January 1, 1974, at the latest, to either petition to discontinue service at the third location or to become operational with SSB equipment.

9. In addition to the above waiver requests the city of San Diego, Calif., licensee of Limited Coast Class II–B Station, call sign KWD, at San Diego, Calif. requests a waiver to permit DSB operation until September 1, 1972. The city states that through administrative oversight it failed to budget funds for SSB operation, but states an intention to become operational with SSB equipment as soon as administratively possible.

10. A request is also on file by Central Radio Telegraph Co. which operates station WLC at Rogers City, Mich., for a waiver of the SSB rule requirements, based on somewhat different reasons. In addition to equipment availability problems, this licensee states that it has not yet been conclusively decided whether the maritime communications system adopted for general use on the Great Lakes will consist of only VHF operations, or whether it will also include continued operation in the medium and high frequency bands. The company asserts that it would be unreasonable to require coast stations to install SSB equipment now if only VHF operation is ultimately adopted for use on the Great Lakes and the company requests a waiver of the SSB requirements until January 1, 1974, by which time the question should be decided, and its equipment problems resolved.

11. Finally, RCA Global Communications Inc. requests similar rule waivers for reasons different than any of those described above. The company is the licensee of Public Coast Class I–B Station, call sign KQM at Kahuku, Hawaii and has joined in an application on file for consent to assignment to Radiocall, Inc., and requests waiver until approval by the Commission of its application or 60 days after denial to allow time to petition to discontinue the service or to install SSB equipment. Action on this application may be delayed because of oppositions on file by several parties which raise questions as to whether the grant of the application would serve the public interest.

12. We believe the requests for rule waivers to allow continued double sideband operation, for a limited period of time, of public coast stations by licensees who foresee possible early discontinuation of service is equitable and reasonable. To require a licensee to purchase new station equipment that would be used for only a relatively short period of time, substantially less than its normal usable life, could impose an unreasonable financial hardship on a licensee and would be contrary to the public interest. We, therefore, will grant these requests, not until 1977 as requested by some licensees, but only until final Commission action on any petition for discontinuation of service that may be filed and provided that such petitions are filed not later than January 1, 1973. We consider this a reasonable time for the licensees to study and assess current developments in the field of maritime public radiocommunications, as the developments affect them, and reach a business judgment as to whether to request Commission permission to discontinue service. Additionally, this will allow licensees the time necessary to compile the information needed by us to determine whether the public interest would be served by permitting them to discontinue operation of their Class I or II stations.

13. With respect to the requests for rule waivers so that double sideband station operations can be continued by licensees who assert that suitable equipment is not available, or that budgetary or administrative obstacles must be overcome, we are not entirely persuaded that the rule waivers for these licensees are justified. These licensees have been on international notice since the final action of the World Administrative Radio Conference in Geneva, Switzerland in 1967, and on national notice from the dates of the release of our notices of proposed rule making in Docket Nos. 18307 and 18271 on September 12, 1968, and August 8, 1968, respectively, to implement portions of the international agreements, that eventual single sideband operations in the maritime services was to be expected. On the basis of the information furnished us by these licensees in their requests for rule waiver, we are not convinced that they began early enough to cope with any equipment, budgetary or administrative problems peculiar to them in meeting the January 1, 1972 deadline for converting to SSB operations. Further, to grant these rule waiver requests would delay us in reaching our objective, described in several recent rule making proceedings, of better service and alleviating congestion on the medium and high maritime frequencies. Also the continued DSB operation of these stations may be a detriment to some ships that are now operating with SSB station equipment. We note, however, notwithstanding the long period of advance notice described above, these licensees do not yet have the necessary SSB station equipment and it appears, therefore, that we have no practicable course of action other than to grant the requests. To deny the requests for temporary continued use of DSB operations pending development and installation of SSB equipment would not provide a practical solution to the problem nor would it apparently result in any earlier SSB public correspondence service by the stations involved in these requests. Therefore, with some reluctance, and mindful of the above-described possible undesirable consequences, we will grant the requested rule waivers so that additional time will be available to the subject licensees to acquire and install the equipment needed to come into compliance with our SSB rule provisions. We also agree with the licensee of station WLC at Rogers City, Mich., that a waiver is warranted for the reasons furnished. This will allow the licensee time to determine the action that is appropriate in its case in view of the unresolved question of the extent to which VHF will be used on the Great Lakes.

14. *Accordingly, it is ordered,* That the licensees listed in Annex A attached hereto, are granted waivers of §§ 81.132 and 81.304 of the rules until the date requested by each licensee as shown on Annex A, so that the station may continue to operate with double sideband emissions until that date, or until the installation of SSB station equipment, whichever is sooner.

15. *It is further ordered,* That the city of San Diego, Calif. as licensee of Limited Coast Station KWD is granted a waiver of the provisions of §§ 81.132 and 81.360 concerning SSB operations so that it may continue to operate with double sideband emissions until September 1, 1972, or until the installation of SSB station equipment, whichever is sooner.

16. *It is further ordered,* That the licensees of the Class I or II Public Coast Stations shown in Annex B attached hereto and Lorain Electronics for its station WMI at Lorain, Ohio are granted waivers of the SSB provisions of §§ 81.132 and 81.304 of the rules pending the filing of an application for discontinuation of Class I or II Public Coast station service and until final action by the Commission on such an application; provided that the application is filed not later than January 1, 1973.

17. *It is further ordered,* That Central Radio Telegraph Co. is granted a waiver of the SSB provisions of §§ 81.132 and 81.304 of the rules until January 1, 1974, with respect to the operation of station WLC at Rogers City, Mich.

18. *It is further ordered,* That RCA Global Communications is granted a waiver of the SSB provisions of §§ 81.132 and 81.304 until final Commission action

on the pending application for assignment of license of Public Coast Station KQM. In event the application is disapproved, RCA Global Communications is hereby granted an additional 60 days waiver thereafter to either install SSB station equipment, or, alternatively, to request permission to discontinue Class I station service in which case, an additional waiver is granted until the Commission acts on such a request providing the request is filed within the 60 day period. In event the pending application for consent to assignment is granted, a 60 day SSB rule waiver is hereby granted to Radiocall, Inc., to allow time to acquire and install necessary SSB station equipment.

Adopted: March 23, 1972.

Released: March 30, 1972.

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

[1] Commissioners Robert E. Lee and Johnson absent; Commissioner H. Rex Lee concurring in the result.

ANNEX A

| Licensee | Call sign | Class of station | Transmitter(s) location(s) | Frequency band(s) involved | Waiver requested until— |
|---|---|---|---|---|---|
| Southern Bell Telephone | WNJ | Public II B | Jacksonville, Fla | Medium | Jan. 1, 1974. |
| Pacific Telephone | KOU | do | San Pedro, Calif | do | Do. |
| Do | KOE | do | Eureka, Calif | do | Do. |
| Do | KLH | do | Point Reyes, Calif [2] | do | Do. |
| Southern Bell Telephone | WJO | do | Sullivan's Island, S.C | do | Do. |
| Do | WDR | do | Miami, Fla | do | Do. |
| South Central Bell | WAK | do | New Orleans, La | do | Do. |
| American Telephone | WAQ | do | Ocean Gate, N.J | do | Do. |
| New England Telephone | WOU | do | Marshfield, Mass | do | Do. |
| Southwestern Bell | KCC | do | Corpus Christi, Tex | do | Do. |
| Do | KQP | do | Galveston, Tex | do | Do. |
| Chesapeake & Potomac Telephone. | WAE | do | Point Harbor, N.C | do | Do. |
| Do | WGB | do | Virginia Beach, Va | do | Do. |
| New York Telephone | WOX | do | New York, N.Y | do | Do. |
| Hawaiian Telephone Co | KBP | do | Honolulu, Hawaii | do | July 1, 1972. |
| General Telephone | WFA | do | Madiera Beach, Fla., Indian Rocks, Fla. | do | Jan. 1, 1973. |
| Great Lakes Marine | WBL | Public I ABL | Martinsville, N.Y | Medium and high. | Do. |

[2] Pacific Telephone also requested a waiver for its station transmitter located at Pittsburg, Calif. The waiver for that transmitter is not needed and is therefore moot in view of the Commission's change to § 81.304 (c) and (d) effective Dec. 14, 1971 (Order released 12-6-71 FCC 71-1211) which permits Class II-B coast stations operating on certain inland waters to continue to use double sideband until Jan. 1, 1977.

ANNEX B

| Licensee | Call sign | Class of station | Transmitter(s) location(s) | Frequency band(s) involved | Waiver requested until— |
|---|---|---|---|---|---|
| Illinois Bell | WAY | Public II BL | Lake Bluff, Ill., Chicago, Ill. | Medium and high | No definite date specified. |
| Diamond State Telephone | WEH | do | New Castle, Del | Medium | Jan. 1, 1977. |
| Do | WLF | do | Bodkin Point, Md | do | Do. |
| Michigan Bell | WFR | do | Detroit, Mich., Grosse Isle, Mich. | do | Do. |
| Do | WFS | do | Detroit, Mich | do | Do. |
| Do | WFV | do | Port Huron, Mich | do | Do. |
| Lorain Electronics | WAD | do | Port Washington, Wis | Medium and high. | Do. |
| Do | WAS | do | Duluth, Minn | do | Do. |
| Maryland Port Authority | WMH | Public I AB | Dundalk, Md | Medium | No definite date specified. |

[FR Doc.72-5076 Filed 4-5-72;8:45 am]

# GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regs.; Temporary Reg. F-143]

## SECRETARY OF DEFENSE

### Revocation of Delegations of Authority

1. *Purpose.* This regulation revokes delegations of authority to represent the Federal Government in proceedings which have been terminated.

2. *Effective date.* This regulation is effective immediately.

3. *Expiration date.* This regulation expires April 21, 1972.

4. *Revocation.* This revocation identifies those delegations which are no longer in force due to completion of the proceedings for which they were issued. Accordingly, the following FPMR temporary regulations are hereby revoked:

| No. | Date | Subject |
|---|---|---|
| F-6 | Oct. 21, 1965 | Delegation of Authority to Secretary of Defense—Regulatory Proceeding. |
| F-42 | Feb. 24, 1969 | Do. |
| F-80 | Dec. 1, 1970 | Do. |
| F-83 | Feb. 1, 1971 | Do. |
| F-92 | Mar. 12, 1971 | Do. |
| F-108 | June 18, 1971 | Do. |

Dated: March 30, 1972.

ROD KREGER,
*Acting Administrator of General Services.*

[FR Doc.72-5279 Filed 4-5-72;8:47 am]

# SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 894; Class B]

## TEXAS

### Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of March 1972, because of the effects of certain disasters damage resulted to residences and business property located in the State of Texas;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Assistant Administrator for Administration and Operations of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Houston, Tex., suffered damage or destruction resulting from floods occurring on March 20 and 21, 1972.

OFFICE

Small Business Administration District Office, Niels Esperon Building, Room 1210, Houston, Tex. 77002.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to September 30, 1972.

Dated: March 23, 1972.

CLAUDE ALEXANDER,
*Assistant Administrator for Administration and Operations.*

[FR Doc.72-5301 Filed 4-5-72;8:48 am]

[Declaration of Disaster Loan Area 895; Class B]

## WASHINGTON

### Declaration of Disaster Loan Area

Whereas, it has been reported that during the months of February and March 1972, because of the effects of a certain disaster, damage resulted to homes and business property located in the State of Washington;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the area affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such area constitutes a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Assistant Administrator for Administration and Operations of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Thurston, Pierce, and King Counties, Wash., suffered damage or destruction resulting from floods and mud slides occurring from February 13 through March 10, 1972.

OFFICE

Small Business Administration Regional Office, 5th Floor, Dexter-Horton Building, 710 Second Avenue, Seattle, Wash. 98104.

2. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to September 30, 1972.

Dated: March 27, 1972.

CLAUDE ALEXANDER,
*Assistant Administrator for Administration and Operations.*

[FR Doc.72-5302 Filed 4-5-72;8:48 am]

# INTERSTATE COMMERCE COMMISSION

## ASSIGNMENT OF HEARINGS

APRIL 3, 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 134060 Sub 6, Davinder Freightways, Ltd., continued to April 11, 1972, at the Edgewater Inn, Pier 67, Seattle, Wash.

MC 117940 Sub 71, Nationwide Carriers, Inc., now assigned April 19, 1972, at St. Paul, Minn., postponed indefinitely.

MC 95540 Sub 825, Watkins Motor Lines, Inc., now assigned April 20, 1972, at Denver, Colo., postponed indefinitely.

MC 135772, Barrett Transfer & Storage Co., now assigned April 24, 1972, at Seattle, Wash., cancelled and reassigned to April 24, 1972, Sixth Floor, Highway License Bldg., 12th and Franklin St., Olympia, Wash.

FD 26615, City of Wheeling, W. Va. Abandonment Baltimore & Ohio Railroad Tracks, Wheeling, Ohio County, W. Va., and FD 26674, City of Wheeling, W. Va. Abandonment of Operations Penn Central Transportation Company Tracks, Wheeling, Ohio County, W. Va., now assigned April 24, 1972, at Wheeling, W. Va., postponed to July 24, 1972, in Civil Service Room, New Post Office Building, 2501 Chapline Street, Wheeling, W. Va.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.72-5315 Filed 4-5-72;8:50 am]

[Notice 40]

## 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 general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. 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-73032. By order of March 28, 1972, Division 3, acting as an Appellate Division, approved the transfer to J. E. Lammert Transfer, Inc., Grand Island, Nebr., of the operating rights in certificates Nos. MC-111722 (Corrected) and MC-111722 (Sub-No. 3) issued August 7, 1961, and November 16, 1964, to Chester C. Chittenden, doing business as Chet's Truck Line, Ottumwa, Iowa, authorizing the transportation of general commodities, with usual exceptions, between Ottumwa, Iowa, on the one hand, and, on the other, specified points in Illinois and Indiana, and meats, meat products, and meat byproducts, and articles distributed by meat packinghouses, except hides and commodities in bulk, from Ottumwa, Iowa, to Elk Grove Village and Addison, Ill. Charles J. Kimball, 605 South 14th Street, Lincoln, NE 68501, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.72-5316 Filed 4-5-72;8:50 am]

[Notice 26]

## MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

MARCH 31, 1972.

The following applications are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 200 (Sub-No. 252), filed February 22, 1972. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106, also 100 West 10th Street, Wilmington, DE 64142. Applicant's representative: Rodger J. Walsh, 12th Floor, Temple Building, 903 Grand Avenue, Kansas City, MO 64106.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts* as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Wilson Certified Foods, Inc., at Marshall, Mo., to points in Alabama, Connecticut, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia (restricted to traffic originating at Marshall, Mo., and destined to points in the named States). NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 7832 (Sub-No. 16), filed March 8, 1972. Applicant: SAM LOWENSTEIN AND STANLEY LOWENSTEIN, a partnership, doing business as, SUPER M FOODS DELIVERY, 411A North Wood Avenue, Linden, NJ 07036. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, chain grocer, department stores, and food business houses (except commodities in bulk), and, in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), between points in New Jersey, Pennsylvania, Maryland, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Delaware, Virginia, and Washington, D.C. Restriction: The proposed service to be limited to a service under contract with Food Fair Stores, Inc. of Philadelphia, Pa. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 10223 (Sub-No. 4) (Amendment), filed January 18, 1971, published FEDERAL REGISTER issue of February 19, 1971, under MC 105809 Sub 14, and republished as amended this issue. Applicant: ROBERT E. MACK, SOPHIE R. MACK, ESTELLE M. FUNK, CAROL BROWN, AND THERESA R. MOLLOY, a partnership, doing business as, MACK TRANSPORTATION COMPANY, 4330 Torresdale Avenue, Philadelphia, PA 19124. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* dealt in by hardware stores, from points in Connecticut, Maine, Massachusetts, New Hampshire, New York (except points in the New York, N.Y. commercial zone as defined by the Commission), Rhode Island, Vermont, Virginia, and West Virginia to the warehouse of Cotter & Co. at Philadelphia, Pa., restricted against the transportation of commodities in bulk. NOTE: Applicant also conducts operations as a motor contract carrier in No. MC 105809. The purpose of this republication is to show that applicant now seeks to conduct operations as a motor common carrier rather than as a contract carrier, and also to delete certain states. Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Harrisburg or Philadelphia, Pa.

No. MC 10761 (Sub-No. 261), filed February 22, 1972. Applicant: TRANS-AMERICAN FREIGHT LINES, INC., 1700 North Waterman Avenue, Detroit, MI 48209. Applicant's representative: A. Alvis Layne, Pennsylvania Building, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food preparations and foodstuffs*, in vehicles equipped to protect such products from heat or cold (except in bulk, in tank vehicles), from the plantsite and/or warehouse facilities of Kraftco Corp., at or near Fogelsville and Allentown, Pa., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Ohio, and Rhode Island, restricted to traffic originating at named origins and destined to points in named territory. NOTE: If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.; Philadelphia, Pa., or Washington, D.C.

No. MC 16961 (Sub-No. 4), filed March 9, 1972. Applicant: HUTCHINS TRUCKING COMPANY, a corporation, 1000 Congress Street, Portland, ME 04102. Applicant's representative: Francis P. Barrett, 60 Adams Street, Milton, MA 02187. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail, and chain grocery and food business houses; *empty containers*, returned or rejected merchandise on return, from Northboro, Mass., to Portland, Bangor, Lewiston, Lincoln, Fairfield, Waterville, and Raymond, Maine and Rochester, N.H., under continuing contracts with Columbia Markets and Giguere's Supermarkets. NOTE: If a hearing is deemed necessary, applicant requests it be held at Portland, Maine.

No. MC 28060 (Sub-No. 21), filed March 8, 1972. Applicant: WILLERS, INC., 1400 North Cliff Avenue, Sioux Falls, SD 57101. Applicant's representative: Bruce E. Mitchell, Suite 1600, First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsites and/or storage facilities of Tony Downs Food Co., at or near St. James, Madelia, and Butterfield, Minn., and Estherville, Iowa, to points in Iowa, South Dakota, Wisconsin, North Dakota, Nebraska, Kansas, Missouri, and Illinois. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. No duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 29886 (Sub-No. 280), filed March 1, 1972. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, IN 46621. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pollution control equipment and accessories*, from Roanoke, Ill., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 35469 (Sub-No. 43), filed March 1, 1972. Applicant: MODERN TRANSFER CO., INC., 1300 Hanover Avenue, Allentown, PA 18001. Applicant's representative: P. F. Gilligan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food preparations, and foodstuffs*, in vehicles equipped to protect such products from heat or cold (except in bulk, in tank vehicles), from the plantsite and/or warehouse facilities of Kraftco Corp., at or near Fogelsville and Allentown, Pa., to points in Delaware, Maryland, Ohio, Virginia, and West Virginia, and the District of Columbia, restricted to traffic originating at named origins and destined to points in named territory. NOTE: If a hearing is deemed necessary, applicant requests it be held at Allentown, Pa., Philadelphia, Pa., or Washington, D.C.

No. MC 32882 (Sub-No. 66), filed February 28, 1972. Applicant: MITCHELL BROS. TRUCK LINES, a corporation, 3841 North Columbia Boulevard, Portland, OR 97217. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel* articles as described in Ex Parte No. MC 45, *Descriptions in Motor Carrier Certificates*, appendix V (61 M.C.C. 276), (1) between points in Colorado, Utah, and Wyoming, on the one hand, and, on the other, points in Oregon and Washington and (2) between points in Oregon and Washington, on the one hand, and on the other, points in Idaho and Montana. NOTE: Applicant states that the requested authority could be tacked with its present Sub 60 if granted. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 41432 (Sub-No. 120), filed March 1, 1972. Applicant: EAST TEXAS MOTOR FREIGHT LINES, INC., 2355 Stemmons Freeway, Post Office Box 10125, Dallas, TX 75207. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Implement, tool, hardware, and houseware handles*, from Diboll, Tex., to points in Alabama, Arizona, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Mississippi, Nebraska, New Mexico, Ohio, Oklahoma, Tennessee, Utah, Wisconsin, and West Virginia. NOTE: Applicant states that the requested authority will tack with regular route authority but such is not proposed. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 46421 (Sub-No. 11), filed March 2, 1972. Applicant: ESCRO STORAGE & CARTAGE, INC., 360 Dingens Street, Buffalo, NY 14206. Applicant's representative: Herbert M. Canter, 345 South Warren Street, Syracuse, NY 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), from Buffalo, N.Y., to point in Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, and Wyoming Counties, N.Y. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Buffalo, Syracuse, or New York, N.Y., or Washington, D.C.

No. MC 48221 (Sub-No. 3), filed March 3, 1972. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 2501 O Street, Omaha, NE 68107. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the plantsite and/or storage facilities utilized by Wilson Certified Foods, Inc., at Marshall, Mo., to points in Colorado, Illinois, Indiana, Kansas, Michigan, Nebraska, Ohio, and Utah, restricted to traffic originating at Marshall, Mo., and destined to points in the name destination States. NOTE: If a hearing is deemed necessary, applicant does not specify a location.

No. MC 51146 (Sub-No. 245) (Clarification), filed December 6, 1971, published in the FEDERAL REGISTER issues of January 6, 1972 and February 10, 1972, and republished as clarified this issue. Applicant: SCHNEIDER TRANSPORT & STORAGE, INC., 2661 South Broadway, Green Bay, WI 54304. Applicant's representative: D. F. Martin, Post Office Box 2298, Green Bay, WI 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are manufactured or distributed by manufacturers or converters of cellulose materials and products, plastic materials and products, paper and paper products (except commodities in bulk), between the plantsites and storage facilities of Will Ross, Inc., located at various points throughout the United States, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), from points in the United States (except Alaska and Hawaii) to the plant and storage facilities of Will Ross, Inc., restricted to traffic originating at and destined to the named plant and storage facilities. NOTE: Common control may be involved. The purpose of this republication is to show the location of Will Ross, Inc. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 52709 (Sub-No. 317), filed March 9, 1972. Applicant: RINGSBY TRUCK LINES, INC., 5773 South Prince Street, Littleton, CO 80120. Applicant's representative: Robert P. Tyler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts* as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsites and/or storage facilities utilized by Wilson Certified Foods, Inc., at Marshall, Mo., to points in Arizona, California, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wyoming, and the District of Columbia (restricted to traffic originating at Marshall, Mo., destined to points in the named States). NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 53965 (Sub-No. 80) (Clarification), filed December 27, 1971, published in the FEDERAL REGISTER issue of February 3, 1972, and republished as amended, this issue. Applicant: GRAVES TRUCK LINE, INC., 739 North 10th Salina, KS. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between Elkhart, Ulysses, Syracuse, Tribune, Sharon Springs, and Goodland, Kans., and points in that part of Colorado east of the Continental Divide. NOTE: Applicant states that it intends to tack with presently held authority to serve points in Kansas, Oklahoma, and Texas, also to provide service from and to points in Nebraska and that portion of Missouri which lies within the Kansas City, Kans.-Mo. commercial zone. The purpose of this republication is to include additional tacking information. If a hearing is deemed necessary, applicant requests it be held at Salina and Garden City, Kans.

No. MC 56679 (Sub-No. 64), filed March 2, 1972. Applicant: BROWN TRANSPORT CORP., 125 Milton Avenue SE., Atlanta, GA 30315. Applicant's representative: B. K. McClain (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment because of size or weight), between Atlanta and Tennga, Ga., over U.S. Highway 41 to Cartersville, Ga., thence U.S. Highway 411 to Tennga, Ga., and return over the same route, serving all intermediate points on U.S. Highway 411 between Cartersville and Tennga, Ga. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 60430 (Sub-No. 20), filed February 29, 1972. Applicant: FRIEDMAN'S EXPRESS, INC., 220 Conyngham Avenue, Wilkes Barre, PA 18702. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, NJ 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities requiring special equipment, commodities in bulk, and those injurious or contaminating to other lading), between New York, N.Y., on the one hand, and, on the other, points in Suffolk County, N.Y. Restriction: The authority sought is restricted to shipments having origin or destination at points in Pennsylvania, east of U.S. Highway 11 and north of the Pennsylvania Turnpike, except points in Lackawanna and Luzerne Counties, Pa. NOTE: Applicant states it will tack at New York, N.Y. with existing authority. If a hearing is deemed necessary, applicant requests it be held at Scranton, Pa., and New York, N.Y.

No. MC 64423 (Sub-No. 1), filed March 1, 1972. Applicant: FREY'S MOTOR EXPRESS, INC., Fox Farm Road, Route 1, Phillipsburg, N.J. 08865. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food preparations and foodstuffs*, in vehicles equipped to protect such products from heat or cold (except in bulk in tank vehicles), from the plantsite and/or warehouse facilities of Kraftco Corp., at or near Fogelsville and Allentown, Pa. to points in New Jersey and New York, restricted to traffic originating at named origins and destined to points in named territory. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 65697 (Sub-No. 47), filed February 22, 1972. Applicant: THEATRES SERVICE COMPANY, a corporation, 830 Willoughby Way NE., Post Office Box 1695, Atlanta, GA 30312. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree Street NW., Atlanta, GA 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: (1) *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), having an immediately prior or immediately subsequent movement by air, serving Andalusia and Moulton, Ala., and Calhoun Falls, S.C., as off-route points in connection with otherwise authorized regular route authority and (2) *automobile parts, accessories and related articles*, between Atlanta, Ga., and Calhoun Falls, S.C.: From Atlanta, Ga., over U.S. Highway 29 or 78 to Athens, Ga., thence over Georgia Highway 72 and South Carolina Highway 72 to Calhoun Falls, S.C., and return over the same route. NOTE: If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 69695 (Sub-No. 13), filed March 7, 1972. Applicant: RAY L. BRANDT TRUCKING CO., a corporation, 460 West Philadelphia Street, York, PA 17404. Applicant's representative: John E. Fullerton, 407 North Front Street, Harrisburg, PA 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry fertilizer and dry fertilizer materials*, from the facilities of Agway, Inc., in Spring Garden Township, York County, Pa., to Wilmington, Del. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Harrisburg, Pa.

No. MC 74321 (Sub-No. 56), filed March 9, 1972. Applicant: B. F. WALKER, INC., 650 17th Street, Denver, CO 80202. Applicant's representative: Richard P. Kissinger (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dust collectors and component parts*, from the plantsite and warehouse facilities of Flex-Kleen Corp. at Chicago, Ill., and Libertyville, Ill., and the plantsite of Bloomer Fiske, Inc., at Chicago, Ill., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Chicago, Ill.

No. MC 83539 (Sub-No. 332), filed March 6, 1972. Applicant: C & H TRANSPORTATION CO., INC., 1936–2010 West Commerce Street, Post Office Box 5976, Dallas, TX 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and/or plastic tubing*, with or without plastic fittings for same, from Houston, Tex., to points in the United States (including Alaska, but excluding Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 88845 (Sub-No. 10), filed February 22, 1972. Applicant: PARCEL DELIVERY SERVICE, INC., 600 Belleville Turnpike, Kearny, N.J. 07032. Applicant's representative: Robert DeKroyft, 23 Branford Place, Newark, NJ 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, toilet preparations, medicines, cosmetics, pencils, crayons, books, pens, candy, synthetic rubber clothing, wearing apparel, chemicals, salesmen's samples, gelatin capsules, condition powders, regulators or tonics, animal or poultry feed supplements*, not frozen without or containing antibiotics or vitamins; *weed killing compounds, petroleum jelly, plastic articles, paper boxes, soap, dental plate cleaning, dry razor blades, razors, hair dryers, disinfectants, deodorant, buffing and polishing compounds, cleaning, scouring, and washing compounds, starch, and textile softeners*, in packages or containers not exceeding 36 inches in length, girth, or width and not exceeding 100 pounds per piece, from points in Kearny, Edison, Clifton, Hammonton, Secacus, and Belleville Counties, N.J., and Hillsborough Township, Somerset County, N.J., to points in Orange, Rockland, and Suffolk Counties, N.Y., under contract with Beecham Products Co., Clifton, N.J.; the Gillette Co., Andover, Mass.; International Playtex Corp., Dover, Del.; the Andrew Jergens Co., Belleville, N.J.; Eli Lilly & Co., Indianapolis, Ind.; Lehn and Fink Products, Montvale, N.J.; the Gillette Co., Personal Care Division, Andover, Mass.; Russell Stover Candies, Kansas City, Mo.; Revlon, Inc., Edison, N.J.; Sterling Drug Co., New York, N.Y.; Venus Esterbrook Corp., Lewisburg, Tenn., Vick Chemical Co., Philadelphia, Pa., and Whitehall Laboratories, New York, N.Y. NOTE: If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 95304 (Sub-No. 15), filed December 30, 1971. Applicant: NORTHERN NECK TRANSFER, INC., Post Office Box 345, Montross, VA 22520. Applicant's representative: L. C. Major, Jr., Suite 301 Tavern Square, 421 King Street, Alexandria, VA 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials*, between points in Westmoreland County, Va., on the one hand, and, on the other, points in that portion of Virginia on and east of a line extending from the West Virginia-Virginia State line over U.S. Highway 11 to its junction with U.S. Highway 220, at or near Roanoke, Va., and thence over U.S. Highway 220 to its junction with Virginia-North Carolina State line south of Martinsville; (2) *Lumber* used in the manufacturing of pallets, skids, boxes, crates, and furniture from points in that portion of Virginia on and east of U.S. Highway 15, extending between the Virginia-Maryland State line on the north, and the Virginia-North Carolina State line on the south, to points in Maryland, Pennsylvania, New York, New Jersey, Delaware, North Carolina, and the District of Columbia, and (3) *Lumber treated poles and piling*, from Warsaw, Va., to points in Connecticut, Massachusetts, New Hampshire, Vermont, Maine, and Rhode Island. NOTE: Applicant states it has no authority with which the authority applied for in paragraph (2) could or would be tacked, however, applicant intends to tack the two separate grants of authority at Montross, Va., a point in the commonly authorized service area of Westmoreland County, Va., at which point its present general office and terminal is located, so as to provide service between points in the above-specified portion of Virginia involved in this application, on the one hand, and, on the other, points in Maryland, Delaware, Pennsylvania, New Jersey, and New York. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Richmond, Va.

No. MC 95540 (Sub-No. 837), filed March 3, 1972. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, coconuts*, and *pineapples*, from Morehead City, N.C., to points in Indiana, Michigan, Illinois, Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Oklahoma, Kansas, Nebraska, North Dakota, and South Dakota. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

No. MC 95540 (Sub-No. 836), filed March 3, 1972. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen bakery products*, from Battle Creek, Mich., to points in Kentucky, Tennessee, Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 95540 (Sub-No. 838), filed March 3, 1972. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Textiles and textile products*, from Etowah and Port Rayon, Tenn., to points in California. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 95540 (Sub-No. 840), filed March 3, 1972. Applicant: WATKINS MOTOR LINES, INC., 1120 West Griffin Road, Lakeland, FL 33801. Applicant's representative: Paul E. Weaver (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Wilson, Certified Foods, Inc., at Marshall, Mo., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at Marshall, Mo., and destined to points in the above named States. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 97397 (Sub-No. 11) (Amendment), filed December 15, 1971, published in the FEDERAL REGISTER issue of January 13, 1972, and republished as amended, this issue. Applicant: MARVIN M. BARKLEY, doing business as, BARKLEY TRUCK LINES, 604 Fourth Street SW., Watertown, SD 57201. Applicant's representative: Irving A. Hinderaker, 25 First Avenue SW., Watertown, SD 57201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts*, and *articles distributed by meat packinghouses* as described in sections A, B, C, and D of Appendix I to the *report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and pelts); and (2) *foodstuffs*, when transported in the same vehicle with products described in (1) above, from Huron, S. Dak., to points in Beadle, Campbell, Day, Faulk, Hand, Kingsbury, Potter, Sully, Brookings, Clark, Deuel, Grant, Hughes, Marshall, Roberts, Walworth, Brown, Codington, Edmunds, Hamlin, Hyde, McPherson, and Spink Counties, S. Dak., restricted to traffic having a prior out-of-State movement by rail or motor carrier. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to redescribe the commodity description. If a hearing is deemed necessary, applicant requests it be held at Sioux Falls or Pierre, S. Dak.

No. MC 99107 (Sub-No. 7), filed February 23, 1972. Applicant: ELLIOTT TRUCK LINE, INC., Post Office Box 390, Boonville, IN 47601. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), serving strip minesite of Amax Coal Co., a Division of American Metal Climax, Inc., located approximately 4 miles north and 2 miles east of Stevenson, Ind. (Warwick County), as an off-route point in connection with carrier's regular route operations between Dale and Evansville, Ind. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC 99776 (Sub-No. 9), filed March 1, 1972. Applicant: BUCKNER TRUCKING, INC., 8802 Liberty Road, Houston, TX 77028. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products, and wood products*, from points in Ashley, Bradley, Drew, and Union Counties, Ark., and points in Louisiana, to points in Texas, Oklahoma, Kansas, Missouri, Arkansas, Mississippi, Tennessee, and Alabama. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 103993 (Sub-No. 696), filed March 8, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Knox County, Tenn., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 103993 (Sub-No. 697), filed March 8, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's repersentative: Paul D. Borghesani (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats*, on undercarriages, from points in Hamilton County, Tenn., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 103993 (Sub-No. 698), filed March 8, 1972. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, IN 46514. Applicant's representative: Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Boulder County, Colo. (except Boulder, Colo.), to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 104004 (Sub-No. 187), filed March 2, 1972. Applicant: ASSOCIATED TRANSPORT, INC., 380 Madison Avenue, New York, NY 10017. Applicant's repersentative: John P. Tynan, 69–20 Fresh Pond Road, Ridgewood, NY 11227. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food preparations and foodstuffs*, in vehicles equipped to protect such products from heat or cold, except in bulk, in tank vehicles, from the plantsite and/or warehouse facilities of Kraftco Corp., at or near Fogelsville and Allentown, Pa., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, Virginia, and West Virginia, restricted to traffic originating at named origins and destined to points in named territory. NOTE: Common control may be involved. No duplicate authority sought, and applicant requests that any certificate issued be construed as not to grant more than one right to operate. If

a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 105501 (Sub-No. 6), filed February 14, 1972. Applicant: TERMINAL WAREHOUSE COMPANY, a corporation, 498 First Street NW., New Brighton, MN 55112. Applicant's representative: Will S. Tomljanovich, Post Office Box 3434, St. Paul, MN 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Paper and paper products, woodpulp and products produced or distributed by manufacturers or converters of paper and paper products;* (b) *equipment, materials and supplies* used in the manufacture or distribution of commodities named in (a) above, (except commodities which because of size or weight require the use of special equipment, and except commodities in bulk), between International Falls, Minn., and points on the international boundary between the United States and Canada located in Minnesota and North Dakota, on the one hand, and, on the other, points in the United States located on and east of the western border of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; and (2) *paper and paper products and products produced or distributed by manufacturers or converters of paper and paper products*, from plants and warehouse or storage facilities utilized by Boise Cascade Corp. at Minneapolis and St. Paul, Minn., to points in the United States located on and east of the western border of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 105813 (Sub-No. 184), filed March 6, 1972. Applicant: BELFORD TRUCKING CO., INC., 3500 Northwest 79th Avenue, Miami, FL 33148. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from St. James, Madelia, and Butterfield, Minn., and Estherville, Iowa, to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107295 (Sub-No. 607), filed March 3, 1972. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Mack Stephenson, Post Office Box 146, Farmer City, IL 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood and prefinished plywood panels*, from Wilmington, N.C., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 107295 (Sub-No. 608), filed March 3, 1972. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, IL 61842. Applicant's representative: Mack Stephenson, Post Office Box 146, Farmer City, IL 61842. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, and plastic tubing and fittings therefor*, from Houston, Tex., to points in the United States (except Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 108053 (Sub-No. 113), filed March 6, 1972. Applicant: LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., Post Office Box 129, Freemont, NE 68025. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and potato products*, not frozen, (1) from points in Idaho, Oregon, Washington, and Utah to points in Minnesota, Wisconsin, Indiana, Michigan, Ohio, Kentucky, West Virginia, Virginia, Pennsylvania, Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and the District of Columbia; and (2) from points in California to points in Missouri (except Kansas City and St. Joseph), Minnesota, north of U.S. Highway 16; Wisconsin, north of Wisconsin Highway 11; Illinois, south of U.S. Highway 30; Indiana, south of U.S. Highway 30; Ohio, Kentucky, West Virginia, Virginia, Pennsylvania, Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 108375 (Sub-No. 32), filed March 3, 1972. Applicant: LeROY L. WADE & SON, INC., 10550 I Street, PO Box 27053, Omaha, NE 68127. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used automobiles*, in truckaway service, (1) from points in Kansas, to Omaha, Nebr., and (2) from Omaha, Nebr., to points in Kansas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 108411 (Sub-No. 5) (Correction), filed February 14, 1972, published in the FEDERAL REGISTER issue of March 16, 1972, and republished as corrected, this issue. Applicant: STEARLY'S MOTOR FREIGHT, INC., Box B. Collegeville, PA 19426. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. NOTE: The purpose of this partial republication is to show the correct docket number assigned thereto as MC 108411 (Sub-No. 5) in lieu of MC 18411 (Sub-No. 5) incorrectly shown in the previous publication. The rest of the publication remains the same.

No. MC 108884 (Sub-No. 21), filed March 3, 1972. Applicant: ROGERS TRANSFER, INC., Route 46, Post Office Box 175, Great Meadows, NJ 07838. Applicant's representative: Bert Collins, 140 Cedar Street, New York, NY 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from points in Pennsylvania on and east of U.S. Highway 219 to points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, and to points in Nebraska, Colorado, Utah, Nevada, California, Oregon, and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority sought. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Philadelphia, Pa.

No. MC 109397 (Sub-No. 266), filed February 28, 1972. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, Post Office Box 113, Joplin, MO 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Turbines, steam condensers, feed water heaters, weldments and heat exchangers;* (2) *parts of the commodities in* (1) above, and (3) *iron and steel castings and forgings*, between points in Chester Eddystone, Essington and Philadelphia, Pa.; Wilmington, Del.; Charlotte, N.C.; Sunnyvale and Marlboro, Calif.; Austin, Tex., and Tulsa, Okla., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its Sub No. 195 on size or weight commodities, but indicates that it has no present intention to tack and, therefore, does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 110098 (Sub-No. 124) (Correction), filed February 17, 1972, published in the FEDERAL REGISTER issue of March 23, 1972, and corrected and republished as corrected, this issue. Applicant: ZERO REFRIGERATED LINES,

a corporation, 1400 Ackerman Road, Post Office Box 20380, San Antonio, TX 78220. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, NE 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 I.C.C. 209 and 766 (except hides); (2) *foodstuffs;* (3) *foods;* and (4) *commodities*, the transportation of which is partially exempt pursuant to the provisions of section 203(b)(6) of the Interstate Commerce Act, when moving in the same vehicle and at the same time with the commodities described in 1, 2, and 3 above, restricted against the transportation of commodities in bulk, from points in Texas, to points in Arkansas, Colorado, Oklahoma, Kansas, Missouri, Nebraska, Iowa, Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota, South Dakota, North Dakota, Montana, Wyoming, and Texas. NOTE: Applicant states that the requested authority can be tacked with its Sub-Nos. 13 and 53, over Texas, to serve all States from California, Arizona, and New Mexico. No duplicating authority is sought. The purpose of this republication is to include the territorial description which was inadvertently omitted from the previous publication. If a hearing is deemed necessary, applicant requests it be held at San Antonio or Dallas, Tex.

No. MC 111045 (Sub-No. 92), filed March 3, 1972. Applicant: REDWING CARRIERS, INC., Post Office Box 426 also 7809 Palm River Road, Tampa, FL 33601. Applicant's representative: J. V. McCoy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Montgomery, Ala., to points in Georgia, Florida, Louisiana, Mississippi, and Arkansas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Washington, D.C.

No. MC 111103 (Sub-No. 39), filed February 22, 1972. Applicant: PROTECTIVE MOTOR SERVICE COMPANY, INC., 725-27 South Broad Street, Philadelphia, PA 19147. Applicant's representatives: John M. Delany, 2 Nevada Drive, Lake Success, NY 11040, and Russell S. Bernard, 1625 K Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coin*, between Coral Gables, Fla., on the one hand, and, on the other, Atlanta, Ga., Baltimore, Md., Birmingham, Ala., Boston, Mass., Buffalo and West Point, N.Y., Charlotte, N.C., Chicago, Ill., Cincinnati and Cleveland, Ohio, Culpeper and Richmond, Va., El Paso, Houston, and San Antonio, Tex., Denver, Colo., Detroit, Mich., Fort Knox and Louisville, Ky., Helena, Mont., Kansas City and St. Louis, Mo., Little Rock, Ark., Los Angeles and San Francisco, Calif., Memphis and Nashville, Tenn., Minneapolis, Minn., New Orleans, La., Oklahoma City, Okla., Omaha, Nebr., Philadelphia and Pittsburgh, Pa., Portland, Oreg., Salt Lake City, Utah, Seattle, Wash., and Washington, D.C., under contract with General Services Administration. NOTE: Applicant has common carrier authority under MC 133698 Sub 2, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 112822 (Sub-No. 228), filed March 10, 1972. Applicant: BRAY LINES INCORPORATED, Post Office Box 1191, 1401 North Little Street, Cushing, OK 74023. Applicant's representative: K. Charles Elliott (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products and meat byproducts as described in section A, B, and C of Appendix I to the report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Wilson Certified Foods, Inc., at or near Marshall, Mo., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming; and (2) *fats and oils and blends and products thereof*, in bulk, from the plantsite and or storage facilities utilized by Wilson Certified Foods, Inc., at or near Marshall, Mo., to points in Illinois, Oklahoma, Texas, Louisiana, Iowa, Kansas, Missouri, Arkansas, Tennessee, Nebraska, Kentucky, and Wisconsin, restricted to traffic originating at or near Marshall, Mo., and destined to points in the named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Kansas City, Mo.

No. MC 112989 (Sub-No. 22), filed March 1, 1972. Applicant: WEST COAST TRUCK LINES, INC., Post Office Box 688, Coos Bay, OR 97420. Applicant's representative: John G. McLaughlin, 726 Blue Cross Building, 100 SW. Market Street, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Construction material*, from points in Santa Clara, Alameda, and Contra Costa Counties, Calif., to points in Oregon and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 113678 (Sub-No. 451), filed March 2, 1972. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Mail: Post Office Box 16004, Stockyards Station, Denver, CO 80216. Applicant's representative: Duane W. Acklie, Post Office Box 80806, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aquariums and household pet cages, and aquarium accessories, supplies and equipment, materials, and supplies* used in the manufacture of aquariums and household pet cages, between Berkeley, Calif., and Brooklyn, N.Y., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif., or Denver, Colo.

No. MC 113908 (Sub-No. 223), filed March 13, 1972. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, Box 3180 G.S., Springfield, MO 65804. Applicant's representative: Le Roy Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juice and fruit juice concentrates*, in bulk, in tank vehicles, from (1) points in Michigan, Pennsylvania, New York, Arkansas, Washington, and Texas to points in Florida; and (2) from points in Florida and Texas to points in Michigan, Pennsylvania, New York, Arkansas, and Washington. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114019 (Sub-No. 231), filed March 3, 1972. Applicant: MIDWEST EMERY FREIGHT SYSTEM, INC., 7000 South Pulaski Road, Chicago, IL 60629. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from St. James, Madelia, and Butterfield, Minn., and Estherville, Iowa, to points in Colorado, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114045 (Sub-No. 358), filed March 9, 1972. Applicant: TRANS-COLD EXPRESS, INC., Post Office Box 5842, Dallas, TX 75222. Applicant's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from St. James, Madelia, and Butterfield, Minn., and Estherville, Iowa, to points in Arkansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas. NOTE: Applicant states that the

requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 114273 (Sub-No. 117), filed March 2, 1972. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., Post Office Box 68, Cedar Rapids, IA 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, 2720 First Avenue NE., Cedar Rapids, IA 52402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and dairy products* as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Wilson Certified Foods, Inc., at Marshall, Mo., to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, restricted to traffic originating at Marshall, Mo., and destined to points in the above named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 115092 (Sub-No. 18), filed March 8, 1972. Applicant: WEISS TRUCKING, INC., Post Office Box O, Vernal, UT 84078. Applicant's representative: Jack Kier (same address as applicant). Authority sought to operate as as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese and cheese products, imitation cheese or cheese products, and specialties, and related equipment and supplies* when moving with cheese and cheese products, from Logan, Utah, to points in Arizona, California, Nevada, Idaho, New Mexico, Oregon, Washington, Montana, Wyoming, and Colorado; and (2) *returned and rejected shipments* on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Salt Lake City, Utah.

No. MC 115491 (Sub-No. 124), filed March 1, 1972. Applicant: COMMERCIAL CARRIER CORPORATION, 502 East Bridgers Avenue, Post Office Drawer 67, Auburndale, FL 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphatic feed supplements*, in bulk in bags, from Plant City, Fla., to points in Florida. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla.

No. MC 115523 (Sub-No. 167), filed February 17, 1972. Applicant: CLARK TANK LINES COMPANY, a corporation, 1450 Beck Street, Salt Lake City, UT 84110. Applicant's representative: H. D. Stratford (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses*, in bulk (1) from the plantsite of Utah-Idaho Sugar Co. near Idaho Falls, Idaho, to points in Washington, and (2) *potash*, from the plantsite of Kaiser Aluminum and Chemical Co. near Wendover, Utah to points in Idaho. NOTE: Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 115705 (Sub-No. 2), filed February 3, 1972. Applicant: ERNEST LaBUMBARD, Route 1, Gladstone, Mich. 49837. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Fort Wayne, Ind. to the facilities of Douglas Distributing Co. at or near Sault Ste. Marie, Mich. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lansing or Detroit, Mich.

No. MC 115826 (Sub-No. 240), filed March 6, 1972. Applicant: W. J. DIGBY, INC., 1960 31st Street, Post Office Box 5088 T.A., Denver, CO 80217. Applicant's representative: Robert E. Digby, 217 Luhrs Tower, Phoenix, AZ 85003. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles* distributed by meat packinghouses, as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, *and frozen food*, from El Paso, Tex., to points in the United States (excluding Alaska and Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Denver, Colo.

No. MC 116763 (Sub-No. 220), filed February 28, 1972. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Animal feed, including advertising material*, from Sebring, Ohio, to points in the United States, in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana (except Ohio), and (2) *ingredients, materials and supplies* used in the manufacturing, packaging, and distribution of animal feed, from points in the United States east of U.S. Highway 85 (except Ohio), to Sebring, Ohio. NOTE: Applicant states tacking possibilities may exist, but does not presently intend to tack. No duplicating authority held or sought. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 116859 (Sub-No. 12), filed March 6, 1972. Applicant: CLARK TRANSFER, INC., 829 North 29th Street, Philadelphia, PA 19130. Applicant's representative: V. Baker Smith, 2107 The Fidelity Building, Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motion picture films and articles associated with the exhibition of motion pictures*, between points in Camden County, N.J., on the one hand, and, on the other, points in Delaware, Maryland, New York, Pennsylvania, Virginia, and the District of Columbia. NOTE: Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 117068 (Sub-No. 18), filed February 24, 1972. Applicant: MIDWEST HARVESTORE TRANSPORT, INC., 2118 17th Avenue NW., Rochester, MN 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Seat cabs and parts thereof*, from Rochester, Minn., to Benton Harbor, Mich. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states that no duplicating authority is being sought. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 117613 (Sub-No. 7), filed February 24, 1972. Applicant: DONALD M. BOWMAN, JR., 5 North Clifton Drive, Williamsport, MD 21795. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Building materials and supplies, and materials and supplies* used in the manufacture, packaging, and distribution thereof (except commodities in bulk, and commodities which because of size or weight require the use of special equipment); and *tan bark, and marble chips*, from Gibbsboro, N.J., to points in Pennsylvania, Maryland, Delaware, West

Virginia, Virginia, Ohio, and the District of Columbia, under a contract or continuing contract with G. and W. H. Corson, Inc.; (b) *tan bark* from Williamsport, Md., to points in New Jersey, Rhode Island, Maryland, West Virginia, Illinois, New York, Vermont, Delaware, Ohio, Mississippi, Pennsylvania, Virgina, Indiana, and the District of Columbia, under contracts or continuing contracts with G. and W. H. Corson, Inc., and W. D. Byron & Sons, Inc., Williamsport, Md.; and (c) *green salted cattle hides and brine cured cattle hides* from points in Ohio, Indiana, Illinois, and Pennsylvania to Williamsport, Md., under a contract or continuing contract with W. D. Byron & Sons, Inc., Williamsport, Md. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 117686 (Sub-No. 132), filed March 2, 1972. Applicant: HIRSCHBACH MOTOR LINES, INC., 3324 U.S. Highway 75 North, Post Office Box 417, Sioux City, IA 51102. Applicant's representative: A. J. Swanson, Post Office Box 417, Sioux City, IA 51102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts, dairy products, and articles* distributed by meat packinghouses, as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Wilson Certified Foods, Inc., at Marshall, Mo., to points in Arkansas, Alabama, Florida, Georgia, Louisiana, Minnesota, Mississippi, North Dakota, Oklahoma, South Dakota, and Texas, restricted to traffic originating at Marshall, Mo., and destined to points in the named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Denver, Colo.

No. MC 118159 (Sub-No. 121), filed March 1, 1972. Applicant: EVERETT LOWRANCE, INC., 1925 National Plaza, Post Office Box 10216, Tulsa, OK 74151. Applicant's representative: Jack R. Anderson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed urea, fertilizer, and fertilizer materials* dry in bags, from Omaha, and Nebraska City, Nebr., to points in South Dakota, Minnesota, Wisconsin, Iowa, Missouri, and Kansas. NOTE: Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 118610 (Sub-No. 15) (Clarification), filed December 20, 1971, published in the FEDERAL REGISTER issue of February 3, 1972, and republished as clarified, this issue. Applicant: L & B EXPRESS, INC., Post Office Box 281, Owensboro, KY 42301. Applicant's representative: Fred F. Bradley, Courthouse, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles; tubing; plastic, steel and soil pipe; tanks; plumbing goods and supplies; hand tools; power tools; and building materials*, between Bowling Green, Ky., on the one hand, and, on the other, points in Illinois, Indiana, Ohio, Wisconsin, West Virginia, Minnesota, Michigan, Tennessee, Georgia, Alabama, Mississippi, Arkansas, Florida, Missouri, Iowa, Texas, Louisiana, Pennsylvania, New Jersey, and New York. NOTE: Applicant states it will tack if feasible or possible with authority only in MC 118610. The purpose of this republication is to place the correct punctuation marks throughout the commodity description. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Nashville, Tenn.

No. MC 118859 (Sub-No. 7), filed March 6, 1972. Applicant: BULLOCK TRUCKING COMPANY, INC., No. 6 Produce Market, Thomasville, Ga. 31792. Applicant's representative: Virgil H. Smith, 431 Title Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Poles, posts, pilings and cross-arms*, treated and untreated, from the plantsites of Escambia Treating Co., located at or near Brunswick and Camilla, Ga., to points in Alabama, Kentucky, North Carolina, South Carolina, Tennessee, and Virginia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 119765 (Sub-No. 28), filed March 1, 1972. Applicant: HENRY G. NELSEN, INC., 1548 Locust Street, Avoca, IA 51521. Applicant's representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts* as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and/or storage facilities utilized by Wilson Certified Foods, Inc., at Marshall, Mo., to points in Illinois, Indiana, Kansas, Missouri, Nebraska, and Wisconsin, restricted to traffic originating at Marshall, Mo. and destined to points in the named States. NOTE: If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 119767 (Sub-No. 282), filed March 6, 1972. Applicant: BEAVER TRANSPORT CO., a corporation, I–94 and County Highway C, Bristol, WI, Post Office Box 188, Pleasant Prairie, WI 53158. Applicant's representative: Fred H. Figge, Post Office Box 188, Pleasant Prairie, WI 53158. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, canned or prepared (except commodities in bulk), from Munster, Ind., to points in Illinois, Kentucky, and points in Ohio, on and west of a line beginning at Sandusky, Ohio, and extending south along Ohio Highway 4 to Marion, Ohio, and thence south along U.S. Highway 28 to Portsmouth, Ohio, and Davenport and Dubuque, Iowa. Restriction: Restricted to the transportation of shipments originating at Munster, Ind., and destined to the above-named destinations. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119918 (Sub-No. 7), filed March 9, 1972. Applicant: C & H FREIGHTWAYS, 402 West Watkins Road, Post Office Box 20465, Phoenix, AZ 85036. Applicant's representative: Thomas E. James, Post Office Box 5976, Dallas, TX 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum extrusions*, from Phoenix, Ariz., to points in California. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 120981 (Sub-No. 13), filed March 1, 1972. Applicant: BESTWAY EXPRESS, INC., 415 Fifth Avenue, South, Nashville, TN 37202. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission and those requiring special equipment) (1) between Cincinnati, Ohio and the plantsites of American Greetings Corp., Penn Ventilator Co., Inc., and Sellers Engineering Co., at or near Danville, Ky.; from Cincinnati, Ohio, over Interstate Highway 75 to Lexington, Ky., thence over U.S. Highway 68 to Harrodsburg, Ky., thence over U.S. Highway 127 to Danville, Ky., and return over the same route, serving no intermediate points; and (2) between Lexington, Ky., and the plantsites of American Greetings Corp., Penn Ventilator Co., Inc., and Sellers Engineering Co., at or near Danville, Ky.; from Lexington, Ky., over U.S. Highway 60 to junction Blue Grass Parkway, thence over Blue Grass Parkway to junction with U.S. Highway 127, thence over U.S. Highway 127 to Danville, Ky., and return over the same route, serving no intermediate points, for the purpose of joinder only. NOTE: If a hearing is deemed necessary, applicant requests it be held at Frankfort or Louisville, Ky.

No. MC 123260 (Sub-No. 2), filed March 6, 1972. Applicant: L. E. COX, doing business as PMC COMPANY, 227 West Depot Street, Greenville, TN 37743. Applicant's representative: Jimmy Gray Cutshaw, Post Office Box 713, Greenville, TN. Authority sought to operate as a *contract carrier*, by motor vehicle, over

irregular routes, transporting: *Peppers and greens*, in cans, *barrels and plastic pails*, from Limestone, Tenn., to points in Alabama, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, Wyoming, and the District of Columbia, and (2) the return of products owned by Moody Dunbar, Inc., said products being *ingredients used in the canning of peppers and greens* that are needed to supplement the plant at Limestone, Tenn., along with *cans, barrels and plastic pails* in which the products are packed, from points in the United States (excluding Alaska and Hawaii), to Limestone, Tenn., under contract with Moody Dunbar, Inc., Limestone, Tenn. NOTE: If a hearing is deemed necessary, applicant requests it be held at Knoxville or Nashville, Tenn.

No. MC 123805 (Sub-No. 8), filed February 22, 1972. Applicant: G. H. LOMAX, Rural Route No. 1, Hannibal, MO 63401. Applicant's representative: Thomas P. Rose, Jefferson Building, Post Office Box 205, Jefferson City, MO 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Basic oxygen furnace dust*, from Granite City, Ill., to the plantsite and facilities of Dundee Cement, Co. at or near Clarksville, Mo. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Jefferson City or St. Louis, Mo.

No. MC 123905 (Sub-No. 13), filed March 7, 1972. Applicant: OLEN BURRAGE TRUCKING, INC., Route 9, Box 22–A, Philadelphia, MS 39350. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty National Bank Building, Post Office Box 22628, Jackson, MS 39205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and animal and poultry health products*, in containers and feeders and *advertising matter and premiums* when moving in the same vehicle with the previous commodities, from Decatur, Ill., to points in Mississippi, under contract with A. E. Staley Manufacturing Co. NOTE: Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Jackson, Miss.

No. MC 124078 (Sub-No. 515), filed March 1, 1972. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foundry core compounds, petroleum, and petroleum products*, in bulk, from Milwaukee, Wis., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, New York, Ohio, Pennsylvania, and Wisconsin. NOTE: Applicant states that the requested authority can be tacked via points in Kentucky to points in Tennessee; chemicals to points in Iowa, Nebraska, North Dakota, Kansas, Missouri, Wyoming, Colorado; and anhydrous ammonia to points in Missouri, Kansas, Nebraska, Pennsylvania, and West Virginia. However, no tacking is intended. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.

No. MC 124078 (Sub-No. 516), filed March 9, 1972. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53246. Applicant's representative: Richard H. Prevette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, (1) from the plantsite of Marquette Cement Manufacturing Co. at or near Catskill, N.Y., to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont and (2) from the plantsite of Medusa Portland Cement Co. at Clinchfield, Ga., to points in Tennessee. NOTE: Applicant states that the requested authority can be tacked with its existing authority, but indicates that it has no present intention to tack and therefore does not identify the points or territories which can be served through tacking. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124211 (Sub-No. 209), filed March 6, 1972. Applicant: HILT TRUCK LINE, INC., Post Office Box 988 D.T.S., Omaha, NE 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, between points in the United States on and east of U.S. Highway 75, on the one hand, and, on the other, points in the United States west of U.S. Highway 75 (except Alaska and Hawaii). Restriction: The authority sought herein, to the extent applicant's present authority is duplicated, shall not be construed as conferring more than one operating right severable by sale or otherwise. NOTE: Applicant states tacking possibilities exist with Sub-Nos. 18, 26, 109, 112, 124, 133, 139, 143, and 150, at numerous points, but submits tacking would not be necessary due to scope of instant application. No duplicate authority is sought. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., Omaha, Nebr., and San Francisco, Calif.

No. MC 124489 (Sub-No. 7), filed March 6, 1972. Applicant: NIELSON BROS. CARTAGE CO., INC., 4619 West Homer Street, Chicago, IL 60639. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building material* (except commodities in bulk), from the plantsite of the Logan-Long Co. at Chicago, Ill., to Hobart, Ind., under contract with the Logan-Long Co. NOTE: Applicant holds common carrier authority under MC 70577, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124813 (Sub-No. 92), filed March 6, 1972. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson Street, Eagle Grove, IA 50533. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bentonite and foundry molding sand treating compound*, from the plantsites of American Colloid Co. at Belle Fourche, S. Dak., and Upton, Wyo., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, and Wisconsin. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority under MC 118468 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 125708 (Sub-No. 127), filed March 13, 1972. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., Highway 32 East, Crawfordsville, Ind. 47933. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Kansas City, Kans., and Willow Springs, Mo., to Grand Rapids, Mich. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 126278 (Sub-No. 5), filed March 9, 1972. Applicant: FRIGIDWAY CARTAGE CO., a corporation, 4500 West 44th Place, Chicago, IL. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, coconuts, and pineapples*, from Chicago, Ill., to points in Indiana, Illinois, Wisconsin, Iowa, Minnesota, and Michigan. (Restrictions: (1) restricted to the transportation of traffic moving in chassis mounted containers and (2) restricted to the transportation of traffic having an immediately prior or subsequent movement by rail). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126372 (Sub-No. 10), filed March 13, 1972. Applicant: SUREFINE

TRANSPORTATION COMPANY, a corporation, 1925 East Vernon Avenue, Los Angeles, CA 90058. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and commercial, institutional, store, and kitchen equipment, and fixtures*, between points in Utah, on the one hand, and, on the other, points in California, Colorado, Idaho, Nevada, Oregon, Washington, Wyoming, Arizona, New Mexico, Texas, and Montana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Portland, Oreg.

No. MC 126517 (Sub-No. 2), filed March 2, 1972. Applicant: RED RIVER TRANSFER & STORAGE, INC., Box 1384, 925 First Avenue North, Grand Forks, ND 58201. Applicant's representative: Gene P. Johnson, 514 First National Bank Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Montana, South Dakota, North Dakota, and Minnesota. Restrictions: The service authorized herein, is subject to the following conditions: Said operations are restricted to the transportation of traffic having a prior or subsequent movement in containers beyond the points authorized. Said operations are restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak., or St. Paul, Minn.

No. MC 126715 (Sub-No. 5), filed January 31, 1972. Applicant: TRANSPORT SERVICE, a corporation, 6395 Southeast Alberta Street, Portland, OR 97206. Applicant's representative: John G. McLaughlin, 100 Southwest Market Street, 726 Blue Cross Building, Portland, OR 97201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Road oil, and fuel oil* when used as road oil, from Coos County, Oreg., to points in Siskiyou and Del Norte Counties, Calif. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 126899 (Sub-No. 52), filed March 1, 1972. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, Post Office Box 3051, Paducah, KY 42001. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in drums and packages, *tires, batteries, and automotive accessories*, from Chicago, Ill., to points in Kentucky and points in Benton, Crockett, Dyer, Henry, Humphries, Montgomery, Stewart, Carroll, Dickson, Gibson, Houston, Lake, Obion, and Weakley Counties, Tenn., and *empty drums and barrels*, on return. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Atlanta, Ga.

No. MC 127019 (Sub-No. 7), filed February 22, 1972. Applicant: LaRUE LAMB, doing business as LaRUE LAMB TRUCKING, Myton, Utah 84052. Applicant's representative: Stuart L. Poelman, Seventh Floor Continental Bank Building, Salt Lake City, Utah 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gilsonite* (natural asphaltum), in bulk, from points in Duchesne and Uintah Counties, Utah, to points in Texas. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah.

No. MC 127777 (Sub-No. 16), filed March 10, 1972. Applicant: MOBILE HOME EXPRESS, INC., Post Office Box 547, Wausau, WI 54401. Applicant's representative: Theodore Polydoroff, 1140 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from points in Shawano, Lincoln, Vilas, and Forest Counties, Wis., to all points in the United States (except Hawaii) and (2) *Kitchen display trailers*, equipped with hitchball connector and designed to be drawn by passenger automobiles, in initial movements, for display or exhibition purposes only, beginning and ending at Laona, Wis., and extending to points in the United States (except Hawaii). NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Madison, Wis.

No. MC 128712 (Sub-No. 2), filed March 13, 1972. Applicant: TED OWENS, 910 Macauley Avenue, Rice Lake, WI 54868. Applicant's representative: Gary L. Bakke, 103 North Knowles Avenue, New Richmond, WI 54017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Canned foods and wooden pallets*, between Lakeland, Minn., on the one hand, and, on the other, Frederic, Cumberland, Holman, and Columbus, Wis., under contract with Stokely-Van Camp, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 128866 (Sub-No. 34), filed March 2, 1972. Applicant: B & B TRUCKING, INC., Post Office Box 128, Cherry Hill, NJ 08034. Applicant's representative: J. Michael Farrell, 1815 H Street NW. No. 512, Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum food containers*, for the account of Penny Plate, Inc., from Cherry Hill, N.J., and Searcy, Ark., to the plantsites of Merico, Inc., Fort Wayne, Ala.; Charles Freihofer Baker Co., Albany, N.Y., Bama Pie Co., Tulsa, Okla., and Tennessee Foods, Inc., Rossville, Tenn., under contract with Penny Plate, Inc., Cherry Hill, N.J. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Philadelphia, Pa.

No. MC 133095 (Sub-No. 25), filed March 1, 1972. Applicant: TEXAS CONTINENTAL EXPRESS, INC., Post Office Box 434, Euless, TX 76039. Applicant's representative: Hugh T. Matthews, 630 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol and alcoholic beverages*, from points in New York, New Jersey, Michigan, Illinois, Kentucky, Indiana, Tennessee, and Pennsylvania to points in Colorado, Arkansas, Oklahoma, Louisiana, New Mexico and those in Texas east of U.S. Highway 277. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 133106 (Sub-No. 17) (Correction), filed January 11, 1972, published FEDERAL REGISTER issue of February 10, 1972, and republished as corrected this issue. Applicant: NATIONAL CARRIERS, INC., 1501 East Eighth Street, Post Office Box 1358, Liberal, KS 67901. Applicant's representative: Frederick J. Coffman, 521 South 14th Street, Post Office Box 80806, Lincoln, NE 68501. NOTE: The purpose of this republication is to reflect the operations as a *contract carrier* in lieu of *common carrier*, shown erroneously in previous publication. The rest of the application remains the same.

No. MC 134477 (Sub-No. 19), filed March 10, 1972. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Paul Schanno (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, and hides), from Mason City, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a

hearing is deemed necessary, applicant requests it be held at St. Paul or Minneapolis, Minn.

No. MC 134922 (Sub-No. 27), filed March 1, 1972. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Applicant's representative: William J. Boyd, 29 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lard, lard substitutes, animal oil and shortening, vegetable oils and shortenings, and blends of animal oils, animal shortenings, vegetable oils, and vegetable shortenings* (except commodities in bulk), from Helena, Ark., to points in Alabama, Georgia, Tennessee, Mississippi, Kentucky, and Louisiana. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135364 (Sub-No. 3), filed March 6, 1972. Applicant: MORWALL TRUCKING, INC., Route 502, Daleville, Pa. 18444. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, PA 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Heating, cooling and/or air conditioning machinery and accessories and/or related parts;* loose, unpackaged, on skids, or packaged, from the facilities of Trane Co., located in Lackawanna County, Pa., to points in Connecticut and Virginia, under contract with the Trane Co. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135705 (Sub-No. 2), filed February 29, 1972. Applicant: LELAND D. MELROSE, doing business as MELROSE TRUCKING COMPANY, Raderville Route, Box 6360, Casper, Wyo. 82601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk having a prior movement via railroad, from railroad terminals or sidings in Wyoming to points in Wyoming. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Billings or Butte, Mont.

No. MC 136200 (Sub-No. 1), filed March 6, 1972. Applicant: ACE VAN & STORAGE COMPANY, a corporation, 170 Sixth Avenue, San Diego, CA 92101. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* between points in San Diego County, Calif., restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. NOTE: If a hearing is deemed necessary, applicant does not specify a location.

No. MC 136239 (Amendment), filed November 23, 1971, published in the FEDERAL REGISTER issue of December 30, 1971, and republished as amended, this issue. Applicant: COASTAL TRUCKING COMPANY, a corporation, Post Office Box 1256, Bell Point Street, Brunswick, GA 31520. Applicant's representative: Sol H. Proctor, 2501 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* when mixed with seafood, from the plantsite and storage facilities of Sea Pak, a division of W. R. Grace & Co., at or near Brunswick, St. Simons Island, and Savannah, Ga., to points in Florida, South Carolina, North Carolina, Virginia, New York, Maryland, Delaware, New Jersey, Pennsylvania, Connecticut, Rhode Island, Massachusetts, Maine, Vermont, New Hampshire, Ohio, Tennessee, Kentucky, West Virginia, Alabama, Indiana, and the District of Columbia, and (2) *pizza* from the plantsite and storage facilities of Sea Pak, a division of W. R. Grace & Co., at or near Fredonia, Jamestown, and Buffalo, N.Y., to points in Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, Pennsylvania, Connecticut, Rhode Island, Massachusetts, Maine, Vermont, New Hampshire, Ohio, Tennessee, Kentucky, West Virginia, Alabama, Indiana, and the District of Columbia, under contract with Sea Pak, a division of W. R. Grace & Co. NOTE: The purpose of this republication is to redescribe the commodity and territorial scope of the application. If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla., or Savannah, Ga.

No. MC 136249 (Sub-No. 2) (Amendment), filed December 10, 1971, published in the FEDERAL REGISTER issue of January 20, 1972, and republished in part, as amended, this issue. Applicant: JAMES R. GALBRAITH, JR., Rural Route 1, Box 123, Camanche, Iowa 52730. Applicant's representative: Carl E. Munson, 469 Fischer Building, Dubuque, Iowa 52001. NOTE: The sole purpose of this partial republication is to amend the commodity description under item (b) to *empty used containers* in lieu of *cooperage* (empties returned), as shown in the original notice. The rest of the application remains as previously published.

No. MC 136453 (Sub-No. 1), filed March 6, 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 I 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, Maine, Massachusetts, Maryland, Virginia, West Virginia, Tennessee, Kentucky, North Carolina, South Carolina, Michigan, Wisconsin, Minnesota and the District of Columbia, under contract with Armour Food Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 136463, filed March 3, 1972. Applicant: DST INDUSTRIES, INC., 34364 Goddard Road, Romulus, MI 48174. Applicant's representative: S. Harrison Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prototype vehicles and modified production vehicles*, not intended for sale to the public, between Dearborn and Romulus, Mich., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under contract with Ford Motor Co. and its subsidiaries. NOTE: The instant application is accompanied by a motion to dismiss. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 136474 (Sub-No. 2), filed March 6, 1972. Applicant: ALLIED DELIVERY AND INSTALLATION, INC., Old Hickory Boulevard, Nashville, Tenn. 37027. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, sold by retail establishments, including the setting up, installation, and related accessorial and incidental services. Restriction: Restricted to merchandise sold at retail by retail establishments, destined to customers in home deliveries, from Nashville, Tenn., to points in Allen, Barren, Christian, Logan, Simpson, Todd, Trigg, and Warren Counties, Ky. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 136486, filed February 24, 1972. Applicant: M. BRAXTON BARBOUR, doing business as BRACK BARBOUR WRECKER SERVICE, 3320 North Boulevard, Raleigh, NC. Applicant's representative. Allen W. Brown, 707–8 Lawyers Building, Raleigh, N.C. 27601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used motor vehicles*, driveaway or truck-away wrecker service, between points in Washington, D.C.; New York, N.Y.; New Jersey, Pennsylvania, Maryland, Delaware, Virginia, South Carolina, Georgia, Florida, and North Carolina. NOTE: If a hearing is deemed necessary, applicant requests it be held at Raleigh or Durham, N.C.

No. MC 136487, filed February 23, 1972. Applicant: S S T INCORPORATED, 1200

West Main Street, Griffith, IN 46319. Applicant's representative: Sylvia L. Terpstra, 1211 West Main Street, Griffith, IN 46319. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron or steel products and articles*, between points in Randolph, Henry, Hancock, Marion, John, Shelby, Morgan, Owen, and Vigo Counties, Ind., and points in Rock, Henry, Knox, Fulton, Mason, Menard, Logan, Macon, Moultrie, Coles, and Clark Counties, Ill. NOTE: Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 136496, filed February 23, 1972. Applicant: ALLEN F. SEESHOLTZ, Rural Delivery No. 2, Berwick, Pa. 18603. Applicant's representative: John M. Musselman, Post Office Box 1146, 400 North Third Street, Harrisburg, PA 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lamps and components, parts and accessories for lamps, and materials, supplies and equipment* used or useful in the manufacture, assembly, distribution or installation of lamps, between Berwick, Pa., and Long Beach, Calif., under contract with Fulton Manufacturing Co., Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 136502, filed March 13, 1972. Applicant: HARRY G. JOCKERS, doing business as CITY WIDE TOWING, 2306 Crestline Loop, North Las Vegas, NV 89030. Applicant's representative: Norman Ty Hilbrecht, 717 South Third Street, Las Vegas, NV 89101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Disabled vehicles*, by use of towing vehicles, by means of crane, hoist, towbar, tow line, or dolley, from points in Arizona, California, Colorado, Nevada, and Utah, on the one hand, and, on the other, points in Arizona, California, Colorado, Nevada, and Utah, under contract with Garrett Freight Line, Milne and Cashman Truck Co. NOTE: If a hearing is deemed necessary, applicant requests it be held at Las Vegas, Nev.

No. MC 136505, filed March 6, 1972. Applicant: R. O. BARBER, INC., Rural Route No 1, Box 392, Franklin, Ind. 46131. Applicant's representative: Robert W. Loser, 1001 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Metal parts, finished* such as are manufactured, sold, and distributed by Arvin Industries, Inc., from plants, warehouses, and storage facilities of Arvin Industries, Inc., at North Vernon, Seymour, Columbus, Greenwood, Franklin, Greenfield, and Indianapolis, Ind., to points in Cook and Du Page Counties, Ill., restricted to traffic originating at said named origin points; and (2) *supplies, materials, equipment, and machinery*, used or useful in the manufacturing, shipping and distribution of metal parts, from points in Cook, and Du Page Counties, Ill., to the plants, warehouses, and storage facilities of Arvin Industries, Inc., at North Vernon, Seymour, Columbus, Greenwood, Franklin, Greenfield, and Indianapolis, Ind., restricted to traffic destined to said destination points named herein. Restriction: Restricted to operations performed under a continuing contract or contracts with Arvin Industries, Inc. NOTE: If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 136509, filed March 7, 1972. Applicant: JAMES R. COLELLO, INC., 174 Plain Street, Millis, MA 02054. Applicant's representative: William P. Sullivan, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silica products*, in bulk, from Stonington, Conn., to points in Masachusetts, under contract with Bird & Son, Inc., and GAF Corp. NOTE: If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Boston, Mass.

MOTOR CARRIER OF PASSENGERS

No. MC 13300 (Sub-No. 88), filed February 17, 1972. Applicant: CAROLINA COACH COMPANY, a corporation, 1201 South Blount St., Post Office Box 1591, Raleigh, NC 27602. Applicant's representative: James E. Wilson, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, (1) Between Richmond, Va., and junction Interstate Highway 95 and U.S. Highway 301 approximately 11 miles south of Petersburg, Va., serving all intermediate points: From Richmond over Interstate Highway 95 to junction U.S. Highway 301 approximately 11 miles south of Petersburg, and return over the same route; and (2) Between junction Interstate Highway 95 and U.S. Highway 301 approximately 3 miles north of Emporia, Va., and Battleboro, N.C., serving all intermediate points: From junction Interstate Highway 95 and U.S. Highway 301 approximately 3 miles north of Emporia over Interstate Highway 95 to junction Interstate Highway 95 access route near Gold Rock, N.C., and thence over Interstate Highway 95 access route to Battleboro, and return over the same route. NOTE: Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 116260 (Sub-No. 5), filed March 6, 1972. Applicant: PASHA TRUCKAWAY, 1308 Canal Boulevard, Richmond, CA 94804. Applicant's representative: Edward J. Hegarty, 100 Bush Street, 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passenger mootr vehicles; motor vehicles used for transporting freight, including driving tractors for freight carrying vehicles; motorcycles and motorcycles sidecars; hearses; buses; passenger, house or sleep trailers; vehicles*, other than motor vehicles, designed for the transportation of freight for use with a motor vehicle; *cabs and bodies of the above described vehicles; motor vehicles chassis; mobile searchlights; mobile generators, parts, spare parts or extra parts of the above described vehicles* when accompanying the shipment of the vehicle to which it belongs or for which it is intended; *auto show paraphanalia, equipment and accompanying advertising matter*, (1) between the California-Oregon State line north of Smith River, Calif., and United States-Mexico border at San Ysidro, Calif., serving all intermediate points: From the California-Oregon State line over U.S. Highway 101 to junction Interstate Highway 5, thence over Interstate Highway 5 to the United States-Mexico border; also over U.S. Highway 101 to junction California Highway 1 near Oxnard, thence over California Highway 1 (formerly U.S. Highway 101 Alternate), to junction California Highway 2, thence over California Highway 2 (formerly U.S. Highway 101 Alternate) to junction U.S. Highway 101, thence as described above to the United States-Mexico border;

Also from the California-Oregon State line as described above to junction U.S. Highway 101 and U.S. Highway 101 By-Pass Route near Woodland Hills, thence over U.S. Highway 101 By-Pass Route to junction U.S. Highway 101, thence as described above to the U.S. Mexico border; (2) between the California-Oregon State line near Hilts, Calif., and the United States-Mexico border south of Calexico, Calif., serving all intermediate points: From the California-Oregon State line over Interstate Highway 5 to Sacramento, Calif., (also from the California-Oregon State line over Interstate Highway 5 to Red Bluff, Calif.), thence over California Highway 99 to Yuba City, Calif., thence over California Highway 20 (formerly U.S. Highway 99E to Marysville, Calif., thence over California Highway 65 (formerly U.S. Highway 99E) to junction Interstate Highway 80, thence over Interstate Highway 80 to Sacramento, Calif.), thence over U.S. Highway 50 to Stockton, Calif., thence over California Highway 99 to junction Interstate Highway 5 near Wheeler Ridge, Calif., thence over Interstate Highway 5 to junction Interstate Highway 10 (formerly U.S. Highway 99), thence over Interstate Highway 10 near Coachella, Calif., thence over California Highway 86 (formerly U.S. Highway 99), thence over California Highway 86 to junction California Highway 111, thence over California Highway 111 to the California-Mexico border and return over the same route; (3) between the California-Oregon State line north of Dorris, Calif., and Weed, Calif., serving all intermediate points:

From the California-Oregon State line over U.S. Highway 97 to Weed and return over the same route; (4) between the California-Oregon State line at New Pine Creek, Calif., and the California-Nevada State line south of Hallelujah

Junction, Calif., serving all intermediate points: From the California-Oregon State line over U.S. Highway 395 to the California-Nevada State line and return over the same route; (5) between the California-Nevada State line north of Coleville, Calif., and the United States-Mexico border at San Diego, Calif., serving all intermediate points: From the California-Nevada State line over U.S. Highway 395 to San Diego and return over the same route; (6) between junction Interstate Highway 5 and California Highway 89 2 miles south of Mount Shasta City, Calif., and junction California Highway 89 and California Highway 88 near Woodfords, Calif., serving all intermediate points: From junction Interstate 5 and California Highway 89 over California Highway 89 to junction California Highways 88 and 89 and return over the same route; (7) between Sattley and Mariposa, Calif., serving all intermediate points: From Sattley over California Highway 49 to Mariposa and return over the same route; (8) between the California-Nevada State line north of Amargosa, Calif., and junction Interstate Highway 15 and California Highway 127 near Baker, Calif., serving all intermediate points: From the California-Nevada State line over California Highway 127 to junction Interstate Highway 15 and return over the same route; (9) between junction U.S. Highway 101 and California Highway 299 and Alturas, Calif., serving all intermediate points:

From junction U.S. Highway 101 and California Highway 299 over California Highway 299 to Alturas and return over the same route; (10) between the California-Nevada State line near Floriston, Calif., and San Francisco, Calif., serving all intermediate points: From the California-Nevada State line over Interstate Highway 80 and return over the same route; (11) between junction U.S. Highway 395 and California Highway 136 2 miles south of Lone Pine, Calif., and Death Valley Junction (Amargosa), Calif., serving all intermediate points: From junction U.S. Highway 395 and California Highway 136 over California Highway 126 to junction California Highway 190, thence over California Highway 190 to Death Valley Junction and return over the same route; (12) between junction California Highway 1 and California Highway 4 near Marro Bay, Calif., and the California-Nevada State line north of Wheaton Springs, Calif., serving all intermediate points: From junction California Highway 1 and California Highway 41 over California Highway 41 to junction California Highway 46, thence over California Highway 46 to junction California Highway 99, thence over California Highway 99 to junction California Highway 58, thence over California Highway 58 to junction Interstate Highway 15, thence over Interstate Highway 15 to the California-Nevada border and return over the same route; (13) between Santa Monica, Calif., and the California-Arizona State line, serving all intermediate points:

From Santa Monica over U.S. Highway 66 to the California-Arizona State line and return over the same route; (14) between Los Angeles, Calif., and the California-Arizona State line, serving all interminate points: From Los Angeles over California Highway 60 to junction Interstate Highway 10 near Beaumont, thence over Interstate Highway 10 to the California-Arizona State line and return over the same route; and (15) between San Diego, Calif., and the California-Arizona State line, serving all intermediate points: From San Diego over U.S. Highway 80 to the California-Arizona State line and return over the same route. Service is authorized at all other points in California as off-route points in connection with the above described routes. Applicant presently holds authority as set forth above under a certificate of registration. By the instant application it seeks to convert such certificate of registration to a certificate of public convenience and necessity. In addition to the above, applicant also seeks an additional route, which reads as follows: Between Sacramento, Calif., and Johnstonville, Calif., serving no intermediate points and serving the termini for purposes of joinder only: From Sacramento, Calif., over Interstate Highway 80 to Reno, Nev., thence over U.S. Highway 395 to Johnstonville and return over the same route. NOTE: If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 136510, filed March 8, 1972. Applicant: OVER-LAND COACH LINES, INC., 6243 Clearview Street, Philadelphia, PA 19138. Applicant's representative: Charles J. Williams, 47 Lincoln Park, Newark, NJ 07102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in round-trip charter operations, beginning and ending at Camden, N.J., and Philadelphia, Pa., and extending to points in Maine, Vermont, New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, and the District of Columbia. NOTE: If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

APPLICATION FOR BROKERAGE LICENSE

No. MC 130125 (Sub-No. 1), filed March 8, 1972. Applicant: DOROTHY H. GOUGH, doing business as, GOUGH TOURS, Post Office Box 5827, Winston-Salem, NC 27103. Applicant's representative: Carl D. Downing, 2412 Wachovia Building, Winston-Salem, NC 27101. For a license (BMC-5) to engage in operation as a *broker* at Winston-Salem, N.C., in arranging for transportation in interstate or foreign commerce of *passengers and their baggage*, in groups, on escorted tours, beginning and ending at points in Guilford, Rockingham, Surry, and Stokes Counties, N.C., and extending to points in the United States, including Alaska, but excluding Hawaii.

No. MC 130167, filed March 9, 1972. Applicant: VAN C. DULING TRAVEL, 1223 "M" Street, Radisson-Cornhusker Hotel, Lincoln, NE 68508. For a license (BMC-5) to engage in operations as a *broker* at Lincoln, Nebr., in arranging for transportation by motor vehicle, in interstate or foreign commerce of *passengers and their baggage*, in special and charter operations, beginning and ending at points in Nebraska and extending to points in the continental United States.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 31675 (Sub-No. 19), filed March 8, 1972. Applicant: NORTHERN FREIGHT LINES, INC., 324 North College Street, Post Office Box 1067, Charlotte, NC 28201. Applicant's representative: Stewart E. Fulk (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the terminal site of Central Motor Lines, Inc., located at or near the junction of South Carolina Highway 14 and Interstate Highway 85 in Greenville County, S.C., as an off-route point in connection with otherwise authorized service at Greenville, S.C. NOTE: Common control may be involved. Applicant states the basis for the instant application is operating savings rather than shipper need for new service. Applicant is controlled by Central Motor Lines, Inc., and interchange is now effected at Greenville, S.C. Purpose is to allow interchange at and use of Central's terminal located 2.6 miles outside the Greenville, S.C. commercial zone.

No. MC 136276 (Sub-No. 1) (Amendment), filed December 27, 1971, published in the FEDERAL REGISTER issue of February 3, 1972, and republished as amended, this issue. Applicant: TRIPLE T TRANSPORTATION, INC., Route No. 1, Vincennes, IN 47591. Applicant's representative: Thomas F. Quinn, 715 First Federal Building, Indianapolis, IN 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid anhydrous ammonia and nitrogen fertilizer solutions* in bulk, in tank vehicles; and *dry fertilizer materials in bulk*, (a) from West Henderson, Ky., to points in Illinois and Indiana, (b) from U.S. Industrial Chemical Co. plant near Tuscola, Ill., to points in Indiana and Kentucky; and (c) from the Agrico Chemical Co. plant near Mt. Vernon, Ind., to points in Illinois and Kentucky; and (2) *anhydrous ammonia*, liquid, in bulk, in tank vehicles, from the Central Nitrogen plant in Vigo County, Ind., to points in Illinois and Kentucky. All transportation furnished will be under contracts or continuing contracts with Willchemco, Inc., of Tulsa, Okla., and Cominco American, Inc., of Spokane, Wash. NOTE: The purpose of this republication is to redescribe the authority sought.

No. MC 136503, filed March 6, 1972. Applicant: COMMON MARKET DISTRIBUTING CORPORATION, 335 West

Elwood, Phoenix, AZ 85030. Applicant's representative: Donald E. Fernaays, 4114 A North 20th Street, Phoenix, AZ 85016. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap iron and steel, scrap aluminum, iron and steel ingots, aluminum ingots*, from points in California, Nevada, Utah, and Arizona to the plantsite of Castings, Inc., Grand Junction, Colo.

APPLICATION FOR FILING A POSTAL CERTIFICATE

Interstate Commerce Commission, No. MC–137013 (Notice of Filing an Application for a Postal Certificate of Public Convenience and Necessity), filed February 25, 1972. Applicant: CHARLES WEST JR. TRUCKING CO., INC., 24 Catherine Avenue, Saddle Brook, NJ 07662. Applicant's representative: Ivan Frank Kardos, 948 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004.

By application filed February 25, 1972, applicant seeks a Postal Certificate of Public Convenience and Necessity to transport *mail* in the following territory: (1) Between Bergenfield and Jersey City, N.J., serving the intermediate points of Englewood Annex, Teaneck, Palisades Park, Ridgefield, NY Metro Trk Fac (North Bergen) and NJTT (Pref); (2) Between Hackensack and Paramus, N.J., serving the intermediate points of Rochelle Park, Little Ferry, and Saddle Brook; (3) Between Dover (Morris County) and Newark, N.J., serving the intermediate points of Parsippany, Summit, Springfield, and Whippany; (4) Between Hackensack and Jersey City, N.J., serving the intermediate points of Rutherland, Newark, and East Rutherland; (5) Between Hackensack, N.J., and Suffern, N.Y., serving the intermmediate points of Paterson and Summit; (6) Between Paterson and West Milford, N.J., serving the intermediate points of Wayne, Pequannock, Pompton Plains, Pompton Lakes, Haskell, Wanaque, Ringwood, and Hewitt; (7) Between Hackensack and Montvale, N.J., serving the intermediate points of New Milford, River Edge, Oradell, Emerson, Westwood, Hillsdale, and Park Ridge; and (8) Between Paterson, N.J., and New York, N.Y., serving the intermediate point of Hackensack, N.J.

Applicant states that it desires to have authority to operate between all points listed in (1) through (8) above, and all points in New York and New Jersey, and that the request is based upon the asserted right of the U.S. Postal Service to extend terminii under its mail transportation contracts. Appended to the application are copies of eight postal contracts held by applicant which were in effect on July 1, 1971, the critical "grandfather" date: Route No. 07661 (formerly Route No. 33245) relating to service between Bergenfield and Jersey City, N.J.; Route No. 07630 (formerly Route No. 33142) relating to service between Hackensack and Paramus, N.J.; Route No. 07811 relating to service between Dover and Newark, N.J.; Route No. 07611 (formerly Route No. 33255) relating to service between Hackensack, Newark and Jersey City, N.J.; Route No. 07610 (formerly Route 33238) relating to service between Hackensack, Paterson, and Summit, N.J., and Suffern, N.Y.; Route No. 07431 relating to service between Paterson and West Milford, N.J.; Route No. 07631 (formerly Route No. 33143) relating to service between Hackensack and Montvale; Route No. 07410 relating to service between Paterson, N.J., and New York, N.Y.

Any interested person desiring to participate may file with the Commission an original and one copy of his written representations, views, or arguments in opposition to the application within 30 days from the date of this publication in the FEDERAL REGISTER. A copy of each such pleading should be served upon applicant's representative.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.72–5214 Filed 4–5–72;8:45 am]

## CUMULATIVE LIST OF PARTS AFFECTED—APRIL

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during April.**

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